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university of san diego school of LAW advocate

Putting on the Gloves

Mary Lehman can beat you with an uppercut or an appellate brief

19:2 FALL/WINTER 2002-2003

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Remembering Dean Weckstein The law school's longest serving dean passed away July 22, 2002, at age 70.



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message from the dean



n the pages of this issue of the *Advocate*, you will find much information about the scholarly contributions of our faculty and also the wealth of academic programs, events, and workshops that have taken place at the law school during this past year. Taken as a collective whole, the law faculty at the University of San Diego School of Law is an extremely important contributor to legal debates and controversies, whether in the pages of law journals and books, the opinion sections of local and national newspapers, or through lectures and colloquia at law schools and myriad professional organizations.

Contributing perspectives on both enduring issues ("What is the nature of the rule of law in a democratic society?") and issues of the day ("What should we make of the controversy over the Enron debacle and its aftermath?") is part of the life of our faculty and law school. Through these contributions, we turn from our classrooms and library outward to the world, sharing what we find and what we think with the legal academy, the legal profession, and the general public.

Moreover, it is no idle boast to say that the University of San Diego's law faculty is unusually successful in contributing to these debates. USD is regularly ranked among the top 20 law schools in the country in the research accomplishments of its faculty. This past year, as in prior years, our faculty wrote scores of books and articles on a seemingly limitless array of topics. Last spring, we awarded the Thorsnes Prize for Outstanding Scholarship to one important contribution, Professor Larry Alexander and Professor Emily Sherwin's fine book, "The Rule of Rules: Morality, Rules, and the Dilemmas of Law." The jurisprudential focus of this book dovetails nicely with USD's important initiative-now three years "old"-the Institute for Law & Philosophy. This program, along with other, similarly ambitious academic projects within the law school, all underscore our law school's reputation as a fertile, lively, and nationally recognized venue for cutting edge research on topics of great interest and public importance. We are pleased to be able to report, in these pages and in many other fora, the tremendous accomplishments of our top-flight faculty. And we urge all the many friends of our law school to get the message out about the wonderful contributions of our hard-working faculty.

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DANIEL B. RODRIGUEZ DEAN AND PROFESSOR OF LAW

letter from the editor

Expanded Coverage; Improved Design

Perusing the Fall/Winter 2002-2003 issue of the *Advocate*, readers will notice a number of changes in design and scope of coverage from the previous issue—some dramatic and others subtle.

The first thing you will probably notice is the outside front cover's new design. As always, it features eyecatching photography (and what a cover photo this one is!). But what's different is that people will not have to squint, put on their reading glasses or bring it to within inches of their faces to realize that the *Advocate* is the alumni magazine of the University of San Diego School of Law.

The next thing I hope you will notice-because for me it is the most significant change-is that our coverage has expanded considerably. It has been frustrating to me (and I'm sure to others at the law school) that because of format limitations, we had been able to report only a small fraction of the important things going on here and with our notable alumni. That is changing. For example, while recent issues have had only four feature stories, this issue has seven. Another example is that while the most recent Fall/Winter issue had excerpts from five faculty publications, this issue includes excerpts from 12.

Lastly, I am happy to assure you that the Alumni Briefs section of the *Advocate* has not really disappeared. Readers can now find briefer-thanfeature stories about some of the law school's more newsworthy alumni as sidebars within the magazine's Class Action section. We decided on this change after looking at many of the best law school alumni magazines in the nation, which (logically) include such stories among the one-paragraph items and updates regarding their alumni, instead of within a wholly separate section.

Please let us know what you think of these changes by completing and mailing back to us the postcard included in this issue. Please also give us your ideas on how to make the *Advocate* even better—after all, there is *always* room for improvement.



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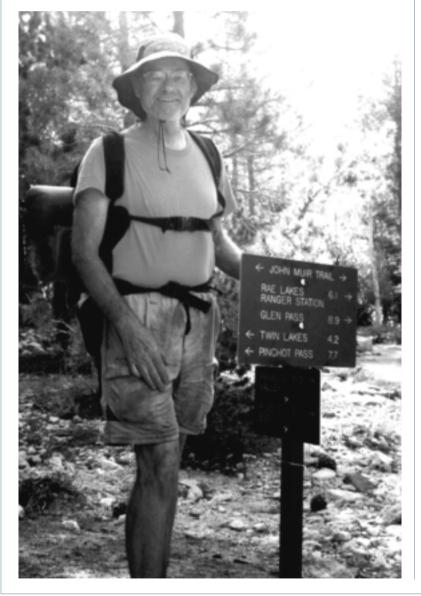
George Decker Director of Publications

campus briefs

Covers 190 Miles in 17 Days

Steve Hartwell Treks the Range of Light

metal cup and a spoon are all that Professor Steve Hartwell would need to make the leap from the comforts of civilization to the wilderness of the High Sierra. At 64, he would make a 17-day journey this summer on the 200-mile John Muir Trail, carrying with him as little as he could by reasoning boldly that a lesser load would "minimize



his separation from nature."

Hartwell had waited for the moment for 48 years. "The idea of hiking on the legendary trail fascinated me when I was in my teens. It is the longest wilderness trail not traversed by roads or highways. Completing the trail was a dream that had been passed on to me during our many family camping trips."

"However, life has a way of interrupting your plans," explains a bemused Hartwell, who shows no sign of slowing down. In fact, life has led him on a road only a few have the mettle and wisdom to travel. The tireless clinical law professor, who has taught at USD since 1983, is founder and advisor of Pro Bono and PrideLaw and is writing a book on "A Theory of Clinical Education." An unexpected detour by way of volunteer service in the Peace Corps in Kenya and Colombia, and then as Director for the Legal Aid Society of San Diego, led down the path to a USD professorship.

Hartwell prepared himself to endure the grueling and solitary trek from Yosemite Valley to Mt. Whitney with the tenacity of an ironman competitor. To build up his stamina, Hartwell hiked three miles on Cowles Mountain in East San Diego twice a week for two months. He also lugged a 30-pound pack on daily, hour-long walks for five months. "The mountain trails can be brutal on the ankles, so I had to train on rough terrain," observes Hartwell who shunned the ease of paved streets to prepare for his mission.

By the time his wife Sherry had cleared days from her schedule as a family and marriage therapist this

summer, he

was ready. She was entrusted with making two critical food drops, while Hartwell mailed supplies addressed in his name to a remote postal outpost to complete his provisions. "I hiked mostly alone about 190 miles in 17 days over ten mountain passes from Yosemite to Mt. Whitney, averaging 13 miles and 2,000 feet in elevation each day."

And in case

1

STEVE

Hartwell survived on a spartan diet of dried fruits and nuts for breakfast, beef jerky and cheese for lunch, and couscous for dinner that left him 13 pounds lighter by the end of the journey. A bit of chocolate became the occasional reward at the close of each day. Each morning, Hartwell would strap on a minimal pack of 17 pounds, plus three to 12 pounds of food and water. At dusk, he would retreat to his sleeping bag, succumbing to exhaustion and euphoria. By staying away from established campsites, Hartwell avoided bears and made certain that he would be roused from sleep-should they ever come visiting—by using his food-stashed backpack for a pillow.

The experience was a revelation to the professor. "Although I was the oldest 'through hiker' at 64, I met men and women in their late 60s and 70s who were backpacking along the trail. I was never lonely, nervous, or bored. It was a life-transforming experience

brought

about by the physical effort, the meditative state of hiking alone for long periods, the utter grandeur of the mountains and meadows, the simple diet and the immediate awareness of both life's limits and possibilities."

Hartwell also stumbled upon the kindness of strangers-two hikers on summer break from college who had passed him on the first leg of the trip. Today, Hartwell keeps the notes the two left behind on the trail in an album and stays in touch by e-mail. One reads: "Steve, we just went down a little further. We will keep an eye out for you. Come on down if you like. Your presence is requested. — Brad and Dillon" Another note past the halfway point says: "Steve, We've gone up the trail about 1/8 of a mile-where a stream crosses the trailto look for a campsite. As much cheddar and potato soup you can eat is waiting for you. Good hiking, Brad and Dillon"

Hartwell is already training for a more ambitious plan to start farther north and finish farther south on a 300-mile hike that he estimates will take four weeks to traverse with an even lighter pack. Wondering what else he might leave behind, Hartwell ponders, as he got up to leave for Cowles Mountain, "I think I will leave out the flashlight next time."

Garners Public Relations Society of America Honors

Advocate Wins Major Award

n September 24, 2002, the Public Relations Society of America (PRSA), San Diego Chapter, made official what Advocate readers have known for a long time that this is one outstanding magazine.

At the annual PRSA awards dinner at Sea World in San Diego, the Advocate received the Edward L. Bernays Mark of Excellence Merit Award in the Magazines category. The only other award winner in that category was The Salk Institute's *Signals* magazine. The University of San Diego School of Law was in good company that evening; other 2002 Bernays Award winners included Qualcomm, McDonald's, Scripps Health, Children's Hospital and Health Center, and the Port of San Diego.

advocate



campus briefs

Brings Extensive Experience to the Job

O'Rourke Appointed Assistant Dean for Academic Planning and Graduate Programs

eresa O'Rourke has been named the law school's new assistant dean for academic planning and graduate programs.

"I am so pleased to be here," says Assistant Dean O'Rourke. "This position provides a great opportunity to use my previous experience in organizational planning and higher education administration. My goal is to continue to increase the status of our graduate programs and also assist the Dean whenever possible in furthering the overall mission of the law school."

Before she arrived at USD in September 2002, O'Rourke ran a consulting firm that provided strategic planning and resource development services for non-profit organizations, including the Archdiocese of San

At the Graduate Law Programs reception on Sept. 4, 2002, LL.M. candidates got to meet new Assistant Dean Teresa O'Rourke as well as law school faculty, administration and staff. Below, left: Kang Jun Jeong, Se Boong Kwag, Professor Joseph Darby and Akira Ono. Below, right: Lauriane Roussel, Elvezio Santarelli and Stefan Brunnschweiler. Francisco, the East St. Louis Children's Foundation, and other faith-based organizations. Previously, she had served as dean of student affairs and admissions at the Dominican School of Philosophy and Theology in Berkeley, and as director of Student Life Services at Boalt Hall School of Law, University of California, Berkeley. O'Rourke holds a Master of Divinity degree from Harvard University and a Bachelor of Arts in comparative literature from Hamilton College.

"This multifaceted position includes principal responsibility for the administration of the law school's various post-JD graduate programs, including

Below, left: Irina Kim and Frank Och. Below, right: Vincent Roth, Thereza Tupinamba and Oksana VanRooy.



its nationally recognized program in taxation and its LL.M. in Comparative Law program for international lawyers," says Dean Daniel B. Rodriguez. "It also entails responsibility for coordinating academic planning efforts, as well as acting as a key liaison with other academic units and departments within the university."

There are 106 students enrolled in graduate law programs at USD, including 33 students from 16 foreign countries.



Left: Erik Flaagan and Assistant Dean O'Rourke.







Justice Clarence Thomas to Serve as Final Round's Chief Justice This Spring

Devitt Family Pledges \$100,000 to Endow Moot Court Honors Competition

rofessor Michael Devitt of the University of San Diego School of Law and his family have pledged \$100,000 to establish a permanent endowment to support the law school's Moot Court Honors Competition, Dean Daniel B. Rodriguez announced recently. The gift is being made in honor of Paul A. McLennon, a longtime close friend of the Devitt family, and the competition from now on will be known as the "Paul A. McLennon Honors Moot Court Competition."

"In his own unique, unassuming way, Paul McLennon always paused during life's distractions to help those in need, including a few troubled teenagers along the way," says Frank Devitt, brother of Professor Devitt. "Our family thanks you, Paul, for your friendship, love, care and guiding hand."

PAUL A. MCLENNON: A REMARKABLE LIFE

Mr. McLennon, a distinguished patriot and attorney, was born in Illinois on June 13, 1923, the seventh of eight children (five boys and three girls) of Peter and Margaret McLennon. His father Peter worked as a structural ironworker on bridges, and his mother Margaret was a homemaker. Paul McLennon served in the U.S. Navy Air Corps throughout America's involvement in World War II, from 1941 to 1945, as an officer pilot, where he flew Wildcats off an aircraft carrier in the Pacific, the U.S.S. Sargent Bay. He participated in the invasion of Okinawa, and was awarded the Distinguished Flying Cross. In 1945, Mr. McLennon was placed on inactive duty as a Lieutenant Junior Grade.

After the war. Mr. McLennon earned his bachelor's degree from Mundelein College (now known as Loyola University) in 1947, and his Juris Doctorate from DePaul University in 1950. That same year, he joined the Federal Bureau of Investigation (FBI) as a special agent, serving in various locations. including Baltimore, Pittsburgh and Chicago, until 1955. Mr. McLennon then joined the Law Firm of Gates W. Clancy, where he practiced until 1960, when he opened the McLennon Law Office in Wheaton, Illinois. Since then, he has specialized in trial work and real estate law.

Mr. McLennon and his wife, Joyce, were married in 1949 and are the parents of six children.

WELCOME JUSTICE THOMAS!

Yet another major boost to the prestige of the Paul A. McLennon Honors Moot Court Competition is the commitment of United States Supreme Court Justice Clarence Thomas to serve as Chief Justice during the competition's final round. Five rounds of the competition will be held mid-March 2003, at the San Diego Superior Court in downtown San Diego. The semi-final and final rounds will be held on the University of San Diego campus. The competition not only fosters appellate advocacy skills among USD law students, but also reinforces the law







Top: Attorney Paul A. McLennon. Center: McLennon in the cockpit of an Anti-Submarine Development Atlantic Fleet plane during WWII.

Bottom: McLennon in the cockpit of a Wildcat on the aircraft carrier U.S.S. Sargent Bay, during WWII.

school's strong reputation in the legal and academic communities for excellence in appellate advocacy training.

campus briefs

Three Distinguished Jurists Judge Final Round

Moot Court Draws 30 Teams to Criminal Procedures Finals

hirty teams, representing 21 schools from across the country, vied in the finals of the 14th Annual National Criminal Procedure Tournament, held at the USD School of Law, October 24-26, 2002, before a distinguished panel of jurists. The panel consisted of California Supreme Court Justice Ming W. Chin, U.S. District Court Judge Thomas J. Whelan, and Judge H. Lee Sarokin, retired judge from the U.S. Second Circuit Court of Appeals.

"Moot Court competition mirrors the real world in that cases are often won or lost on appeal based upon a lawyer's ability to respond persuasively to questions posed by the court," says Judge Sarokin, who served as Chief Justice for the final round. This year, the competitors argued about the constitutionality of a roadblock set up to catch terrorists, and the applicability of the plain view doctrine to police searches of an individual's computer.

