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- Insider trading rules can affect attractiveness of country's stock markets – Laura N. Beny
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Michigan Law
University of Michigan Law School
A message from Dean Caminker

On June 6 of this year, Professor Rich Friedman and I were honored to speak at the National Baseball Hall of Fame in Cooperstown, New York, as part of a symposium on baseball's legendary Branch Rickey. Rickey, you may know, was the Brooklyn Dodgers' president, general manager, and part-owner—and the man responsible for signing Jackie Robinson, who broke the modern game's color barrier in 1947. What you may not know is that Branch Rickey earned his J.D. at Michigan Law in 1911. Elsewhere in this issue (see story on page 8) Professor Friedman provides detail about Rickey’s academic and athletic career here at the Law School and U-M, and his essay makes for fascinating reading.

My remarks at Cooperstown—an edited version of which follows—focused more on Rickey’s attitudes toward race, attitudes that informed his decision to sign Jackie Robinson but were established long before. In researching those remarks, it was impossible to refrain from drawing parallels between then and now. For us at Michigan Law, race is a particularly timely topic since we’ve recently modified our admissions policy to comply with passage of the Michigan Civil Rights Initiative. The newly amended Michigan Constitution prohibits state and local government from discriminating against or granting preferential treatment to any individual or group based on race, sex, color, ethnicity, or national origin in the areas of public employment, public contracting, and public education.

Our challenge today is to act in full compliance with the law—as we do—yet strive for the kind of diversity in its broadest sense that we believe is essential to educating the next generation of lawyers and shaping the leaders who will in turn shape society. So how can we find ways, within the letter and spirit of the law, to encourage minorities to attend this great law school? And recognizing the dangers of a segregated society, how can we continue to work toward integrating our spaces for work, study, and even play without taking race into account?

It’s clear there are no easy answers today, nor were there for Branch Rickey, but I find his humanity, intelligence, and courage inspiring. I hope something in this excerpt speaks similarly to you.

Excerpted from Dean Caminker’s address at Cooperstown:

Of the University of Michigan Law School’s many outstanding students—including three Supreme Court Justices and lawyers such as Clarence Darrow—perhaps none had a greater impact on American society, and the law, than Branch Rickey. In large part, Rickey’s contributions to civil rights and social change are reflective of an institutional tradition and ethos that are at the core of Michigan Law. This tradition began within the first decade of the Law School’s existence, when Gabriel Hargo, an African American, graduated from the Law School in 1870, becoming only the second African American to graduate from any law school in the country.

While most elite law schools remained all-white, Michigan Law continued to enroll minority students all through its early decades. One in particular, Moses Fleetwood Walker, deserves special mention because he, not Jackie Robinson, was the first African American to become a major league baseball player. Walker attended Michigan Law in 1881-82 and played for Michigan’s varsity baseball team before heading into organized baseball prior to graduation. He joined the Toledo Blue Stockings in 1883 when that team was part of the Northwest League. In 1884, the Blue Stockings joined the American Association, considered by baseball historians to be the first “major league.”

When Walker ended his career in 1889, he was the last black player in the league. By that time, the league’s directors had agreed not to offer any new contracts to African Americans. This agreement established the color line that was not broken for 58 years, until Branch Rickey brought Jackie Robinson
to the Dodgers. So Michigan Law produced both the first and last black ballplayer in the 1880s and the baseball executive who ended racial exclusion in the 1940s.

From early on, Rickey, who had several African American classmates while in Law School, saw integration as the key to reducing animosity between the races and breaking down barriers for African Americans. In the mid-1950s, he gave a TV interview in which he said: “The greatest challenge to our country today, since the Civil War, is civil rights. It takes time to break down prejudice [and] discrimination. That’s what we don’t like. It’s the long delay. A hundred years is too long to give a man full rights on paper and not to give it to him in reality. That’s not characteristic of the work of a democracy. …”

Right around that time, in 1957, Rickey gave a speech in Atlanta that rhetorically foreshadowed Martin Luther King Jr.’s famous “I Have a Dream” speech. In it Rickey said: “America is more interested in the grace of a man’s swing, in the dexterity of his cutting a base, and his speed afoot, in his scientific body control, in his excellence as a competitor on the field. America, wide and broad, and in Atlanta, and in Georgia, will become instantaneously more interested in those marvelous, beautiful qualities than they are in the pigmentation of a man’s skin, or, indeed, in the last syllable of his name. Men are coming to be regarded as of value based upon their merits, and God will hasten the day, when governors of our states will become sufficiently educated that they will respond to those views.”

Rickey’s views and actions also foreshadowed the most recent of Michigan Law’s interventions in the project of racial integration. As you are probably aware, Michigan Law was recently sued over its affirmative action program in admissions. We at Michigan care first and foremost about our applicants’ academic credentials, but we also care about enrolling a student body that is diverse across a wide range of characteristics, including undergraduate major, work experience, leadership and entrepreneurial skills, geography, socioeconomic status, and also race. The Supreme Court of the United States held that our affirmative action program was fair and legal, fully consistent with the U.S. Constitution.

Indeed, Justice O’Connor’s opinion for the Court used language that sounds as though it could have been written by Branch Rickey. The Court said that diversity “promotes cross-racial understanding, helps to break down racial stereotypes, and enables [students] to better understand persons of different races. These benefits are important and laudable. …” The Supreme Court also noted that “diminishing the force of [racial] stereotypes is both a crucial part of the Law School’s mission, and one that it cannot accomplish with only token numbers of minority students. Just as growing up in a particular region or having particular professional experiences is likely to affect an individual’s views, so too is one’s own, unique experience of being a racial minority in a society, like our own, in which race unfortunately still matters.” The Court concluded that: “Effective participation by members of all racial and ethnic groups in the civic life of our Nation is essential if the dream of one Nation, indivisible, is to be realized.”

Of course, affirmative action remains a very controversial concept, including among our alumni, and many people who support the goal of racially integrating higher education wish there were a race-blind way to do it. I have no idea what Branch Rickey’s view of affirmative action would be. But I am confident he would applaud the goal of making sure that whites and blacks can study and work together, as well as play sports together, so they can, in his words, become interested in their mutual “marvelous, beautiful qualities” rather than their “pigmentation of . . . skin.”

In conclusion, let me end where I began: of all the many outstanding graduates of the Law School over the past 150 years, I think Branch Rickey had a greater impact on American society than any other. And he did it by contributing to a project in which Michigan Law has long been engaged—the project of racial equality. He is deservedly celebrated, and I am honored by this opportunity to acknowledge his contributions to baseball, to the University of Michigan, and to the nation.
**Groundbreaking grads**

Ninety years apart, Michigan Law graduates Branch Rickey, ‘11, and Jared Genser, ’01, show that freeing major league baseball from segregation and prisoners of conscience from oppressive regimes’ prison cells have more in common than you may think.

Branch Rickey, '11

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Jared Genser, '01

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**A MESSAGE FROM THE DEAN**

**SPECIAL FEATURE**

Branch Rickey, ’11, and Jared Genser, ’01, may be 90 years apart in their graduation dates, but they are arm in arm as examples of the quality of students and graduates who pass through Michigan Law.

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A tradition of excellence

As the following pages show, Branch Rickey, ’11, and Jared Genser, ’01, may be 90 years apart in their graduation dates, but they are arm in arm as examples of the quality of students and graduates who pass through Michigan Law. Rickey integrated major league baseball when he brought Jackie Robinson to the Brooklyn Dodgers in 1947. Genser, founder of Freedom Now and a practicing attorney in Washington, D.C., is an internationally known champion of human rights who has won freedom for half a dozen prisoners of conscience in countries as different as China, Vietnam, Pakistan, and Myanmar.

Both reflect fulfillment of the promise of each year’s new class of incoming students. For nearly 150 years, Michigan Law annually has enrolled young people who are among the world’s best and brightest. And each year the Law School graduates a class equipped with the skills to move and shake their world, as Rickey did and Genser is doing. Each entering class brings with it the diversity, excitement, and promise that accompany unlimited potential. This year’s incoming class continues the tradition:

Six entering students have had Fulbright fellowships, seven served in the Peace Corps, five in Americorps, and 12 in Teach for America. One entering student grew up in a Kansas town with a population of 50, one is a physicist who worked at the Hubble Space Telescope Science Institute, and one helped map the mysteries of DNA.