Two teams from Southern Methodist University's Dedman School of Law emerged victorious during the tournament, which is considered the largest competition focusing on criminal procedure in the country.

USD'S NATIONAL MOCK TRIAL TEAM TAKES FIRST PLACE

On a related note, USD's National Mock Trial Team placed first in the 2002 San Diego Defense Lawyers Invitational Mock Trial Competition held October 24-26, 2002. Receiving top honors were team members Emily Burns, Joseph Charles, Martin Aarons and Eve Brachmann.

USD's National Mock Trial Team has won the invitational tournament for three years in a row, and four times in the last five years. Another team from USD School of Law—Krishna Haney, Shaka Johnson, Jessica Matulis and Sam Sherman—placed fifth in the competition.

Coaching the national mock trial teams were Professor Richard Wharton, chief coach, and Lisa L. Hillan, assistant coach. Troy Atkinson, Noel Fischer, Megan Godochik, Paul Reizen, and Jorge Alex Vargas made up the scrimmage team that helped members prepare for the tournament.



From left: Judge Thomas Whelan, Judge H. Lee Sarokin (ret.), and Justice Ming W. Chin.

Left: Members of the winning moot court teams from Dedman School of Law at Southern Methodist University, with the tournament judges.

Campus Tours, Panel Discussions and Padres Baseball Welcome New Students **1L Orientation: A Grand Slam Double-Header**

embers of the law school's entering class were treated to a veritable whirlwind of academic and social activities during First-Year Orientation on Thursday, August 22 and Friday, August 23, 2002.

Organized and directed by Professor Heather Murr, Thursday's orientation featured a continental welcome breakfast at the Colachis Fountain followed by a welcome by Dean Daniel B. Rodriguez and a keynote address by the Hon. H. Lee Sarokin in the Shiley Theatre. On Friday morning, a panel of four distinguished USD law alumni addressed topics such as ethics, professionalism, and lawyers (and law students) as problem solvers.

The two-day event culminated in a well-attended tailgate party and major league baseball game at Qualcomm Stadium, where the San Diego Padres made sardines out of the Florida Marlins in an 18-2 rout.



Left: Incoming first year students gather for breakfast at Colachis Fountain. Right: Dean Rodriguez applies his culinary skills at the tailgate event before the game.

Bergman Lectures Will Focus on Women, Children and Human Rights Gift from Dr. Barbara Yates Endows New Lecture Series

he School of Law has established the Jane Ellen Bergman Memorial Lecture Series on Women, Children, and Human Rights. This permanently endowed lecture series is the result of a wonderful gift by Dr. Barbara Yates, a longtime professor at the University of Illinois and a friend of the late Ms. Bergman. According to Dr. Yates, Jane Bergman was "an ordinary citizen who chose to devote her professional life to public service. As a nursing administrator, public health

educator, and family therapist, she developed an abiding interest in the human rights of common people, especially the plight of women and children, in a rapidly changing world."

This series will function both as a lasting tribute to Jane Bergman and as an opportunity for University of San Diego students, faculty and staff, as well as interested members of the community, to hear distinguished lecturers speak about issues concerning women, children, and human rights. In the future, this series may expand to include programs, symposia, and sponsored research within the areas pertinent to this lecture series.

Dean Daniel B. Rodriguez says "this gift, and the lecture series thereby established, will provide a rich, enduring opportunity for our students to be informed and enlightened by major international leaders. We are very excited about this new program."

Stay tuned for information about forthcoming Bergman Lectures.

campus briefs

Students Drawn to Delightful New Courtyard Warren Hall Undergoes Summer Facelift

newly built courtyard shaded by rows of jacaranda trees behind Warren Hall has become the ideal spot for studying al fresco and for welcoming groups to campus this fall. Benches that wrap around colorful flower boxes and recessed nooks invite the law student to step past the glass doors of the Writs reading room into a lush veranda.

Bill Anderson, administrative services manager, explains, "The idea for a courtyard grew from a simple gardening dilemma. The grass under the jacaranda trees was thinning out and about to disappear because of the overgrowth." USD's facilities management and university design staff spearheaded by Tim Doudna and Mary Whelan—instead turned the problem into an opportunity to improve the esthetics of the law school campus.

The courtyard construction was part of a bigger renovation project this summer that involved the repainting of walls and the replacement of carpets and ceiling tiles in 33 faculty offices in Warren Hall. Also renovated were offices in the Legal Research Center and the Legal Clinic in the UOP building. The upgrades involved more than 3,000 square feet of office space in Warren Hall alone. Several lavatory facilities in the three buildings were also refurbished to comply with the Americans with Disabilities Act (ADA).

The real story, however, is best told from the trenches. "All offices stayed open for business while the renovation went full blast," Anderson recalls, "which was quite a feat because this project was of a first 'order of magnitude'."

A Record Number for USD Four Students Receive State Bar Scholarships

igh academic achievement and a demonstrated commitment to public service have resulted in the awarding of scholarships to four University of San Diego law students by the Foundation of the State Bar of California—a record number for the law school. A total of 41 law students at 16 California law schools received scholarships.

This year's scholarship recipients from USD are Janis L. Burnett, who received a \$2,500 scholarship, and serves as an intern for the San Diego Public Defender and as a small claims mediator for the San Diego Mediation Center; Sheel K. Mann, who received a \$2,500 scholarship, and is an associate for California Lawyers for the Arts and a member of the Asian-American Law

Left to right: Molly E. Selway, Sheel K. Mann, Janis L. Burnett and Merrilyn A, Onisko.



Students organization; Merrilyn A. Onisko, a \$2,500 scholarship recipient, who is founder and president of the USD chapter of the National Lawyers Guild, and a volunteer with the San Diego Volunteer Legal Clinic and the Public Interest Law Society; and Molly E. Selway, who received a \$2,500 scholarship and serves as an extern for the U.S. Bankruptcy Court and a volunteer with Amnesty International.

"As an organization committed to the public good, we consider it essential to our mission that we are able to provide opportunities to individuals who are also committed to ensuring the public good through service in the legal profession," explains Pauline Weaver, chair of the Scholarship Committee of the Foundation's Board of Directors. "Our law school scholarship program allows us to support this commitment and honor our mission." Saturday, May 25, 2002 witnessed the awarding of diplomas to 420 graduates of the University of San Diego School of Law in the Jenny Craig Pavilion, with more than 2,000 friends and relatives looking on with pride and anticipation.

The Honorable Frank H. Easterbrook of the U.S. Court of Appeals for the Seventh Circuit was awarded an honorary degree and served as the main speaker at the commencement. In his remarks, Judge Easterbrook advised the graduates on how, as lawyers, they should go about interpreting and evaluating laws, judicial decisions and other legally meaningful written material. Professor Lawrence Alexander was awarded the 2001-2002 Thorsnes Prize for Excellence in Teaching, and he and Professor Emily Sherwin were co-recipients of the 2001-2002 Thorsnes Prize for Outstanding Legal Scholarship.



Gibran Lauren Belger exults in the glory of a dream fulfilled.



PHOTOS BY PABLO MASON

...So let me cut to the chase: in interpretation of statutes and constitutions, there just isn't anything there except for the text. A text written by a committee lacks an underlying spirit—not because the intent of the drafters is hard to discover, but because a multi-member body doesn't have a brain. It just votes. Compromises lack purposes. And that has powerful effects for interpretation. It is what drives people like me to textualism.

Textualism shares with civil law countries the approach of interpreting the text of the law with little reference to its legislative history—but it departs from the civil-law tradition of France and other European nations by abandoning the assumption that the law serves the public interest, or that if there is such an interest we can know it. Given these assumptions, the role of the judge is to inject as little of his own views as possible—for judicial views too serve some end, but are less well supported by the institutions of democracy. . . .

The point is this. When we worry about judges exalting their will over that of the legislature—that is, all the time—we ought to prefer a model of construction under which this is a sin rather than one under which it is the norm.

This is the challenge of politics in law, and the challenge of a lifetime for each of you. Go to it.

Judge Frank H. Easterbrook, United States Court of Appeals for the Seventh Circuit; Senior Lecturer, The Law School, The University of Chicago.



Above: Banks Pecht looks up at the large gathering of guests. Top, left: 1. Neda Kalhor and Melissa Karpouzes are all smiles on the big day. 2. Graduating students make their way to their seats on the floor of the Jenny Craig Pavilion. 3. A proud and happy Michael Ting is surrounded by gleeful family members. 4. Lena Ghianni gets some last minute primping before (and while) facing the cameras. 5. Marc Takenaga's future is so bright, he's gotta wear shades. 6. Stefan O'Grady, Kimberly Krauss and Scott Rahn enjoy a warm moment together. 7. Greg Hermanson and a prospective member of the Class of 2022.



GRADUATION 2002

We all know that the system isn't perfect, that injustices occur and always will, that unethical decisions are made and will always be made. But I believe that as we graduate, this is the time to indulge our idealism and look to the future with hope and optimism, for our attitude now will shape the type of lawyers we become, and help us to improve an imperfect system. I hope that each of us will serve the profession well and will represent our clients zealously without sacrificing courtesy and professionalism. I hope that we will always strive to craft creative solutions to difficult problems, and that we will never stop learning and growing as lawyers.

Upper left: Graduating students fall in line for the processional. Upper right: Priscilla Villanueva and Scott Rahn can relax—for now. Below: Valedictorian Katherine Parker.



Katherine Lind Parker '02 Valedictorian

Graduates Receive Awards

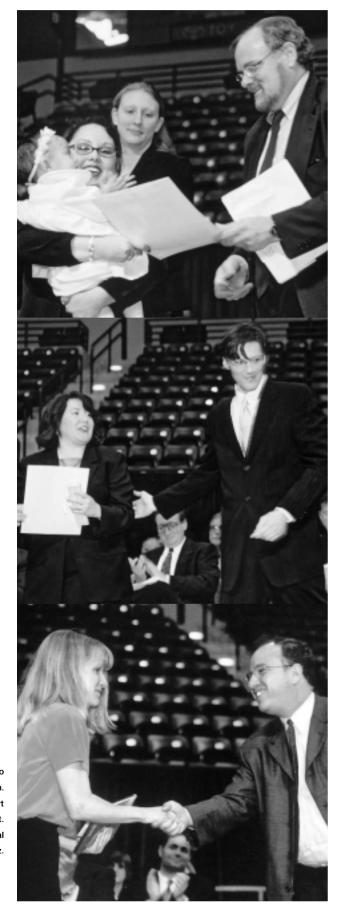
At the Graduation Awards Ceremony on May 24, 2002 at the Jenny Craig Pavilion, graduating students were honored for their contributions to the School of Law and demonstrated excellence in specific programs, activities and areas of study.

CENTER FOR PUBLIC INTEREST LAW AND CHILDREN'S ADVOCACY INSTITUTE

Board Members: Olga Alvarez, Anthony Bejarano, Catherine Casp Elisabeth Chaves, Tracy Clark, Denise Crawford, Amy Darby, Kevin Day, Todd Drake, Brendan Ford, Claudia Grasso, Alexander Gruft, Nita Mehta, Brian Murphy, Stefan O'Grady, Katherine Parker, Melanie Ronen, Jeffrey Shady, Nadya Spivack

Chair Award: Olga Alvarez

Top right: Mari-Belleza Parlade (with daughter Genevie) receives the James A. D'Angelo Outstanding Child Advocate Award from Prof. Robert Fellmeth. Middle: Olga Alvarez' achievements as chair of The Appellate Moot Court Board are lauded by Professor Michael Devitt. Bottom right: Tracey Angelopoulos, winner of the evening division's Legal Scholarship Award, is congratulated by Dean Daniel B. Rodriguez.



PRACTICING LAW INSTITUTE AWARDS

For Excellence in Moot Court: Olga Alvarez, Catherine Casper, Tracy Clark, Denise Crawford, Brendan Ford, Claudia Grasso, Brian Murphy, Stefan O'Grady

MARK A. LOBELLO AWARD

Excellence in Moot Court: Olga Alvarez

MOCK TRIAL PROGRAM

Matthew Beran, Keith Bruno, Christopher Capalbo, David Huch, Salwa Issa, Samantha Kuper Feld, Kevin Messer, Brett Norris, Katherine Pasieta, Stephanie Sato

AMERICAN BOARD OF TRIAL ADVOCATES AWARD

Outstanding Trial Competition Team: Matthew Beran, Katherine Pasieta THORSNES, BARTOLATTA & MCGUIRE AWARD

Excellence in Trial Advocacy: Samantha Kuper Feld ORDER OF BARRISTERS AWARDS

Olga Alvarez, Matthew Beran, Catherine Casper, Todd Drake, Samantha Kuper Feld, Brendan Ford, Kevin Messer, Brett Norris, Katherine Parker, Melanie Ronen Statue of Justice: Olga Alvarez

JOURNAL OF CONTEMPORARY LEGAL ISSUES AWARDS

Contributors (12:1): Bobby Bell, Jr., Renee Day, Seth Erbe, Malta Farnaes, Noel Gillespie Student Editor (12:1): Bobby Bell, Jr. Student Editors (12:2): Mark Cottrell, Mary Reding LAW REVIEW AWARDS

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Left: 1. Kenneth White '01 receives the award for Outstanding Small Claims Clinic Intern, from Diana Githens. 2. Members of the Appellate Moot Court Board are recognized for their hard work and accomplishments. 3. Andrew Kimmel and Jason McNeill receive the American Bankruptcy Institute Medal of Excellence Award from Ina Levy. 4. Michael Decina receives the Homer Kripke Memorial Award for Excellence in Corporate and Commercial Law from Associate Dean Kevin Cole.

R I + R

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Story by Genevieve T. Silverio Photos courtesy of the United States Coast Guard

omeland Security is Job 1 for Fragos-Townsend

When Attorney General Janet Reno needed an expert to testify before the Senate Judiciary Committee two years ago about the delicate balance that has to be struck between the constitutional rights of citizens and the need to protect the very nation that ensures those rights, she sent Frances Fragos-Townsend '84, then Counsel for Intelligence Policy of the Department of Justice (DOJ), to deliver an urgent message in the clearest terms. On the agenda was the "Counter-Intelligence Reform Act of 2000," designed to modify procedures relating to orders for surveillance and searches for foreign intelligence purposes.



"Perhaps the most revolutionary (change is that)

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intelligence, with non-governmental

entities . . .

who have a need

to know the

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while ensuring that

intelligence

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protected."