The former general manager of the Detroit Symphony is in this class, as are the former head researcher at MSNBC and a former screenwriter for New Line Cinema. One new law student was a U.S. Marine sniper, and one was the U-M football team’s long snapper.

On the international scene, one was a staff writer for the Moscow Times, one worked with the UN in Peru and another worked with the international section of the U.S. Department of Justice’s criminal division.

Several have started or operated businesses or nonprofits.

The tradition is in good hands.
8 Branch Rickey, ’11
• Branch Rickey, ’11, may be best known as the Brooklyn Dodgers manager who brought Jackie Robinson into big league baseball in 1947, thus integrating a major American institution seven years prior to *Brown v. Board of Education*. But he also was an exceptional student at Michigan Law, where he illustrated the energy and enthusiasm that later characterized his professional life.

14 Jared Genser, ’01
• Human rights champion Jared Genser, ’01, using tactics he initiated while a student at Michigan Law, is challenging two of the most repressive regimes on earth: Burma (Myanmar) and North Korea. He brings an impressive record to the task. He’s already won freedom for half a dozen political prisoners around the world since his first success just prior to graduation.
Branch Rickey, ’11 | much more than pioneering baseball leader

By Richard D. Friedman
Branch Rickey is best known as the president and general manager of the Brooklyn Dodgers who brought Jackie Robinson into big league baseball in 1947, thus integrating a major American institution seven years before Brown v. Board of Education. Even apart from this heroic step, Rickey would probably be known as the most significant baseball executive ever, primarily for his work with the Dodgers and, earlier, the St. Louis Cardinals; the modern farm system and extensive spring training facilities are chief among his many innovations. Less well known is the fact that Rickey was a 1911 graduate of the University of Michigan Law School. This essay is drawn from a presentation the author made at a symposium on Rickey held at the Baseball Hall of Fame in Cooperstown, New York, on June 6, 2007. Dean Evan H. Caminker also discussed Rickey at the same program; Caminker’s excerpted remarks appear in this issue in the Dean’s Message that begins on page 2.

Michigan Law helps integrate major league baseball—twice

Michigan Law was a significant player in the racial integration of major league baseball—both times, according to Dean Evan H. Caminker. Law student Moses Fleetwood Walker, who attended Michigan Law in 1881-82, was the first African American player to have a career in major league baseball, but by the time he ended his career in 1889 the league’s directors had agreed to offer no more contracts to black players, Caminker told the Baseball and American Culture conference last June at the Baseball Hall of Fame in Cooperstown, New York. Major league baseball would not have a black player again until 1947, when Michigan Law graduate and baseball executive Branch Rickey, ’11, signed Jackie Robinson to the Brooklyn Dodgers.

“So that’s quite a coincidence—University of Michigan law students bracketed the era of Jim Crow in major league baseball,” Caminker said. “Our School produced the first and last African American ballplayer in the 1880s, then produced the baseball executive who brought about the end of racial exclusion in the 1940s.”

Caminker discusses Rickey’s role in his Dean’s Message, which begins on page 2 and includes excerpts from the dean’s talk at Cooperstown.
When Wesley Branch Rickey of Lucasville, Ohio, applied to the University of Michigan Law School in 1909, the application process was very simple and informal. It is amusing to think of the personal statement he might have written if instead he had to deal with today's much more imposing online application form:

I have a combination of credentials that I suspect will make me unique not only in this year’s entering class, but among all the students you have ever admitted or ever will admit. I have not only one but two college degrees, both a B.A. and a B.Litt. from Ohio Wesleyan University. What is more, I have done a good deal of teaching, at both the preparatory and college levels, and among the wide variety of college courses I have taught has been a series in law, for when my law teacher at Ohio Wesleyan died, I took over the courses. I have read law on my own and have done extra class work in law at the Ohio State University—but of course I know that to be the kind of lawyer I want to be I must attend a stronger institution than that. I was an athlete in college. While still working towards my degrees, I began my coaching career, in baseball, football, and basketball, and I have served as athletic director both at Ohio Wesleyan and at Allegheny College. I have been a temperance and political campaigner. As administrator of our YMCA I have hosted speakers including Jane Addams, Jacob Riis, and Booker T. Washington. And for parts of four summers, I have had a job that would be the envy of just about any boy in America—I have been a big-league baseball player.

Rickey's admission was not in doubt, but his ability to attend law school was; he was recovering from tuberculosis at a sanitarium in upstate New York. Discharged with a warning that his health was still vulnerable, Rickey arrived alone in Ann Arbor in the fall of 1909. His wife stayed for several months with family in Ohio.

Because Rickey had already studied some law, he hoped to be granted advanced standing. The matter was left to be determined later. Evidently, the school administration concluded that Rickey had most, but not all, of the credits necessary for him to begin as a second-year student, and so he took the full 30-credit second-year curriculum, supplemented by nine first-year credits, in contracts and torts. At some point the matter was resolved satisfactorily, and Rickey was admitted into the class of 1911, allowing him to graduate in just two years.

When Branch Rickey arrived in Ann Arbor in 1909 to begin his legal studies, William W. Cook of the class of 1882 had not yet made the huge gift that financed the magnificent set of buildings that the Law School still occupies. The School was then housed in a single building along State Street, northwest of the main university quadrangle; in what must be a rare anomaly in university development, the space occupied by a large building a century ago is now a grassy plot.

The School—then technically referred to as a department—was much more closely integrated with the rest of the university than it is now. Most law students did not have an undergraduate degree, and they were treated on a par with undergraduates in other fields. They appeared in the university yearbook alongside students of literature and engineering, and some of them participated in varsity sports. The School was in the midst of a significant transition, however. It was beginning to institute more demanding admissions standards, and beginning with the class graduating in 1910 it instituted a new degree, the J.D., to go along with the traditional LL.B. The J.D. was reserved for students who had already received a bachelor’s degree in another field from a reputable college or university, or who were simultaneously working towards one from the University of Michigan, and who performed to a high standard in three quarters of their classes.

The dean, Harry B. Hutchins, would soon take over as University President upon the retirement of the venerable James B. Angell. The small law faculty was composed entirely of white males. But not so the student body. At least as a matter of theory, the Law School had always been integrated racially, and it had been open to women for several decades. And in fact among Rickey’s more than 200 classmates were at least two women and at least three African-Americans—not, to be sure, what would later be called a “critical mass,” but a genuine presence nonetheless. (One of those three black classmates, Austin T. Walden, became the most renowned civil rights lawyer of Georgia in the first half of the 20th century; while Branch Rickey was integrating baseball, Walden was working effectively to realize blacks’ right to vote in Atlanta, and so was of crucial importance in making that city the first major one in the South in which blacks gained political power.)

—Richard D. Friedman
Rickey was indeed a very capable student. To qualify for the J.D., a newly instituted degree more rigorous than the traditional LL.B., a student had to earn “+” marks in three-quarters of his classes. In Rickey’s first semester, though still feeling affected by his illness—he reported to his wife that he was exhausted after attending a U of M football game—he received a “+” mark for 13 of his 15 second-year credits. (The “make-up” first-year courses appear not to have been graded). And yet, he was not happy with himself or with his situation, and what others might regard as a most unusual record of varied accomplishments he now experienced as a sense of drift that plagued his stern conscience. In a remarkable letter to his parents of January 13, 1910, he wrote:

Yes I’m tired and sick of college. I’ve been around one too long & I want to get out and do some one thing and bend every effort—I may fizzle about for a while but if I get a good grip on some one thing—& have a purpose—well I guess I’ll do my best not to make God as ashamed of me as he has been these last few years.

Almost as an afterthought, though, the end of the letter revealed news that suggested that perhaps Rickey had found the one path that would offer his life’s mission:

I have secured the position of Baseball coach here—thanks to many good friends. It was really their victory for the odds were against me & I counted for very little. My greatest joy is not the paltry job or its incidents but the fact of being known by men of such standing and character that their commendation places me above the pull and push of the other fellow. It shall ever be my steadfast purpose to keep, increase and yet merit the esteem those men have expressed for me. No more time or space.