With Fragos-Townsend was the only other witness in the panel who could put national security in its proper context, FBI Director Louis J. Freeh. By then, Fragos-Townsend was known for her determination in prosecuting international organized crime and as a deft policy strategist. She was also quietly gaining a reputation as an effective coalition builder who could work with local and foreign law enforcement agencies to fight criminals on their own turf. Therefore, when Frances Fragos-Townsend was named to the new post of Director of Intelligence for the United States Coast Guard (USCG) in August 2001, no one in Washington was surprised.

Today, she has the daunting task of enhancing inter-agency and maritime awareness in the war on terrorism. "The Coast Guard is widely respected by our intelligence, military and law enforcement partners for our multi-mission maritime capabilities," says a confident Fragos-Townsend as the agency gears up for its stepped up role in anti-terrorism. "My first priority is to work with the Coast Guard leadership to establish intelligence priorities that will serve to enhance maritime operations." USCG Commandant Admiral Thomas H. Collins agrees. This fall, he appointed her as the first Assistant Commandant for Intelligence, the highest honor that can be bestowed on a civilian, for the growing prominence of the USCG intelligence mission in national security.

Called the best-managed agency in the federal government by *Government Executive* magazine, the USCG is responsible for countering potential threats to America's inland waterways and ports as well as 95,000 miles of coastlines, territorial seas, 3.4 million square miles of ocean within our Exclusive Economic Zones, and other important maritime regions. It has an impressive record of thwarting drug smuggling, keeping \$3.9 billion in illegal drugs off America's streets this year alone and seizing 500,000 pounds of cocaine valued at \$16 billion in the last four years. What is more remarkable is that eleven different agencies, departments and councils rely on the USCG for mission-critical activities.

And its role continues to grow. "In December 2001, President Bush signed legislation amending the National Security Act of 1974 to make the USCG intelligence element a member of the intelligence community," explains Fragos-Townsend. "Where we used the term 'intelligence' to mean information of value, now it has a specific meaning that requires it be used precisely."

Her appointment is a prelude to the massive reorganization of the federal government to fight terrorism. The White House is putting the nation's domestic security agencies under the cabinet-level Department of Homeland Security, moving the USCG from the Department of Transportation to the new Border and Transportation Security Division of the Department of Homeland Security. Several ideas have been put forth, and one proposal calls for the consolidation of the USCG, Customs and Immigration into a single service.

STAYING ON COURSE

Fragos-Townsend's remarks to the graduating class of the Coast Guard Operational Intelligence School in February 2002 shows her own unwavering belief in its core mission: "Border security, along with search and rescue, is the Coast Guard's bread and butter. It's more than counter-terrorism; it's counter-narcotics, combating illegal immigration, stopping pollution threats in U.S. waters. And it is closely linked with maritime safety, including navigation safety."

At the same time, she prepares the class for the changes that are about to come—changes she intends to bring about on her watch—as well as changes outside the USCG that she cannot predict. Fragos-Townsend asks the class to press on, "There are dynamic changes in the federal government whose impacts on the Coast Guard are still unknown. Focus and stay on course despite confused seas. That is what the Coast Guard does best."

Fragos-Townsend's demonstrated ability to push an agenda beyond national boundaries — and jurisdictional barriers within the government — makes her a key player in the transformation. She states, "Perhaps the most revolutionary (change is that) the government is exploring how to share information, including intelligence, with non-governmental entities; port, marine facility and vessel security personnel who have a need to know the information, while ensuring that intelligence sources and methods are protected."

FROM MANY, ONE

Under the Homeland Security Department, agencies that now report to eight Cabinet departments would form a new 169,000-employee organization. A clearinghouse would be created within the department to analyze intelligence information. Fragos-Townsend notes, "The Coast Guard is working with state and local law enforcement agencies to share information on Department of Justice networks. It is also working with the Department of Defense, specifically the Office of Naval Intelligence. Special teams ensure the maximum flow of information and support to Coast Guard field units and perform investigations of high risk activities." On the agenda is the issue of eight million containers that arrive in U.S. ports every year of which only two percent are inspected. Nearly 95 percent of goods entering the country come by sea.

THE RIGHT STUFF

Fragos-Townsend began her prosecutorial career in 1985 as an assistant district attorney in Brooklyn, New York. In 1988, she joined the United States Attorney's Office for the Southern District of New York where she focused on international organized crime and white-collar crime cases. She rose through the ranks in the DOJ and eventually caught the eye of Janet Reno, who named her deputy attorney general for international law enforcement policy. In 1991, she worked in the Office of the Attorney General to help establish the Office of International Programs, the precursor to the Executive Office for National Security. In 1998, Reno named her Counsel for Intelligence Policy and Review (OIPR) where she reviewed executive orders, directives and procedures for the intelligence community, and approved intelligencegathering activities relating to the Foreign Intelligence Surveillance Act of 1978.

Even as a college student, Fragos-Townsend has had the overdrive and foresight of an achiever. She graduated *cum laude* from American University in 1982, after only three years of study, with two degrees: a B.A. in political science and a B.S. in psychology. She then attended the Institute on International and Comparative Law in London, and completed her law degree at USD in 1984, a move that opened the door to the DOJ.

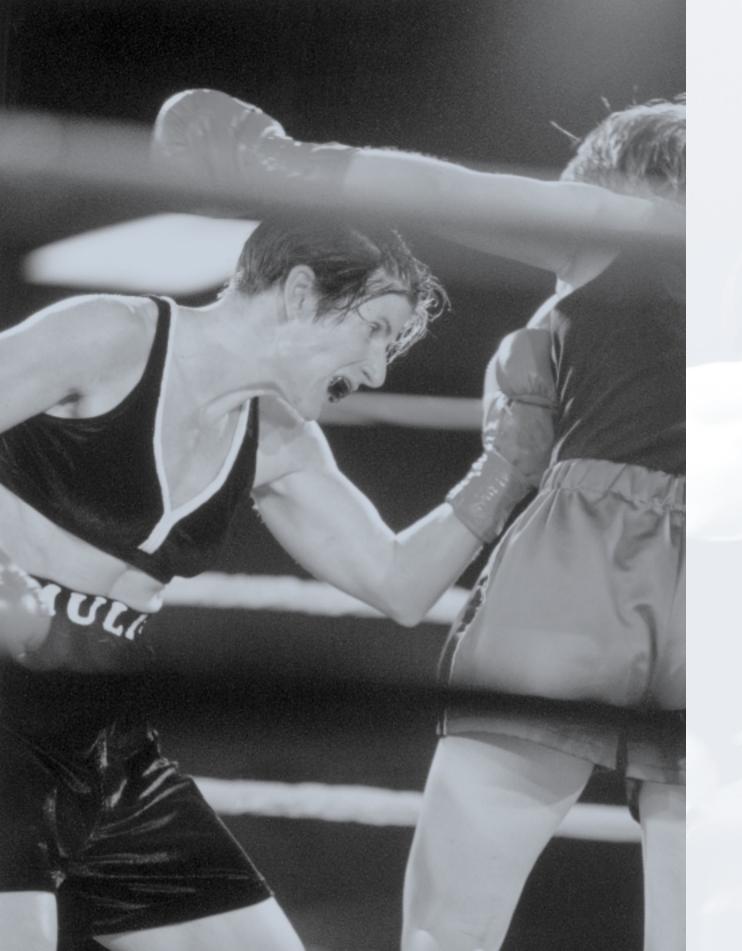
Looking back, the USD alumnae reflects: "The education I received as a law student in a Catholic university reaffirmed my values and continues to define the way I do business." Indeed, a passion for the law is something she shares with husband John Townsend, who is managing partner at the law firm of Hughes, Hubbard and Reed in Washington, D.C. The couple has two boys and they work at balancing career and family.

Notwithstanding her success, Fragos-Townsend remains low key: "There are a lot of misperceptions about what we do in this profession, mostly based on Hollywood and spy novels." But Janet Reno's words from the past are freshly reassuring, "Fran has the right stuff for this job. Her experience as a federal prosecutor and her management skills in the international crime fighting arena will help prepare this vital office for the next century's challenge."









Story by Jennifer Coburn Photos by Annalee Lehman

Putting on the

Gloves

Mary Lehman '91 can beat you with an uppercut or an appellate brief—take your pick

Take a swipe at Mary Lehman '91 and she may very well return the favor by breaking your nose. She is not a guest on a new reality television series, "Law Fights." She is not even prone to losing her temper. The specialist in civil appellate work is just another attorney who happens to aspire to become the World Champion of professional women's boxing.

Lehman recently left her position at San Diego's Gray Cary Ware & Friedenrich to start her own appellate practice, leaving her more flexibility to pursue her boxing career. Practicing law is rewarding, but not as cathartic as boxing, says Lehman. Standing 5'3", Lehman adds that through fighting, she is able to discover a great deal about herself. "There's something so basic about unarmed combat. There's a purity and peacefulness to it, and you really find out who you are," she says. "There aren't many things that test you like boxing does. These days we're so insulated with our cell phones and fancy clothes and money, we're getting away from what we're really made of." The undefeated boxer recalls a recent fight where her opponent hit her with such great force, Lehman's knees buckled under her. Instead of feeling intimidated, she came back fighting harder and more focused, she says. "It was a self-discovery on stage. That was a real high."

FROM LAW FIRM TO BOXING RING

Lehman instantly fell in love with boxing, but she discovered the sport by accident. Her friends have noted Lehman's stumbling into the world of boxing is the exact opposite of the movie *Billy Elliot*, where a young boy happens upon a ballet class while on his way to boxing lessons. Three years ago, the attorney misread the schedule at her gym and showed up at a boxing class instead of the step aerobics class she'd planned to attend. Not wanting to give up the opportunity for a good work out, Lehman decided to stay. "Eighty percent of the class was women who were lawyers or working at a law office," she recalls. "As women, we have stress. We are angry and frustrated, but we're not allowed to exhibit that." She said she knew right then boxing was for her. "The goal wasn't about looking good; it was about being strong and what you could do, which is very freeing for a woman."

It was love at first punch. She started daydreaming about competing and hired a trainer to prepare her for her first amateur fight. Oh, her first coach, Lehman says the six-foot, 200 lb. "marshal arts built" man was "very wise and nurturing. He only gave me what I could handle." What she could handle, as it turned out, was a lot. The two began sparring, working on footwork, punches, ducking punches, slipping (avoiding an opponent's punch) and other offensive and defensive tactics.

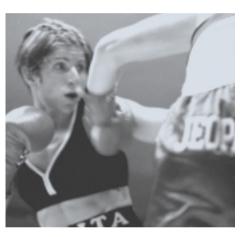
ON THE JOB BLEEDING

Lehman's first broken nose occurred during a sparring match with her trainer. The second time was at her first amateur match. "It didn't really hurt" either time, says Lehman. During her first boxing match, Lehman says she remembers looking at her opponent's shirt and not knowing whose blood was splattered across it. It was hers. The match was stopped only temporarily while the officials asked Lehman a series of simple questions to determine whether or not she had sustained a serious head injury. After demonstrating that she was still aware of who and where she was, the day of the week and the President of the United States, the fight continued.

Undeterred by the broken nose, Lehman went back into the ring more determined to win. "I just remember thinking, *I've got to get tougher.*"

learned in the ring have been applied to other areas of Lehman's home life and legal practice as well. She says when she faces a challenge in life, she thinks about how she would handle a comparable situation in the ring. Lehman sees the boxing ring as the ultimate microcosm for the world. "Life is unarmed combat. I guess the most important thing is staying focused, staying in control and doing the hard work," she says crediting USD School of Law as one of the first places she learned this. "In law school there are so many distractions, but if you want good grades you've got to stay focused on that." She laughs as she adds, "We want to multi-task everything, but when you're in the ring, you have to focus because someone's trying to take your head off. I love that."

Lehman is a blend of intensity and calm. From her three-anda-half hour workouts, boxing training and fights she says she's





David Siccardi Photography

Since then, Lehman has fought in three professional boxing matches in San Diego. She won all of them. No opponent has broken Lehman's nose or any other body part.

Lehman says she won't stop until she's World Champion in the bantamweight class, which is women up to 118 pounds. "Everything I do, I do completely. One of my coaches told me I was going to be a champion, and I said, 'I know." There's no arrogance as she recalls this story. Rather Lehman is just fortunate enough to possess unflappable confidence and determination. Her goal is to win the World Champion belt by the time she is 40 years old less than one year from now. To do so, she must maintain her good record, get a promoter and challenge and beat the reigning World Champion in a title fight.

THE RING OF LIFE

"I never was an athlete," says Lehman. "My mother says I was a born fighter, but I was never allowed to fight." The lessons she has gained self-awareness, peace and patience. "There's a sense of purity and fairness. One of the major changes in me is that I don't get all riled trying to have fights with people because I have an outlet for fighting—a real outlet.

Her workout schedule consists of weight training, distance and sprint running, yoga and pylometrics, which are "explosive" exercises like throwing and jumping rope. Additionally, she sticks to a strict diet of organic foods. "I spent a lot of money eating the best I can," she says, adding that she is currently seeking the sponsorship of Whole Foods Market.

Through boxing a "whole new world opened up" for Mary Lehman, attorney by day boxer by evening. The economic rewards are slim (female boxers are paid \$200 per round with a maximum of 10 rounds), but for Lehman the real payoff is in how boxing has transformed her life. "Some people are born fighters and if you are a born fighter, you should have this avenue to achieve your real self."

Diagnosis: I NGFRECETDIOUS

A new book by Professor Frank Partnoy explains the fall of Enron and tracks the corruption of the financial markets since 1987.



In April 2003, Henry Holt/Times Books will publish Infectious Greed: How Deceit and Risk Corrupted the Financial Markets by Professor Frank Partnoy of the University of San Diego School of Law. Partnoy, who joined the USD law faculty in 1997, teaches and writes in the areas of corporations, finance and white collar offenses, and was co-recipient of the 1999 Thorsnes Prize for Excellence in Teaching. He is the author of the 1997 best-seller F.I.A.S.C.O.: Blood in the Water on Wall Streets. On January 24, 2002, Partnoy's testimony before the U.S. Senate Committee on Governmental Affairs on the fall of Enron, which was covered extensively by the national news media, led to his becoming a highly sought after expert commentator on the corruption of the financial markets, particularly in connection with the role of derivatives.

In a recent interview with the Advocate, Professor Partnoy discussed his upcoming book and the important issues it raises.

Interview by George Decker Photo by Rodney Nakamoto

After you testified before the U.S. Senate Committee on Governmental Affairs last January, it seemed that news media interest in what you had to say exploded. In the weeks that followed, you were quoted in *The Wall Street Journal, The New York Times, Fortune Magazine* and the *Financial Times* (of London), among many other news media outlets. What has life been like for you since then?

Very busy. I logged a lot of frequent flier miles this year, and spent more time than I would like on the phone. I have been trying to persuade regulators not to ignore certain key issues, particularly the role of bond credit ratings and financial derivatives. In a very minor way, the Sarbanes-Oxley legislation recently passed by Congress addressed some of these concerns, and the Securities and Exchange Commission is now investigating those issues. I have spent some time advising regulators on these issues, but I spend most of my working hours just

like most of other law professors—teaching classes, serving on committees, and working on research projects.

Why did you decide to write Infectious Greed: How Deceit and Risk Corrupted the Financial Markets?

I thought that the commentators on Enron were missing the big picture, and I wanted to try to place Enron in context. The book essentially is a recent history of financial markets, and its underlying thesis is that Enron could not have happened fifteen years ago. In the book, I try to explain how markets, law, and culture have changed since 1987 to "enable" Enron. and I try to connect the dots among the various recent financial scandals, from Bankers Trust to Orange County to Long-Term Capital Management to today. The book essentially is a compilation of arguments I have been making in law journal articles during the past six years, but I tell the story in narrative form, so I hope it will be more interesting to a reader than the articles were.

How long did the book take to write?

In some ways, I have been working on this book for six years. But the really focused writing started in April and I delivered a draft manuscript in August. So the initial draft of the manuscript took about four months to write. Unfortunately, that effort pretty much killed my summer, and I didn't have much time to work on my golf game (although I did have a hole in one). Throughout this period, I also was gathering documents and doing interviews. I did over 150 interviews for the book. and the kev interview-with the "patient zero" who opens the first chaptertook a lot of negotiating and persuading. I finally convinced this person to talk to me in September, when he called me on my cell phone as I was visiting Disneyland with my family. I gathered some of the most interesting anecdotes in the book while sitting under a giant

Mickey Mouse topiary. Then, of course, I spent several weeks editing the manuscript. I delivered the final manuscript in November, and it will be published in April. So including publication time, the whole thing took about a year.

How much of what's in your book has made its way into the courses you teach at the law school? Could the book's subject matter someday become a course of its own at the law school?

I gave a lecture on Enron in a course called Deals, and the students began the semester by reading the Report of Enron's Special Committee and then writing papers on a legal issue related to the collapse of Enron. I also use some of the materials related to derivatives in my Corporate Finance course. So I think that much of the subject matter is relevant in the business law curriculum. However, the book is not a legal text (I hope it's a better read than that!), and I don't imagine an entire course being taught around its contents.

In light of the recent resignation of Harvey Pitt as chairman of the Securities and Exchange Commission, as well as the Republicans taking control of the Senate and the House of Representatives, how likely is it that needed reforms in the regulation of financial markets will be enacted?

I thought any additional reforms were unlikely before the November election, and my views didn't change afterwards. Some prominent Democrats have opposed reforms, too, so this issue is not one that breaks down along party lines. As for Harvey Pitt, I think we may find that, although the media had good fun attacking him, we will very much miss his expertise during the upcoming year. Unlike Arthur Levitt (Pitt's immediate predecessor), who was politically skilled but had very limited understanding of financial regulation, Harvey Pitt was a brilliant lawyer and insider. He knew where the bodies were buried, and although there were appearances of conflicts, his actual decisionmaking did not seem to be tainted in any way. But perception is reality, and Pitt was doomed the moment he arrived. Today, investors might think of Levitt as their champion, and of Pitt as a conflicted shill for accountants and bankers. But I suspect that history will not treat Levitt kindly, and that investors will wish they had cared more about substance than political skill when they assessed Harvey Pitt. One major theme of my book is that Arthur Levitt was not all he was cracked up to be.

Your book makes it clear that there is plenty of blame to go around for how the financial markets got into their current mess. How blameworthy were the lawyers involved?

It's always tempting to blame the lawyers, and in this case they certainly deserve a bit. But investors and regulators deserve at least as much blame as lawyers. Some large law firms have compromised their standards in giving aggressive opinion letters to clients regarding complex transactions, but lawyers on large deals often are left in the dark as to financial details and accounting motivations. By the time anyone reads this interview, the SEC will have promulgated rules requiring lawyers to acts as corporate fraud "whistleblowers," and I suspect most lawyers will find themselves ill equipped to do so.

It sounds from your book that Enron, WorldCom, Global Crossing and the other companies you discussed are just the tip of the iceberg. Can we expect many more such scandalous revelations in the near future? Has the market already absorbed such bad news, or will such future revelations continue to have a depressing effect on stocks?

Given my investing track record, I'll stay away from market predictions. (I shorted Yahoo stock as it was rising and have held investments in Japan during recent years, to give you some idea of just how bad it is.) But it is obvious to me that all of the losses related to recent corporate defaults have not yet been reflected in the market. Many of these losses were on instruments held by insurance companies and other institutional investors, which are not required to disclose losses on an ongoing basis. Instead, even underwater financial instruments are recorded at their original "book" value. That means there are very substantial losses at those institutions, and I don't believe investors realize their extent. Or at least they don't yet. In another year, we likely will learn of major losses related to credit problems at insurance companies. But banks used sophisticated financial instruments to hedge the lion's share of their risks, and most federal banking officials are not worried about any systemic banking collapse.



Remembering Dean Weckstein

Donald T. Weckstein led the USD School of Law through nine years of unparalleled growth and progress

More than anyone else, former Dean Donald T. Weckstein, who died July 22, 2002 at age 70, transformed the University of San Diego School of Law into the great center of legal education that it is today.

During his tenure as dean from 1972 to 1981—the longest tenure of any of the USD School of Law's deans—the school doubled the number of its full-time faculty, expanded its curriculum and reduced class size. Dean Weckstein, who earned his J.D. from the University of Texas and his LL. M. from Yale University, aggressively recruited distinguished professors and legal scholars from the nation's finest law schools. He oversaw the founding of legal clinics and under his leadership the law school established the Center for Public Interest Law, the Center for Labor Management and Employment Law, the Center for Criminal Justice Policy and Management, and the Law and Economics Center.

"No one did more over the course of the past quarter century to enhance the reputation and prestige of our law school," says Daniel B. Rodriguez, the law school's current dean and a professor of law. "For nearly 30 years, Don's teaching, influence and intellect touched students and colleagues at home and abroad, not only at the University of San Diego, but at numerous institutions he visited."

Under Dean Weckstein's leadership, the law school sponsored its first annual Institute on International and Comparative Law in Paris in 1973. He founded the school's Board of Visitors in 1975, bringing together distinguished alumni, attorneys, community leaders and judges. At Dean Weckstein's initiative, the law library collection expanded and was moved into its own building-the Pardee Legal Research Center. "The small law library on the third floor of Warren Hall that held 60,000 books gave way to a modern facility with half a million books, and the space on the third floor became the Grace Courtroom," notes Grant Morris, a law school colleague and friend. In 1977, Dean Weckstein presided at the dedication of the Grace Courtroom, which was modeled after the first United States Supreme Court and inaugurated by special session of the Supreme Court of California.

In 1981, he handed the dean's reins to Sheldon Krantz and returned to teaching and research—first at other law schools as a visiting professor, and later returning to USD.

As a professor of law at USD, Dean Weckstein distinguished

himself as a teacher and scholar. He taught labor law, professional responsibility, labor arbitration and alternative dispute resolution. Dean Weckstein co-authored "Professional Responsibility in a Nutshell" with Robert Aronson, which was published in 1980, and was a contributing author to "Moore's Federal Practice," which was published in 1974.

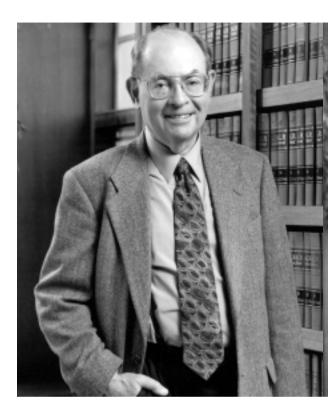
Regarded as one of San Diego's leading authorities on legal ethics, Dean Weckstein also was known throughout state and national legal and academic communities for his work on ethics and alternative dispute resolution. He was a frequent lecturer and participant in workshops, panels and symposia, and was an active member of the National Academy of Arbitrators and the Society of Professionals in Dispute Resolution.

Dean Weckstein's contributions to legal education and the mission of the University of San Diego were recognized in 1994 when he was named the inaugural University Professor for the School of Law, acknowledging more than 20 years of outstanding service to the law and legal education. In September 2000, the Law Library Justice Foundation recognized his accomplishments by awarding him the prestigious Bernard E. Witkin Award for civic leadership and excellence in teaching, practice, enactment or adjudication of the law.

"For all his accomplishments, Don will be remembered as a great person," says Morris. "But he was much more than that. He was a good person. As a leader, he was humble and approachable. He always treated people respectfully and fairly."

Dean Weckstein, who retired from USD last spring and became professor emeritus, died in La Jolla from complications from a series of strokes. He was stricken unexpectedly while directing USD's Summer Law Program in London during the summer of 2000, and remained in a coma for several months. Dean Weckstein's valiant road to recovery from his illness—which involved surgery and extensive rehabilitative therapy—was detailed in the cover story of the *Advocate*'s Fall/Winter 2000-2001 issue.

Dean Weckstein served in the Judge Advocate General's Corps of the Army and rose to colonel in the Army Reserve. He is survived by his wife, Linda; daughters Elizabeth Furman of Portland, Oregon, Alyson Weckstein-Lou of Kensington, California, and Julie Weckstein of Sacramento; and a son, Zachary, of San Diego.



The Power of 2

Two nationally recognized scholars from the Midwest have joined the University of San Diego School of Law as tenured professors and bring with them uncommon wisdom and prestige.

YALE KAMISAR

Whenever Yale Kamisar has a break from teaching the finer points of constitutional law and criminal procedure to students, you will find him practicing his lesser known skills on the tennis court. Two grandsons, one of whom at age ten is a highly ranked tournament player, keeps the esteemed professor concentrating on his cross-court volleys and groundstrokes these days.

Kamisar is disarmingly candid and youthfully ebullient. The 73-year-old "Father of Miranda" is upbeat about winning a weekend match against one grandson and, well, rooting for the other in his next tournament. The moment is priceless.

"It is not true that the first word out of my mouth was 'Miranda,' instead of 'Mama,'" jokes Kamisar, whose passion for sports writing and athletic talent led him to tennis. When Kamisar was a freshman at New York University, an opening occurred on the college newspaper—reporting tennis and track and field. Kamisar knew very little about either sport, but basketball, football and other sports he did know about were being covered by upperclassmen. So he jumped at the chance to write about and learn about tennis and track and field. In that situation, he recalls, you agree to cover the sports that are available. Not only did he learn a great deal about tennis, but he became an avid tennis player. Moreover, he passed his love for the sport down to his three sons, all of whom became

STORY BY GENEVIEVE T. SILVERIO Photos by rodney nakamoto



The School of Law welcomes Professors Yale Kamisar and Steven D. Smith

college players. (His oldest son makes a living as a tennis instructor. His youngest son qualified for the NCAA championships and played professional tennis for a while.) Now Kamisar plays tennis with his grandsons.

In the classroom, Yale Kamisar has the same indelible impact on eager young minds. Each spring for the last three years, Yale Kamisar has come to Warren Hall to teach criminal procedure in a room packed with about a hundred students. He has a formidable mission: "I teach my students as much as I can about the real world and inspire some of them to go into criminal law and procedure. But more than that, my goal is to toughen their minds and to make them much more aware of the advocacy prosecutors, defense lawyers—and all lawyers—engage in."

Kamisar confides that a specialization in criminal law and procedure was not in his original plans. "My first choice was antitrust law." Fresh out of law school, he joined the then largest law firm in Washington, D.C., Covington & Burling. However, his love for the law and a gift for teaching eventually compelled the promising corporate lawyer to switch gears, sending him on his way to becoming a nationally recognized authority on constitutional law and criminal procedure.

The prolific writer and scholar explains that too often faculty members teach their students to be professors, not lawyers. "Lawyers are advocates," emphasizes Kamisar, "and I try to call attention to the advocacy in lawyers' arguments and, yes, judicial opinions. One form of advocacy is 'wordsmanship,' and judges and law enforcement officials utilize this skill as well as lawyers. For example, drug agents would have us believe they don't arrest or even detain suspects at the airport; they only engage in police-citizen 'encounters' or 'contacts.'"

The Power of 2

"As for the USD students," says Kamisar, "they are as well prepared as any students I have ever had. Moreover, the best students are as good as the best students I have had at any of the other four law schools I have taught (including Harvard and Michigan)." "As an advocate," continues Kamisar, "you have to anticipate your opponent's argument, sometimes think of better arguments for your opponent's side than he or she did. And you have to think about why adopting your position will trouble the court and how to reassure the court that there is no reason to be troubled. Kamisar cites *Lassiter v. Department of Social Services* (1981), where the U.S. Supreme Court rejected the view that due process requires the appointment of counsel in every parental termination proceedings involving indigent parents. The Court's greatest concern, observes Kamisar, "was probably where to draw the line. If the state must provide indigents counsel in a parental termination proceeding, why not in a child custody fight growing out of a divorce action when one parent is indigent? In Lassiter, the advocate should have emphasized that parental termination proceedings are quite different from what might be called 'private custody fights.' In the former case, the government—with its enormous investigative and prosecutorial resources—is setting machinery in motion to abrogate the parent-child relationship. In such a case, no less than when a state seeks to put a person in jail, maintains Kamisar, "the indigent parent should be able to challenge official decisions and assertions of power vigorously."

Overcoming the odds is something of a Kamisar trademark. At Columbia Law School, Kamisar, an ROTC Infantry Lieutenant, was forced to take his second-semester final exams a month early because he was being activated and sent off for a tour of duty in the Korean War. On Friday the 13th of June, 1952, he commanded the assault platoon in an attack on T-Bone Hill that won his battalion the Presidential Unit Citation. Kamisar recalls that as he walked up the hill it felt like he was on maneuvers and real enemy soldiers weren't shooting at him with live ammunition. Kamisar says, "I am not enamored of the army, but I have to say that at that point my training as a soldier kicked in." The anecdote puts new meaning into what Kamisar means about toughening the mind.

Kamisar feels right at home in USD. "The quality of the law faculty is impressive. I enjoy the workshops and papers as well as my discussions with faculty members, especially with those like Larry Alexander, Kevin Cole and Fred Zacharias, who share my special interests in criminal law or constitutional law."