—Love to all Branch

If Rickey were applying today . . .

Young Branch Rickey didn’t have to write essays as part of his admissions application in 1909. But if he applied today he would have to think hard in choosing which optional essays to write. For fear of over-eagerness—and Rickey was certainly eager—we limit students to two.

Rickey might have chosen to write in response to the request to “[d]escribe a failure or setback” in his life and state how he overcame it. Even then he would have had a choice. He could have explained how when he first came to college his Latin was not up to the expected level, and how by hard work he had excelled. Perhaps better, he might have described how, to his bitter disappointment, he had lost his eligibility for college sports as a result of a misunderstanding involving a short stint with a semi-pro baseball team, and how the shutting of one door opened the door to becoming a coach and then athletic director at an extraordinarily early age.

But a more gripping story would have been how he was even then confronting and beating a life-threatening illness, tuberculosis, with treatments at the Trudeau Sanatorium at Saranac Lake, New York.

And if Rickey had not yet caught the attention of the dean of admissions, he could have done so with the optional essay describing a personal experience “that speaks to the problems and possibilities of diversity in an educational or work setting.” He might have written something like this:

When I coached the Ohio Wesleyan baseball team, we had a colored member of the team named Charles Thomas. At one point, the University of Kentucky refused to play us if Thomas played; I insisted vigorously that we would play with him or not at all, and the Kentuckians relented. Once, when we checked into a hotel in South Bend, Indiana, the hotel clerk would not let Thomas check in because he was black. I arranged for Thomas to share my room. When I came up to the room, he was tearing at his skin, saying he wished it was white. Confronted with such a blatant display of prejudice and the harmful consequences of it, I was reminded of the reaction of my great hero Abraham Lincoln when as a very young man he witnessed a slave auction: “If ever I get a chance to hit that thing, I’ll hit it hard!” I felt the same way.

—Richard D. Friedman
If Rickey were my student . . .

I think that if Rickey were my student in modern times, I might have kept him in law, at least for a while. (And what kind of accomplishment would that have been?) Here is an excerpt from the recommendation letter I imagine myself writing for him (with just a little benefit of hindsight):

“Branch writes clearly and powerfully, and with great authority; he will draft excellent judicial opinions. He has been a highly capable student, who has earned a good, strong GPA. But his grades do not begin to tell the story. Rarely if ever have I met a student with such energy and intensity. When I take into account that he has done so well despite recovering from a life-threatening and exhausting illness, despite taking an overload in courses, and despite the rigorous demands of a highly visible and time- and energy-consuming part-time job, I find the whole picture quite astonishing.

Branch is a young man of unusually strong commitments and sound fundamental values. He is fiercely ambitious to achieve something notable. Whether that happens in the realm of law or outside it, I am confident Branch will make his mark, and the world will be a better place for it.

— Richard D. Friedman

Distressing as part of that letter may have been, in at least two respects Rickey’s reporting was accurate. The pay was rather paltry—$700 for the season, but with the University holding an option to deduct up to $100 from that amount to pay one or more assistant coaches; Rickey had gotten a better deal coaching at the much smaller Allegheny College. And it does appear that many friends had written in support of Rickey, though he did not mention to his parents that he had carefully orchestrated the campaign—which seems to have been persistent enough that the athletic director, Phil Bartelme, concluded that the only way to stop the flood of letters was to hire the young man behind them.

There was one other aspect of the incident that Rickey did not report. The consent of the law school was essential to the deal. The story has often been told that the dean and Rickey had a long meeting at the end of which the dean agreed contingent on a promise by Rickey that he would be in class and prepared every day. Even while throwing himself with characteristic vigor into his new job, and carrying an overload of courses, Rickey performed creditably, with 11 “+” credits and four “−” credits. He was not invited by the faculty to join the Law Review for the following year, at least not formally; though his grades were good enough that they might have made him a marginal candidate, it may well be that the time burdens of the coaching job rendered the question moot.