He has also enjoyed his appearances as a guest lecturer in Professor Charles Wiggins' classes. Wiggins and Kamisar have very different views on the law and the morality of euthanasia and physician-assisted suicide, but they like and respect each other. Kamisar's stints at USD have given him the opportunity to renew his friendship with Carl Auerbach, his former colleague at the University of Minnesota Law School. It was Auerbach who urged Kamisar to seek a visiting appointment at USD four years ago.

"As for the USD students," remarks Kamisar, "they are as well prepared as any students I have ever had. Moreover, the best students are as good as the best students I have had at any of the other four law schools I have taught (including Harvard and Michigan)."

Kamisar's high expectations as he begins his new status as a tenured USD law professor extend

The Power of 2

past academics, students and colleagues. In past years, as a visiting professor, he has not had to attend faculty meetings or serve on faculty committees. Has that been a plus or a minus? "That," jokes Kamisar, "remains to be seen. Candor compels me to say that I have spent quite a few hours at faculty and committee meetings elsewhere wishing I was doing something else."

STEVEN D. SMITH

Coming to USD was an idea that had ripened on the vine ready for Steven D. Smith to pick. A desire to return to the West and be in the midst of friends and a vibrant academic community took seed in the mind of the Idaho native in years past. "Among other things, I had missed the West and was so interested in returning," explains the professor. Therefore, while his ties to the University of Notre Dame community since 1998 remain as solid as ever, the idea he quietly nurtured grew stronger with time. Even back then, Smith recalls, "I knew that USD was a very energetic place academically, with a good dean and faculty."

When the question finally came this year, he had the answer. "USD was a natural place to consider, and things worked out," says Smith who is quite pleased to join long-time friends Professors Larry Alexander, Emily Sherwin, Maimon Schwarzschild and several others. The new USD law professor is one of the nation's foremost scholars in the field of law and religion, and held the Robert E. and Marion D. Short Chair at the University of Notre Dame before moving here.

Fellow USD law Professor Emily Sherwin is enthusiastic. "I am extremely happy that Steve Smith has joined our faculty. He is one of the country's leading constitutional law scholars, and a wonderful colleague who will work very hard to make USD a great law school. Students will also discover that he is an extraordinarily kind and generous person."

His experience growing up in a small town in Idaho within a close-knit community and family imparts a deep-seated rootedness and place that the respected scholar's works and aspirations evoke. "I had a religious upbringing and was a Mormon missionary for two years in Brazil when I was younger. So I suppose it was natural to be interested in the religious dimension of things. But more generally, I've long been convinced that both the achievements and the serious deficiencies of our time are related to what one might call a deep-seated 'materialism,' and that greater emphasis on the spiritual dimension is needed. The hard thing is figuring out how to articulate this in academic work."

Even so, work is not all there is to do for the father of five, two of whom still live at home. San Diego's mild weather year-round gives Smith a chance to enjoy the outdoors with his youngest kids. He enjoys taking them on hikes through San Diego's trails, which would be an unusual activity this time of the year in Indiana's intemperate climate.

San Diego is where Smith wants to be. "I do think that changes of place and associations cause a person to rethink just a bit what is important, or worth doing. However, I have not been here long enough to notice any major change in my own directions. But, we'll see." "I am extremely happy that Steve Smith has joined our faculty. He is one of the country's leading constitutional law scholars, and a wonderful colleague who will work very hard to make USD a great law school. Students will also discover that he is an extraordinarily kind and generous person." —Professor Emily Sherwin



Teaching, researching and writing, and taking part in

workshops, conferences and symposia would seem to

be more than enough to keep most law professors' cal-

endars full. Not so with USD law Professors John H.

Environmental Protection Faculty

Professors John Minan and C. Hugh Friedman devote countless hours of public service to conserving California's water and air resources.

Story by George Decker Photos by Rodney Nakamoto Minan and C. Hugh Friedman. In addition to perform-

ing their regular duties as key members of the law

school's faculty, they somehow manage to find the time

and energy to take an active and committed role on two

of the state's most important environmental boards.

"John Minan has provided the Regional Board and its technical staff of about 70 people with superb leadership and insights to deal with the many demanding challenges of protecting the region's water quality," says John Robertus, the Board's executive officer. "He has been particularly focused on the efforts to ensure that regulatory documents are well written and adopted with thorough public involvement."



JOHN MINAN AND THE SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD

"I have been involved in public service since college," Professor John Minan says with a mixture of pride and humility. It is in his current role as Chair of the San Diego Regional Water Quality Control board where he may be having his greatest impact as a public servant.

Minan was appointed to the Board by Governor Gray Davis on December 14, 1999, and reappointed by the Governor on November 15, 2002. The "San Diego Regional" in the Board's name belies its power and its ability to make a significant difference. "We are responsible for enforcing the Federal Clean Water Quality Act and the state companion law—the Porter-Cologne Act," Minan explains.

The State Water Resources Control Board and the nine Regional Water Quality Control Boards work together to protect California's water resources. With passage of the Porter-Cologne Water Quality Control Act in 1969, the Boards together became the "principal state agencies with primary responsibility for the coordination and control of water quality." In 1991, the Boards were brought together with five other State environmental protection agencies under the newly formed California Environmental Protection Agency.

Membership on the Board requires a major time commitment. The Board meets the second Wednesday of each month starting at 9 a.m. Meetings rotate among locations in San Diego, Temecula, Laguna Beach and Mission Viejo. "We've had 11- and 12hour meetings," says Minan. "Usually we have very long agendas—the issues are very controversial. I also put in an additional half-day with Board staff in preparation for each meeting."

"John Minan has provided the Regional Board and its technical staff of about 70 people with superb leadership and insights to deal with the many demanding challenges of protecting the region's water quality," says John Robertus, the Board's executive officer. "He has been particularly focused on the efforts to ensure that regulatory documents are well written and adopted with thorough public involvement."

Minan has also focused his energies on two regional water quality issues in particular: (1) the storm water permitting process and (2) problems with wastewater management along the border with Mexico.

"The greatest potential impact of our work concerns storm water permits for Orange County and San Diego County," he points out. "In a storm water area, we issue area or system-wide permits. I think that these permits have the potential for making the greatest improvement in water quality in the region."

As Board Chair, Minan has been directly involved in the adoption of two different area-wide municipal storm water permits that apply to more than thirty political subdivisions (cities, counties, flood control districts and a port district) in southern California. The United States Environmental Protection Agency considers contaminants in storm water runoff as a significant threat to water quality across the nation, and one of the most significant reasons why water quality standards are not being met. The Board-through the areawide permits-has established performance standards for pollution prevention and source control without using numeric limits, thus taking an important leadership role in changing the status quo.

Minan's article, "Recent Developments in Wastewater Management in the Coastal Region at the United StatesMexico Border," 3 San Diego International Law Journal 51 (2002), deals in large part with the failure of the United States to comply with federal and California water quality permit standards for the International Wastewater Treatment Plant at the border, by not providing for secondary treatment of wastewater from Mexico over which the state has sued the federal government.

"The dilemma for our Board is that the federal government is operating a plant in clear violation of federal law," Minan asserts. "The question is whether the state can do anything about it. The case is pending in the federal courts. The practical difficulty is that if you go to court, the court is limited in what it can do. It has been a fascinating lesson for me on the fundamental ideas of sovereign immunity and the separation of powers."

Remarkably, Minan's current public service in the environmental arena extends far beyond his leadership of the San Diego Regional Water Quality Control Board. He also serves as a representative to the Southern California Wetlands Association and was recently

elected to the San Diego River Conservancy. And in February, Minan will moderate a panel discussion on municipal stormwater permitting at the American Bar Association's Annual Water Law Conference in San Diego, for which he also serves on its planning committee. "Being an academic allows you the opportunity to do these things," he says. "Dean Rodriguez has been supportive in rearranging my teaching schedule to enable me to make these contributions."

At the same time, Minan finds that his public service ultimately benefits his students. "Public service greatly enhances my teaching," he notes. "It's the value of sharing with students cutting edge issues in the area of water quality."



C. HUGH FRIEDMAN AND THE CALIFORNIA AIR RESOURCES BOARD

The California Air Resources Board consists of 11 members appointed by the Governor with the consent of the Senate. One member of the Board in particular is required to "have expertise in science, agriculture or law."

Surprisingly, although Hugh Friedman has been a full-time member of the USD law faculty since 1977 and is a nationally recognized authority in corporation, business and securities law, he is not the *designated* Board member with legal expertise—that honor belongs to Dorene D'Adamo. "I am one of two *public* members of the California Air Resources Board," notes Friedman, who was appointed to the Board by Governor Davis in March 1999. "I wanted to represent the public at large and be more policy oriented and less focused on the legal issues. I've enjoyed that."

The Board has a broad legislative mandate to reduce air pollution throughout the state. "The California Air Resources Board is an administrative agency with legislatively delegated authority to promulgate rules and regulations dealing with air quality around the state-it has a large staff. Our job is basically to identify sources of air pollution and, with the support and cooperation of identified pollution sources, to develop cost-effective means of reducing the emissions," Friedman explains.

Obtaining such support and cooperation, however, is rarely, if ever, easy. "It's always a challenge to convince polluters that they are polluting and harming fellow citizens, and then get them to buy into the solution and take measures to reduce their emissions. That's especially true when we're dealing with major polluters—mobile polluters; that means dealing with Detroit and Japan," Friedman says.

Board members work hard. They meet monthly, usually in Sacramento. "Board meetings start at 8:30 a.m. and sometimes go until well in the evening-10, 11 or 12 at night. The amount of reading required to prepare for meetings is voluminous, including staff reports and correspondence. I am often approached by lobbyists for various industry interests and the environmental community-they're advocates for their constituencies," says Friedman.

In addition, members are asked to contribute their talent and expertise to the Board's programs, including giving speeches and serving on committees of the Board and other governmental committees, and participating in various Board workshops.

"Our primary focus is on reducing vehicle emissions," Friedman explains. "We have pushed the development of newer and cleaner technologies, such as on-board diagnostics, the catalytic converter, particulate traps and filters. We pushed the automobile industry by mandating



that, by a certain year, they had to reduce emissions to certain levels. We pushed formulas for fuels that reduced sulfur and contaminants way below federal standards. Congress has given California leeway to follow its own more restrictive rules. We're pushing for zeroemission vehicles."

But even though the Board is making great progress in reducing air pollution from motor vehicles, the state's explosive population growth and the ever-increasing number of vehicles on the road makes for an uphill battle, as Friedman explains: "Since we began this, we've had a 50 percent increase in population and an 80 percent increase in mobile sources of pollution. It is a constant struggle. But we have had relatively few smoggy days, and we've met the health standards 100 percent across the state over the last couple of years with no unhealthy days."

Friedman, however, is especially proud of what the Board recently helped accomplish in San Diego to eliminate toxic pollution from a stationary source. In the Barrio Logan section of the city, neighbors and health officials said a metal-plating plant was releasing dangerous air pollutants and endangering the health of residents.

"At the request of environmental groups and the Barrio Logan neighborhood, we put in testing stations at several locations there," says Friedman. "They showed that the nearby chrome-plating activities were exposing people in the neighborhood to a highly carcinogenic substance. We were able to provide the scientific basis for an injunction against the plating plant." The plant owner ultimately agreed to shut down his business.

"We try not to unreasonably handicap legitimate businesses," Friedman points out. "We don't want to have a harmful effect on the economy or employment. It's a delicate balancing of interests—health concerns, legitimate business and personal activities." "It's always a challenge to convince polluters that they are polluting and harming fellow citizens, and then get them to buy into the solution and take measures to reduce their emissions. That's especially true when we're dealing with major polluters mobile polluters; that means dealing with Detroit and Japan," Friedman says.



class action

Class Action is an update on the personal and professional news of your classmates and other alumni. Please submit information and photographs to the *Advocate*, USD School of Law, Publications Department, 5998 Alcalá Park, San Diego, CA 92110-2492. You may also e-mail your news to lawalum@sandiego.edu.



STEPHEN LEGOMSKY '77



GARY LANE '69



GEORGE G. STRONG, JR. '74

<u>'69</u>

GARY LANE is executive vice president and general counsel for EPI-Estate Planning, Inc. in Long Beach, the largest provider of living trusts in California. He was previously dean of a California law school.

IRWIN SCHROEDER is now with the Federal Mining Safety and Health Review Commission in Falls Church, Virginia. He previously served as administrative law judge in 1994 and with the Social Security Administration until 1999.

70

EDGAR H. HAYDEN, J.R. reports that he "retired" in 2002 from Curtis & Miata law firm in Modesto, Calif. where he had been a trial lawyer and chief financial officer. He now lives in San Diego after traveling with wife Judy around the world for nine months.

ROBERT Y. NAGATA was recently reappointed to the State of California Boating and Waterways Commission for a second term. His reappointment was confirmed by the State Senate on June 20, 2002. Robert has also recently retired from the active practice of law, and was previously a tax partner with the international law firm of Jones Day Reavis & Pogue and the California law firm of Musick Peeler & Garrett.

74

DAVID S. CASEY JR., a senior partner with the San Diego law offices of Casey Gerry Reed & Schenk. has been named president-elect of the Association of Trial Lawyers of America's (ATLA), the world's largest trial bar. David played a key role in organizing a moratorium on civil lawsuits related to the events of 9/11 and helped develop a Victims' Fund ensuring that the victims' families received financial relief without expensive and lengthy litigation. The fund was passed into law by the U.S. Senate and the House of Representatives.

GEORGE G. STRONG, JR. is the new general counsel and managing director of Cornerstone Research, a Los Angeles firm that provides financial and economic analysis in civil litigation and regulatory proceedings. George has extensive experience in complex litigation and dispute resolution consulting and expert witness testimony.

'76

ALBERT V. DE LEON joined Dexia Bank of New York as general counsel and senior vice president for Legal, Regulatory & Compliance.

'77

STEPHEN LEGOMSKY is the Charles F. Nagel professor of law at Washington University in St. Louis, Missouri and the director of his law school's Institute for Global Legal Studies. He just completed one term as senior visiting fellow at Oxford University, followed by four months as senior researcher with the United Nation's High Commissioner for Refugees in Geneva.

NICHOLAS A. LETO, JR. has been elected president of the Southern California Chapter of the American Academy of Matrimonial Lawyers. **ROBERT E. MANN** retired from the practice of law in 2002 and joined Merrill Lynch where he works as a wealth management advisor. He is a resident of Boca Raton, Florida. G. JAMES WILLIAMS, JR. is a partner in the Boulder, Colorado office of Faegre & Benson LLP, a law firm with a presence in Europe, China, and the U.S., where he specializes in corporate and finance law.

Frederick Schenk Wins Top JCC Honors

rederick Schenk '78, a senior partner with Casey Gerry Reed & Schenk, was recently honored with the David K. Kroll Leadership Award at the Lawrence Family Jewish Community Center (JCC) annual meeting. The award is given annually in recognition of exemplary service, education and commitment to the JCC, a 6,000-member community center in the Golden Triangle area of San Diego.

Schenk's involvement with the JCC began more than ten years ago. "As past president of the JCC's board of directors, Fred has deftly taken on the challenge of leading our agency with tremendous vision, focus and commitment," says Michael Cohen, JCC executive director. "During his tenure here, he has helped oversee and guide programs and activities, firmly establishing the JCC as a vibrant community hub, and ensuring that it remains so for years to come."

Schenk has also been recognized by *San Diego Magazine* as the top local plaintiffs personal injury attorney specializing in asbestos litigation, and was awarded the Outstanding Trial Lawyer Award by Consumer Attorneys of San Diego.



Frederick Schenk, a senior partner with Casey Gerry Reed & Schenk and the immediate past president of the Lawrence Family Jewish Community Center, JACOBS FAMILY CAMPUS (JCC), was recently honored with the David K. Kroll Leadership Award at the JCC's annual meeting.



DARITY WESLEY '83

'79

RANDALL W. MAGNUSON is a board certified family law specialist and a commissioner for the San Diego Superior Court.

'81

JENNIFER R. STEDING DETJEN was appointed by California Governor Gray Davis to the Madera County Superior Court bench in December 2000. She is assigned to the Bass Lake Court, a "full service" court that tries both civil and criminal cases.

ROBERT W. HARRISON was recently inducted as a Fellow of the International Academy of Trial Lawyers. In January, he was elected president of the Association of Southern California Defense Counsel. Harrison is a senior shareholder in the law firm of Neil Dymott Perkins Brown & Frank.



MICHAEL "MICK" O'HARA '84

'82

ANA ESPAÑA is the supervising attorney for the dependency section of the Department of the Public Defender, San Diego County.

'83

DARITY WESLEY is chief executive officer and legal counsel of Privacy Solutions in La Mesa. Before starting her own consulting firm, Wesley was a corporate counsel at DataQuick, an information clearinghouse for the real estate industry, for 20 years. Darity guides companies through today's maze of privacy laws and issues concerning customers, employees, information security and "do-not-call" legislation. She is sought out as a speaker by community groups for her expertise on the prevention of identity theft, the leading form of Internet crime.

class action

'84

MICHAEL "MICK" O'HARA was appointed by Colorado Governor Bill Owens to the district court bench in the Fourteenth Judicial District. His appointment became effective December 2002. O'Hara, who specialized in civil and criminal litigation, was a partner with the Steamboat Springs law firm of Oliphant, Hammond, O'Hara & Atwell, L.L.C.

'89

VIVIAN VELICHKOFF DOERING recently returned from a trip to England, sponsored by the California State Bar litigation section, where she attended *Legal London*. Vivian was also elected for a threeyear term to the Board of Directors of the North County Bar Association.

'90

ADAN SCHWARTZ now works as a assistant district counsel for the San Francisco Bay Area Air Quality Management District. After 12 years working for the federal Environmental Protection Agency in Washington, D.C. and Seattle, Adan is happy to be back in California and working on environmental issues in his home state.

'91

MICHAEL SMYTH was elected Judge of the Superior Court, San Diego County, in the March 2002 elections. He was the assistant to the San Diego Chief of Police. Michael and his wife, Nora, who is the deputy city attorney for the City of Chula Vista, have two children, Fred (4) and Julia (2).

USD Law Alumnae Wins Witkin Award

atherine Rosenberry '75, currently a law professor at the California Western School of Law, received the 2002 Bernard E. Witkin, Esq., Award from the Law Library Justice Foundation at a dinner on Thursday, September 26, 2002, at the Hilton Hotel Mission Bay Beach and Tennis Resort. The annual awards are made "to honor members of the San Diego legal community for civic leadership and excellence in the teaching, practice, enactment, or adjudication of the law."

Rosenberry specializes in the field of real estate law and community association law. She served as president of the Community Associations Institute, a 15,000 member national organization, as advisor to the executive of the Real Property Section of the State Bar of California, and on the board of directors of the San Diego County Bar Association. She is a member of the American Law Institute and serves on the consultative committee to the Restatement of Property (Servitudes), is a member of the American College of Real Estate Lawyers, and vice president of the San Diego County Bar Foundation. Rosenberry opened her own practice specializing in land use law after a stint with the San Diego law firm of Gray, Cary, Ames & Frye. Her publications include ABC's for Community Association (1994); ABC's Facilitator Guide (1994); Advising California Condominium and Homeowner Associations (Supp. 1997); "An Introduction to Constitutional Challenges to Covenant Enforcement," Community Association Law 23 (1997). In 1993, Professor Rosenberry drafted the Davis-Stirling Act, which affects the property interests of one in four Californians.

Other recipients of the 2002 Witkin Awards are: Alec L. Cory, Esq., founder of the law firm of Procopio, Cory, Hargreaves & Savitch, LLP, who is also a known activist and philanthropist; and retired Judge Robert



PROFESSOR KATHERINE ROSENBERRY

J. O'Neill, an acknowledged national expert on complex and mass tort litigation, and alternative dispute resolution.

Several other individuals with USD School of Law connections have received the Witkin Award since its inception in 1995. They include Virginia C. Nelson '79 (1997 Award); Professor G. Hugh Friedman (1999 Award); and the late Dean Donald T. Weckstein (2000 Award). Professor Walt Heiser of the USD School of Law currently serves as a member of the Board of Trustees of the Law Library Justice Foundation. CHARLOTTE PRICE-ORCUTT celebrated the birth of her first child Ethan James on October 22, 2001. Charlotte is a senior trial attorney with the San Joaquin County District Attorney's Office in southern California.

'93

JOHN G. IANNARELLI a special agent with the FBI, was recently named *Alumnus of the Year* by his undergraduate college, Montclair State University, for his work on the 9/11 terrorism investigation.

'94

DEBORAH ENGLE married David Brodie, a deputy city attorney who works in litigation for the Office of the San Diego City Attorney. They recently bought a house where they live with her 13-year old son, Micah.

'95

MICHAEL EISENBERG of Eisenberg & Associates in Beverly Hills has been practicing employment law in Los Angeles since 1996. Michael and his wife Riva have a two-year old son, Eliazer Moshe.

2002 Distinguished Alumni: Gary W. Schons '76 and Jack McGrory '81

n December 5, 2002, Gary W. Schons '76 and Jack McGrory '81 received from Dean Daniel B. Rodriguez the 2002 Distinguished Alumni Award—the Law Alumni Association Board of Directors' highest honor. The presentation took place at a special alumni reception and luncheon at the U.S. Grant Hotel in San Diego.

Gary Schons heads the Criminal Division-Appeals, Writs & Trials Section of the California Attorney General's Office in San Diego, and is a past president of the USD School of Law Alumni Association. He contributes to publications of the California District Attorneys Association, co-edits its Professionalism sourcebook, and has authored articles and manuals



on forfeiture law, ethics and other prosecution issues.

Jack McGrory served as city manager of San Diego from 1991 through 1997, and is a managing director of The Price Group, executive vice president of San Diego Revitalization Corporation, Chairman of the Board of Price Legacy, a director of The Price Foundation and a director of PriceSmart, Inc. He is also a member of the USD School of Law Board of Visitors.

... The Rest of the Story

peaking of Gary Schons, page 15 of the Spring/ Summer 2002 issue of the *Advocate* featured a photo of him at the Auld Course in Chula Vista, as part of the our coverage of Law Alumni Weekend 2001. On July 8, 2002, we received the following e-mail from Mr. Schons, rightly pointing out, admittedly in tongue-in-cheek fashion, that further explanation was required to place the photo in proper context:



The Advocate's coverage of Alumni Weekend included a photo of me at the Alumni golf tournament, captioned, "Schons...searches for his ball on the periphery of the Auld Course." While my "hope-to-make-bogey" game is nothing to write home about, I would like to make a couple of points about that photo given the ribbing I have taken from some of your readers.

I believe this was the sixth or seventh hole of the Auld Course, a relatively short par 4, with a blind tee shot and a left dog leg down to a well bunkered green, protected by a stand of eucalyptus trees to the right. Indeed, I did slice my drive into the high weeds. However, the ball was in bounds, albeit with a hideous lie on hardpan amid rocks and chest-high brush. When the photo was taken, I had found my ball in this impossible lie and was sizing up my shot. I selected a 7 iron and lofted a gorgeous shot out of this difficult position, over the trees guarding the green to within 20 feet of the fringe. I chipped up and 1-putted for par. And now your readers will know "the rest of the story." CHRISTINE BURCHYNS LAUMAKIS and her husband, Mark, welcomed their second son, Benjamin Peter, into the world on June 18, 2002. Christi is still practicing litigation at Lambert & Rogers in El Cajon, and Mark teaches psychology at USD and SDSU.

'96

APRIL SPITZER GLATT and her husband, Dr. Daniel Glatt, welcomed their new daughter, Taylor Rose, on August 1, 2002. Taylor joins big brother, Evan, who is two and a half.

STEPHANIE KISH joins the San Diego County Counsel's Office after a 5-1/2 year stint with Luce Forward Hamilton & Scripps. Stephanie defends civil rights lawsuits and other tort litigation on behalf of the County—and loves it!

'98

MARK STEPHEN BORDEN returned to Toronto in 1998 to earn a Canadian law degree and is now in his second year of practice as a sole practitioner in the area of family

law and estate administration. In March 2002, he married Shauna Micael in St Thomas, Virgin Islands. FRANK GRELL and his wife, Kristen, who are members of the LL.M. class of '98 and residents of Hamburg, Germany, are happy to announce the birth of their first son, Christopher Benedict. Frank will be returning to California in 2003 to join the firm of Latham & Watkins for a six-month "secondment," or a loan of staff among firms, and plans to visit USD.

'00

THEO EPSTEIN was named general manager of the Boston Red Sox on November 25, 2002—at age 28, the youngest general manager in the history of major league baseball. While a law student at USD, Epstein worked as a scout for the San Diego Padres.

JENNIFER CHRISTINE WHITSITT gave birth to son William Kieran in March 2001.

201 JAMES A. GARRETT and

STEPHANIE S. VALENTINI are joining Brobeck Phleger & Harrison LLP, a national leader in the representation of technology companies, as members of the firm's commercial litigation and intellectual property teams, respectively.

Taught trial practice as adjunct professor of law at USD

School of Law Mourns Loss of Thomas J. Ulovec

n Sept. 29, the University of San Diego community celebrated the life of longtime Adjunct Professor of Law Thomas J. Ulovec '78, who died Sept. 8 at age 49 of complications from cancer.

The celebration, held at the University Center, featured music—including bagpipes—and remembrances by family and friends. A reception in the Faculty Dining Room hosted by the Criminal Defense Lawyers Club followed the celebration.

Ulovec taught evenings for 15 years at the law school, and taught trial practice in its Lawyering Skills II program as an adjunct professor of law from 1994 to 2002. He was in private practice in Chula Vista for 23 years, specializing in criminal defense. Ulovec was active in the South Bay Bar Association (President in 1991); the San Diego Criminal Defense Bar Association (Vice President in 1992, President in 1993); the San Diego County Bar Association (Board of Directors 1992-1994); and numerous other professional organizations. He earned his B.A. in history from the University of San Diego in 1975, and his J.D. from the USD School of Law in 1978.

INMEMORIAM The University of San Diego School of Law community would like to extend its deepest sympathy to family and friends.

Alumni KIRK L. ARONSTAM '74

A catalog of the faculty's publications and presentations for the 2001 calendar year, as well as excerpts from a number of their diverse writings.

Lawrence A. Alexander

Warren Distinguished Professor of Law **Publications:**

The Rule of Rules: Morality, Rules, and the Dilemmas of Law. Co-authored. (Durham, NC: Duke University Press, 2001).

"Mistake," *Encyclopedia of Crime and Justice*, 2nd Edition. Joshua Dresser, ed. (New York: Macmillan Reference USA, 2001).

"The Supreme Court, the Florida Vote, and Equal Protection," 38 San Diego Law Review 1077 (2001).

"Ripstein, Reasonableness, and Objectivity," 20 Law & Philosophy 617 (2001).

Journal of Legal Theory. Co-Editor. (Connecticut: Cambridge University Press, 2001).

Presentations:

Organizer and Participant, Roundtable on Non-Consequentialist Ethics. USD. January.

Presenter, Conference on Liberalism and Illiberal Groups. USD. February.

Organizer and Participant, Roundtable on Hate Crime Legislation. USD. March.

Presenter, American Philosophical Association, Meeting of the Pacific Division. San Francisco, CA. March.

Moderator, Analytic Legal Philosophy Conference. Chicago, IL. April.

"Freedom of Speech as a Human Right." USD Faculty Colloquium. San Diego, CA. July.

Presenter, American Political Science Association Annual Meeting. San Francisco, CA. September.

Presenter, Faculty Colloquium. Hastings College of Law. San Francisco, CA. September.

"Civil Liberties in the Wake of Terror." Discussion Leader. USD School of Law. September.

Presenter, Symposium on the Scope of Equal Protection. University of Chicago Law School. October. Presenter, Symposium on Human Rights Protection. Melbourne, Australia. December.

Laura M. S. Berend

Herzog Endowed Scholar 2000-2001 Presentations:

Participant, "Ethics Across the Curriculum." Faculty Development Workshop by Michael Josephson. USD. January.

Coordinator, "The Return of Voir Dire: Making It Work For You," USD. January.

"Ethics for Defense Investigators." Defense Investigator Training Academy. Tehachapi, CA. March.

"Expanding Visions of Scholarship: Making It Happen." Small group leader. AALS Workshop on Clinical Legal Education. Montreal, Canada. May.

Roy L. Brooks

Warren Distinguished Professor of Law **Publications:**

Civil Rights Litigation: Cases and Perspectives. (Co-authored). Supplement. (Durham, NC: Carolina Academic Press, 2001).

"Review of Desmond Tutu, No Future Without Forgiveness," 4 Contemporary Justice Review 40 (2001).

Presentations:

"The Case for Black Reparations." Presentation at Central Michigan University. Mt. Pleasant, MI. January.