The Michigan baseball team had an excellent record under Rickey’s predecessor, Lewis “Sport” McAllister, but it had lost several key players, not only to graduation but also to charges of professionalism, the same factor that prematurely ended Rickey’s own college playing career. Rickey’s style was didactic—he limited scrimmage time and held evening lectures on the finer points of the game—but bolstered by his energy, enthusiasm, and deep knowledge it yielded favorable results. The team ended the season with a record of 17 wins and 8 losses—not outstanding for a Michigan team but very satisfactory given the low expectations for the season. In the University yearbook, the team manager wrote about Rickey:

He was the hardest worker on the squad, kept everybody working to correct this or that mistake, and taught the game from beginning to end. He had the “pep” and the head for the team, and without him there would have been no season to write up.

Clearly his superiors were pleased; in June, Rickey signed a contract to coach again in the 1911 season, this time for $1000.

Rickey and his wife spent the summer between his law school years in the Rockies, where he felt deeply refreshed by the mountain air. Returning to school for the fall semester, and without the distraction of his coaching job, Rickey earned 15 “+” credits and only one “−.” In the
spring, while coaching once again, the numbers were 13 and 3. One of the minus credits was for Practice Court; by now, there must have been some wiggle room in his deal with the dean, because the times for baseball practice and Practice Court were in direct conflict. Rickey easily satisfied the requirements for the J.D.

Meanwhile, the baseball team, beset with injuries, turned in a disappointing record of 16 wins, 10 losses, and one tie. But early in the season, Rickey was signed to contracts for the 1912 and 1913 seasons, with his salary rising to a relatively munificent $1200, plus $300 for expenses, for the latter one. He had not yet committed to baseball, though. He went back west, to Boise, Idaho, hanging up a shingle with two college classmates, but they had very few clients.

Rickey returned with relief to Ann Arbor for the 1912 season. When practice began, George Sisler, a freshman engineering student from Ohio, turned out. Rickey said that the practice was for upperclassmen, but some of the returning players told him to take a look. Rickey complied. The great sportswriter Jim Murray said many years later that Rickey could spot talent from the window of a moving train, and that was true in this case—though in Rickey’s own account it took no special skill for him to realize, after a minute watching Sisler pitch to the upperclassmen, that he was a rare talent. Freshmen were not eligible to play on the varsity, which nearly duplicated the prior year’s performance with a 15-10-2 record.

Rickey returned to the west for the winter and then to Ann Arbor for the 1913 season, the last of his contract. A sore arm limited Sisler’s pitching time, but it turned out that he could also hit, and the team posted the best record of Rickey’s tenure, 22 and 5.

As Rickey’s last season with the team ended, the Michigan Daily paid him a warm tribute:

[H]e leaves with a sterling record behind him, and a host of friends to remember him. . . . Above all he taught clean ball, gentlemanly tactics, and clean living. . . . A gentleman, a true sportsman, and a man, he will long be remembered by those who love and help Michigan athletics.

Rickey immediately took up a new job, in the front office of one of his old teams, the St. Louis Browns. He remained active in major league baseball for half a century, most successfully and significantly with the St. Louis Cardinals and the Brooklyn Dodgers. The Idaho bar was, no doubt, the long-term loser, for he never returned to the practice of law.

Richard D. Friedman, the Ralph W. Aigler Professor of Law, is an expert on evidence and Supreme Court history. He is the general editor of The New Wigmore, a multi-volume treatise on evidence. His textbook, The Elements of Evidence, is now in its third edition, and he has written many law review articles and essays. In Crawford v. Washington, 541 U.S. 36 (2004), the Supreme Court radically transformed the law in this area by adopting a “testimonial” approach, which Professor Friedman had long advocated; he now maintains the Confrontation Blog (http://confrontationright.blogspot.com/), to comment on related issues and developments, and he successfully argued a follow-up case, Hammon v. Indiana, in the Supreme Court. Professor Friedman earned a B.A. and a J.D. from Harvard, where he was an editor of the Harvard Law Review, and a D.Phil. in modern history from Oxford University. He clerked for Chief Judge Irving R. Kaufman of the U.S. Court of Appeals for the Second Circuit, and then practiced law in New York City. He joined the Law School faculty in 1988 from Cardozo Law School.