"When Sorry Isn't Enough: The Controversy Over Apologies and Reparations for Human Injustice." Presentation at the Arts & Lecture Series. Carthage College. Kenosha, WI. February.

"The African American Redress Movement." Presentation at the Danish Centre for Human Rights. Copenhagen, Denmark. April. "Framing the Reparations Issue." Presentation at UCLA Symposium on Recognition, Reparations, and Redress. Los Angeles, CA. May.

"Lessons from Durban." Presentation at Reparations for Historical Injustices: An Exploratory Workshop, Peter Wall Institute for Advanced Studies. University of British Columbia. Vancouver, B.C. November.

Karen C. Burke

Warren Distinguished Professor of Law **Publications:**

"Partnership Inside Basis Adjustments and Remedial Allocations," 90 *Tax Notes* 1683 (2001).

"Privatizing Social Security: Administration and Implementation, (co-authored), 58 Washington and Lee Law Review 1325 (2001).

"Death Without Taxes?" (co-authored), 20 Virginia Tax Review 499 (2001).

"Important Developments: Corporate Tax," (co-editor), 54 *Tax Law* 927 (2001).

Presentations:

"Recommendations Relating to Pass-Through Entities." Academic Advisor to the Joint Committee on Taxation. U.S. Congress. Washington, D.C. February.

"Privatizing Social Security: Administration and Implementation." Presentation. Social Security Reform Symposium sponsored by Washington and Lee University School of Law. Lexington, VA. April.

Nancy Carol Carter

University Professor, 2001-2002 **Publication:**

"Law School Abroad: Ghiberti to Guinness," previously published article incorporated as chapter of book, Law Librarians Abroad, pp. 15-24, Janet Sinder, ed. (New York: Hayworth Information Press, 2001, c. 2000).

Presentations:

"Creating a Native American Web Site." Presentation at the Eighth Annual Leadership Alliance National Diversity Conference: Race, Gender & Information Technology: Closing the Digital Divide. San Diego, CA. May.

"American Indians and Law Libraries: Acknowledging the Third Sovereign." Presentation at the American Association of Law Libraries Annual Meeting. Minneapolis, MN. July.

Laurence P. Claus

Publication:

"Uniform Throughout the United States: Limits on Taxing as Limits on Spending," 18 Constitutional Commentary 517 (2001).

Lynne L. Dallas

Publication:

"A Comparative Analysis of U.S. Boards of Directors and Corporate Boards of Directors in the Emerging Market Economy of Slovenia: Diversity and Stakeholder Capitalism," in *Slovenian Corporate Management* (2001).

Presentations:

Co-chair, Roundtable on Corporate Law. University of California at Berkeley, Boalt Hall Law School. Berkeley, CA. January.

"Path Dependence and Convergence in the Corporate Law Respecting Boards of Directors in the United States and Slovenia." Presented at the USD Law Third Annual Faculty Research Colloquium. San Diego, CA. January.

"Comparison of Unitary and Two-Tiered Board Systems." Presentation at the Annual Meeting of the Society for the Advancement of Socio-Economics. University of Amsterdam. The Netherlands. June. "Teaching Socio-Economics and Law." Presentation at the AALS Annual Meeting, San Francisco, CA, January 2001; and Presentation at the Annual Meeting of the Society of the Advancement of Socio-Economics. University of Amsterdam, The Netherlands. July.

Robert C. Fellmeth

Price Professor of Public Interest Law **Publication:**

California White Collar Crime. 2nd edition. (Co-authored). (New York: Lexis Publishers, 2001).

Presentations:

Commentator, USD Law Third Annual Faculty Research Colloquium. San Diego, CA. January.

"Where Should Bar Discipline Be Heading." Keynote Address. National Association of Bar Counsel. San Diego, CA. February.

Moderator and Presenter, Panel on Court Reform Strategies. Public Interest Law Summit: *Taking the Offensive*, USD. March.

"Juvenile Delinquency: Myth versus Reality." Keynote Address. 20th Annual Juvenile Delinquency Law Training Seminar. Los Angeles County Public Defender's Office. Los Angeles, CA. April.

"Five Priority Goals to Prevent and Mitigate Child Abuse." Keynote Address at the Los Angeles County Bar Association and National Association of Counsel for Children, Los Angeles Affiliate: Representing Children in the New Millennium. Los Angeles, CA. April.

"Budget Advocacy for Children." Presentation at the National Association of Counsel for Children Conference. San Diego, CA. October.

"Plunging into Darkness: Energy Deregulation Collides with Scarcity." Presentation at the Loyola University Conference on Competition, Consumer Protection, and Energy Deregulation. Chicago, IL. November.

Ralph H. Folsom

Publications:

International Business Transactions Hornbook. 2d edition. (St. Paul, MN: West Group, 2001).

Drafting Wills in Connecticut, 2d; Drafting Trusts in Connecticut, 2d; Connecticut Estates Practice. (Rochester, New York: Lawyers Cooperative Publishing Co., 2001).

2001 Treatise Supplements to: Jurisdiction and Procedure, 2d; Probate Litigation; Incapacity, Powers of Attorney and Adoption, 3d. Connecticut Estates Practice. (Rochester, New York: Lawyers Cooperative Publishing Co., 2001).

International Business Transactions Practitioner's Treatise. (co-authored) 2001 Supplement. (St. Paul, MN: West Publishing Co., 2001).

State Antitrust Laws. 2001 Supplement. (New York: Matthew Bender & Co., 2001).

Presentations:

"Legal Environment of International Business." Certificate Program. USD School of Business. April.

"International Contracts." Presentation at Barcelona University. Barcelona, Spain. May.

"ALENA et la France." Presentation at the University of Montpelier, France. June.

"NAFTA vs. EU: Competitors or Collaborators?." Presentation at Stetson University College of Law. Gulfport, FL. November.

C. Hugh Friedman

Publication:

California Practice Guide: Corporations. 2 vols. 16th edition. (Encino, CA.: The Rutter Group, 2001).

Presentations:

Panelist/Presenter. Corporate Directors Forum. La Jolla, CA. March. "Annual Corporate Law Update." Presentation for the San Diego County Bar Association Business and Corporate Law Sections. San Diego, CA. March.

"Education in Corporate Governance." Presentation at the Corporate Governance Institute. San Diego State University, College of Business. May.

"Officer and Director Liability." Baker & McKenzie Briefing. La Jolla, CA. May.

Steven Hartwell

Publication:

"Writing Out of the Closet," in Contested Terrain: Exploring Cultural Diversity Through Writing. (Ann Arbor, MI: University of Michigan Press, 2001).

Presentations:

"Something for Men." Presentation at the Gender Issues Across the Curriculum Workshop. USD. October.

"Dialogue and Conscience." Presentation at the Annual Organization for the Study of Communication, Language & Gender. San Diego, CA. October.

"Legal Processes and Hierarchical Tangles." Presentation at the UCLA International Clinical Conference. Arrowhead, CA. November.

Walter W. Heiser

University Professor 2001-2002 **Publications:**

California Civil Procedure. Supplement. (LexisNexis 2001).

Amicus Curiae Brief. Mycogen Corp. v. Monsanto Co., California Supreme Court, Supreme Court No. S090337 (May 2001).

Gail Heriot

Herzog Endowed Scholar 2000-2001 **Publications:**

"The University of California Under Proposition 209," 6 *Nexus* 163 (2001) (symposium issue).



Smart Growth and Other Infirmities of Land Use Control

BY BERNARD H. SIEGAN

"People should be free to live their lives where they wish. This idea does not prevail in land use regulation. Planners and politicians greatly influence where people live. The failures of eighty years of land use planning and regulation do not inspire confidence in their workability or viability. Our planners and politicians have not learned the lesson of these many years, and seem increasingly interested in asserting greater controls over the supply of housing and thereby impeding the attainment of better shelter for people. Smart growth is the newest example with also a dim likelihood of success. If land use regulation does not work, government should impose less of it-surely not more."

"Smart Growth and Other Infirmities of Land Use Control," 38 San Diego Law Review 693 (2001).





Privatizing Social Security: Administration and Implementation

BY KAREN C. BURKE AND GRAYSON M. P. MCCOUCH

"A system of personal accounts is often viewed as providing benefits not available under the existing Social Security system. These benefits include potentially higher returns, expanded investment choices, greater individual equity, and long-run increases in national savings and productivity as a result of switching from a payas-you-go system to an advance-funded system. Whether these benefits can actually be achieved is likely to depend crucially on details of structure and implementation. In designing a system of personal accounts, it is imperative that the inevitable tradeoffs be carefully considered at the outset and not left to be resolved at some indefinite future time. Only when administrative issues have been squarely confronted will it be possible to make a balanced assessment of the potential benefits relative to the risks and costs of personal accounts."

"Privatizing Social Security: Administration and Implementation," 58 Washington & Lee Law Review 1325 (2001).

"The Politics of Admissions in California," *Academic Questions* 29 (Fall 2001).

Presentations:

Moderator, "Is Tort Litigation Over Tobacco and Firearms Inconsistent with Democracy?" Federalist Society Faculty Division Conference. San Francisco, CA. January.

Moderator and Editor, "Law School Admissions in the Post Affirmative Action Age: the LSAT on Trial." National Association of Scholars-Law Section Annual Meeting. San Francisco, CA. January.

"In the Twilight of Racial Preferences: Diversity and Affirmative Action in Student Admissions." Ninth National Conference of the National Association of Legal Scholars. New York, NY. January.

"Hate Crime Legislation." Roundtable Participant. USD Institute for Law and Philosophy. San Diego, CA. March.

"How the Media Report the Legal News." Panel presentation. San Diego Federalist Society. San Diego, CA. April.

"Under the Skin of Diversity." Roundtable Participant. American Civil Rights Institute Conference. Ronald Reagan Library. Simi Valley, CA. June.

Roundtable Participant, Socratic Leadership Seminar. Liberty Fund. Indianapolis, IN. October.

"Personhood." Roundtable Participant. USD Institute for Law and Philosophy. San Diego, CA. November.

Speaker. The USC Inn of Court. San Diego, CA. November.

Guest Speaker, La Jolla Republican Women Federated. La Jolla, CA. November.

"The Future of Racial Preferences: Is the Issue on the Brink of Resolution at Last?" Speaker at the Federalist Society National Lawyers' Convention, Washington, D.C. November. Discussion Leader, Conference on the Fortieth Anniversary of Hayek's *The Constitution of Liberty*, Liberty Fund. USD. November 30-December 2.

Paul Horton

Publication:

Editor, "Trademark Law at Millennium's Turn," 12 Journal of Contemporary Legal Issues i-624 (2001).

Yale Kamisar

Publications:

"Miranda Thirty-Five Years Later: A Close Look at the Majority and Dissenting Opinions in Dickerson," 33 *Arizona State Law Journal* 387-428 (2001).

"Foreword: From Miranda to § 3501 to Dickerson to . . . ," 99 *Michigan Law Review* 901-19 (2001).

Constitutional Law: Cases, Comments & Questions, (9th ed. 2001) (1,575 pp.) Co-authored (West Pub. Co.).

Criminal Procedure and the Constitution (rev. 2001 ed.) (875 pp.) Co-authored (West Pub. Co.).

Presentations:

Participated in panel discussion on the impact of Dickerson on the law of confessions, annual meeting of the Association of American Law Schools, San Francisco, CA, January.

Delivered the 2001 Willard Pedrick Lecture on the future of the law of confessions at the Arizona State University College of Law, April.

Delivered talk on "The Future of the 'Right' to Physician-Assisted Suicide" at the USD School of Law, April.

Delivered talk on "Recent Trends and Developments in Constitutional-Criminal Procedure" to Appellate Public Defenders of San Diego, April.

Michael B. Kelly

Publication:

"Reflections on Remedies," 39 Brandeis Law Journal 547 (2001).

William H. Lawrence

Publications:

The Law of Personal Property Leasing. (co-authored) 2001 Cumulative Supplement. (St. Paul, MN: West Group, 2001).

The Law of Sales Under the Uniform Commercial Code. 2001 Cumulative Supplement. (St. Paul, MN: West Group, 2001).

"A Lessor's Meaningful Residual Interest: Using TRAC Leases as an Object Lesson," (co-authored), 33 Uniform Commercial Code Law Journal 291 (2001).

Presentation:

"A Lessor's Meaningful Residual Interest: Using TRAC Leases as an Object Lesson." Presented at the USD Law Third Annual Faculty Research Colloquium. San Diego, CA. January.

Shaun Martin

Presentations:

"The Radical Necessity Defense." Presented at the USD Law Third Annual Faculty Research Colloquium. San Diego, CA. January.

"Real and Necessary Parties." Presentation at Boston University Law School. Boston, MA. November.

Grayson M. P. McCouch

Publications:

"Privatizing Social Security: Administration and Implementation," (co-authored), 58 Washington and Lee Law Review 1325 (2001).

"Death Without Taxes?" (co-authored), 20 *Virginia Tax Review* 499 (2001).

Presentation:

"Privatizing Social Security: Administration and Implementation." Presentation. Social Security Reform Symposium sponsored by Washington and Lee University School of Law. Lexington, VA. April, 2001

John H. Minan

Publications:

The Law of Personal Property Leasing. (coauthored) 2001 Cumulative Supplement. (St. Paul, MN: West Group, 2001).

"A Lessor's Meaningful Residual Interest: Using TRAC Leases as an Object Lesson," (co-authored), 33 Uniform Commercial Code Law Journal 291 (2001).

Presentations:

Testimony on the Draft Water Quality Enforcement Policy. State Water Resources Control Committee. Sacramento, CA. January.

"Federal Jurisdiction under the Clean Water Act for Dredging and Filling Activities in 'Waters' of the United States: Solid Waste Agency of Northern Cook County v. US Army Corps of Engineers, 2001 WL 15333, 121 S.Ct. 675 (2001)." Paper presentation to the San Diego County Bar Association, San Diego, CA. April.

Commentator, California's Draft Strategic Plan for Water Quality. San Diego, CA. July.

Speaker, Stormwater Permitting Workshop. Laguna Niguel, CA. August, 2001.

Panelist, Wetlands Task Force Meeting. San Diego, CA. July.

Presenter, Chairs' Meeting, Water Quality Control Committee. Sacramento, CA. September.

Representative, International Wastewater Treatment Meeting. San Antonio de los Buenos, Tijuana, BC. October.

In the matter of the Petitions of the Building Industry Association of San Diego County and Western States Petroleum Association. Comments and testimony. State Water Resources Control Board. Sacramento, CA. October

"Emerging Issues of Significance." Paper presentation at Industrial Environment Association's program on "Air Quality, Hazmat and Water Quality." San Diego, CA. November.





Dean Leon Green and the Foundations of Modern Personal Injury Law

BY VIRGINIA E. NOLAN AND EDMUND URSIN

"In the field of torts, legal scholars best know Green today for his theories of causation and duty, his emphasis on the functions of judge and jury, his focus on 'relational interests,' and his iconoclastic torts casebook, which was first published in 1931. These scholars largely overlook the fact that Green provided the intellectual foundation for what became known by its proponents as the theory of enterprise liability. In fact, Green first developed the central ideas of that theory, which embraced no-fault plans as an alternative to tort (negligence) law and proposed that courts themselves might play an important role in reforming tort law to reflect contemporary values."

"Dean Leon Green and the Foundations of Modern Personal Injury Law," 47 *Wayne Law Review* 91 (2001).



Restitution and Equity: An Analysis of the Principle of Unjust Enrichment

BY EMILY SHERWIN

"I believe it is a mistake to confuse restitution with equity in the sense of correction of the errors of rules in particular cases. There is nothing both unique to restitution and common to all subjects of restitution that justifies a greater disregard of rules than judges would countenance in other areas of law. Whatever level of equitable correction the legal system allows, it should be acknowledged so that its costs are recognized, rather than hidden within the relatively arcane subject of restitution."

"Restitution and Equity: An Analysis of the Principle of Unjust Enrichment," 79 *Texas Law Review* 2083 (2001).



The Supreme Court, the Florida Vote, and Equal Protection

BY LAWRENCE A. ALEXANDER

"Thus, there are no good arguments for local control over determining voter intent that trump the constitutional value of intrastate equal treatment of voters. The seven justices who came to this conclusion were firmly on the side of constitutional precedent and policy. The stay ordered by the five justice majority may have been questionable, but the constitutional right on which it was based was not."

"The Supreme Court, the Florida Vote, and Equal Protection," 38 San Diego Law Review 1077 (2001).

Panelist, Symposium 2001: Regional Strategy and Work Plan Update. Dana Point, CA. November.

Jean Montoya

Presentations:

"What Have We Learned About Children as Victims and Witnesses in the Criminal Trial Process?" Joint Program of Evidence and Criminal Justice Sections. Association of American Law Schools Annual Meeting, San Francisco, CA. January.

Commentator, USD Law Third Annual Faculty Research Colloquium. San Diego, CA. January.

Grant H. Morris

Publication:

"God Told Me to Kill'— Religion or Delusion," 38 San Diego Law Review 973-1049 (2001).

Virginia Nolan

Publication:

"Dean Leon Green and the Foundations of Modern Personal Injury Law," (coauthored) 47 *Wayne Law Review* 91 (2001).

Frank Partnoy

Publications:

"Barbarians at the Gatekeepers?: A Proposal for a Modified Strict Liability Regime," 79 Washington University Law Quarterly 491 (2001) (invited symposium).

"The Shifting Contours of Global Derivatives Regulation," 22 University of Pennsylvania Journal of International Economic Law 421 (2001) (invited symposium).

"Some Policy Implications of Single-Stock Futures," *Futures & Derivatives Law Report* (March 2001) at 8 (invited symposium).

"What Dogs Can Teach Us About Securities Regulation: Why Fining Two Mutual Funds for 'Window Dressing' Was a Mistake," *FindLaw* (August 20, 2001). "Derivatives on TV: A Tale of Two Derivatives Debacles in Prime-Time," (co-authored) *Greenbag* (2001), reprinted at 2 *Derivatives Report* 15 (2001).

Presentations:

Commentator, USD Law Third Annual Faculty Research Colloquium. San Diego, CA. January.

"The Future of Derivatives Regulation." Association of American Law Schools Annual Conference, Section on Securities Regulation. San Francisco, CA. January.

"The Globalization of the Financial Derivatives Markets." University of Pennsylvania School of Law. Philadelphia, PA. January.

"Financial Derivatives Regulation and Synthetic Common Law." London Guildhall University Department of Law. London, England. January.

"Policy Issues Facing Credit Reporting Agencies." Presentation at the Conference on the Role of Credit Reporting Systems in the International Economy, sponsored by the University of Maryland Center for International Economics, New York University Stern School of Business and The World Bank. Washington, D.C. March.

"The Gatekeepers of Financial Markets." Presentation at the Institute for Law and Economic Policy Conference on Corporate Accountability. Scottsdale, AZ. March.

"The Paradox of Credit Ratings." Presentation at the University of California. San Diego, CA. October.

"Terrorist Insider Trading, Enron, and Financial Derivatives." Presentation at the law firm of Heller Ehrman White & McAuliffe. San Diego, CA. December.

Theresa Player

Publication:

"Internet Team Teaching: One Team's Experience," appearing in the "Lessons From the Web" section of *Juris*, a resource website for law professors, (November 2001).

Presentations:

"Expanding Visions of Scholarship: Making It Happen." Small Group Leader. AALS Workshop on Clinical Legal Education. Montreal, Quebec. May.

"Internet Team Teaching." (co-presenter) Center for Computer-Assisted Legal Instruction (CALI). Suffolk Law School. Boston, MA. June.

"Online Alternatives to Classroom Discussion." Presentation at the Distance Learning Workshop. Cornell Legal Information Institute. Cornell Law School. Ithaca, NY. June.

Saikrishna B. Prakash

Publications:

"The Executive Power over Foreign Affairs," (co-authored)111 Yale Law Journal 231 (2001).

"The Puzzling Persistence of Process-Based Federalism Theories," (co-authored) 79 *Texas Law Review* 1459 (2001).

Presentations:

Commentator, USD Law Third Annual Faculty Research Colloquium. San Diego, CA. January.

"The Executive Power Over Foreign Affairs," USD Faculty Workshop. San Diego, CA. January.

"The Executive Power Over Foreign Affairs." USD Faculty Colloquium. San Diego, CA. February.

"Are the Judicial Safeguards on Federalism the Ultimate Form of Conservative Judicial Activism?" Presentation at the Conference on Conservative Judicial Activism. Byron White Center for Study of American Constitutional Law. University of Colorado. Boulder, CO. October.

Richard C. Pugh

Publications:

Taxation of International Transactions with Teacher's Manual. 2d edition. (co-authored) (St. Paul, MN: West Group, 2001. International Law: Cases and Materials and Basic Documents Supplement 4th ed. (co-authored) (St. Paul, MN: West Group, 2001.

Coordinating Editor. International Income Taxation: Code and Regulations: Selected Sections 2001-2002 (Chicago, IL: Commerce Clearing House, 2001).

"International Cost Sharing Arrangements." Revised chapter in *Practical Guide to U.S. Transfer Pricing.* R. Cole ed. (New York, NY: Aspen Publishers, Inc., 2001.

Michael D. Ramsey

Publication:

"The Executive Power over Foreign Affairs," (co-authored) 111 Yale Law Journal 231 (2001).

Presentations:

"International Law as Federal Law." Presentation at the Annual Meeting of the International Law Association. January.

"Multinational Corporate Liability and the Alien Tort Claims Act." Presentation at University of California, Hastings College of the Law. San Francisco, CA. February.

"The Executive Power Over Foreign Affairs." USD Faculty Colloquium. San Diego, CA. February.

Panelist, Roundtable on Constitutional Liberties and National Security Law After September 11. University of Idaho Law School. Moscow, ID. November.

Constitutional Liberties and National Security Law After September 11. Presentation at Gonzaga Law School. Spokane, WA. November.

Michael B. Rappaport

Presentations:

Participant, Conference on First Amendment. USD. April.

"A New Heuristic for Supermajority Rules" (co-authored paper presented at the Annual Meeting of the Western Economic Association) (2001).



U.S. Border Patrol Abuses, Undocumented Mexican Workers and International Human Rights

BY JORGE A. VARGAS

"A relatively simple legal strategy to avoid the lethal consequences of Operation Gatekeeper, as well as the myriad of problems associated with the irregular flows of Mexican migrant workers to this country, would be the signing of a *U.S.-Mexico Bilateral Agreement on Temporary Agricultural Workers*, similar to the agreement Mexico has had in place with Canada for years. The proposed agreement would regulate the hiring, transportation, agricultural sites, salary and working conditions, housing, medical services, and the safe repatriation of the workers. As an annex to this agreement there would be a Protocol enunciating the fundamental human rights that protect these Mexican migratory workers while in the U.S."

"U.S. Border Patrol Abuses, Undocumented Mexican Workers and International Human Rights," 2 San Diego International Law Journal 1 (2001).



'God Told Me to Kill'— Religion or Delusion

BY GRANT H. MORRIS

"We offer a far more modest proposal, one that retains the false belief requirement in the definition of "delusion" but modifies it to require greater certainty when a person's belief is being assessed for certain, non-clinical purposes. We propose the following definition: For diagnoses made for forensic purposes only, a delusion is a false belief based on incorrect inference about external reality that is firmly sustained despite either violating the laws of the natural and physical world, or despite incontrovertible proof to the contrary known personally by the examiner. The incontrovertible proof requirement shall not be satisfied by mere statistical evidence that the truth of the belief is extremely unlikely. A sincerely held personal religious belief, as defined broadly in United States Supreme Court decisions, shall not constitute a delusion."

"God Told Me to Kill'—Religion or Delusion," 38 San Diego Law Review 973 (2001) (co-authored with Ansar Haroun, M.D.).

Participant/Co-Organizer, Conference on the Fortieth Anniversary of Hayek's *The Constitution of Liberty*, Liberty Fund. USD. November 30-December 2, 2001.

Daniel B. Rodriguez

Dean and Professor of Law **Publications**:

"Localism and Lawmaking," 32 Rutgers Law Journal 627 (2001).

"On Reforming China's Budget Law: Perspectives from the U.S.," *Proceedings of an International Conference on Chinese Budget Law* (GTZ Monograph Series, 2001).

"Regulatory Incrementalism and Moral Choices: A Comment on Adlerian Welfarism," 28 Florida State University Law Review 375 (2001).

Presentations:

Panel Presentation, "Transforming Boundaries: Federalism." Joint Program of Sections on Constitutional Law, Family Law, and Federal Courts. AALS Annual Meeting. Washington, D.C. January.

Panel Presentation, "Theories of Lawmaking." Section on Law and Interpretation. AALS Annual Meeting. Washington, D.C. January.

"Finding Moral Resources in the Law." Presentation at the Conference on Conscience, Law, and Personal Integrity. USD School of Law. January.

"Straw Polls: Thoughts on Community and Coercion." Presentation at the *Journal* of Contemporary Legal Issues Conference on "Illiberal Communities." USD School of Law. February.

Panelist, "Finding the Source of State Sovereign Immunity." Stanford Law Review Symposium. Stanford, CA. February.

Participant, Workshop on the New Federalism Jurisprudence. Arizona State University College of Law. Tempe, AZ. April.

"Statutory Interpretation and Appropriations." Faculty Colloquium. USD School of Law. July. "Rethinking Statutory Interpretation and the Appropriations Process." Presentation at the International Association of New Institutional Economics Annual Meeting. University of California at Berkeley. September.

Participant, Second Annual Workshop on Administrative Law. University of Louisville School of Law. Louisville, KY. November.

Maimon Schwarzschild

Publication:

"Pluralism, Conversation, and Judicial Restraint," 95 Northwestern University Law Review 961 (2001).

Presentation:

Commentator, USD Law Third Annual Faculty Research Colloquium. San Diego, CA. January.

"Social Norms in Religious Communities." Presentation at the AALS Annual Meeting, Jewish Law Section. San Francisco, CA. January.

"Finding Moral Resources in the Law." Thomas More Conference on Legal Ethics. USD School of Law. January.

Organizer/Convener/Chair of All Sessions, JCLI Conference on Liberalism and Illiberal Groups. USD School of Law. February.

"Civil Liberties in the Wake of Terror." Discussion Leader. USD School of Law. September.

"Focus on the Middle East, Islam and International Law." Town Hall Meeting Facilitator and Participant. USD School of Law. October.

"Military Tribunals." Presentation at the University of Southern California Inn of Court Society. San Diego, CA. November.

"Bills of Rights and Human Rights in Theory and Practice." Presentation at Monash University and the Australian National University Conference on Bills of Rights and Humans Rights. Melbourne, Australia. December. "A 'Minimal Invasion' Argument Against the Death Penalty." Presentation at the American Philosophical Association Annual Meeting. Atlanta, GA. December.

Emily Sherwin

Publications:

The Rule of Rules: Morality, Rules, and the Dilemmas of Law. Co-authored. (Durham, NC: Duke University Press, 2001).

"Restitution and Equity: An Analysis of the Principle of Unjust Enrichment," 79 *Texas Law Review* 2083 (2001).

Presentations:

Paper presentation at the Texas Law Review Symposium on Restitution. Austin, Texas. January.

Panel on Restitution. Remedies Section, Association of American Law Schools. San Francisco, CA. January.

"Deontology." Roundtable participant, USD Institute for Law and Philosophy. San Diego, CA. January.

"Hate Speech Legislation." Roundtable participant, USD Institute for Law and Philosophy. San Diego, CA. March.

"Freedom of Expression." Roundtable participant, USD Institute for Law and Philosophy. San Diego, CA. October.

"Defining the Moral Community." Roundtable participant, USD Institute for Law and Philosophy. San Diego, CA. November.

Response to Panelists, USD Symposium on *The Rules of Rules*. San Diego, CA. November.

Virginia V. Shue

Publication:

State Computer Law: Commentary, Cases, and Statutes. 2001 Supplement. (co-authored) (St. Paul, MN: West Group, 2000).

Bernard H. Siegan

Publications:

Property Rights: From Magna Carta to the Fourteenth Amendment. (New Brunswick (USA) and London (UK): Transaction Publishers, 2001).

"Smart Growth and Other Infirmities of Land Use Controls," 38 San Diego Law Review 693 (2001).

Presentations:

"How the Founding Fathers Envisioned and Framed the U.S. Constitution." Presentation at La Jolla Chapter of the Daughters of the American Revolution. La Jolla, CA. February.

"The Success of the U.S. Constitution." Address at the United States Constitution Observance, Old Town State Park. San Diego, CA. September.

Steven D. Smith

Publications:

Getting Over Equality: A Critical Diagnosis of Religious Freedom in America (New York University Press 2001).

"Expressivist Jurisprudence and the Depletion of Meaning," 60 Maryland Law Review 506 (2001).

"The Religious', 'The Secular', and 'The Moral': What Are We Talking About?," 36 *Wake Forest Law Review* 497 (2001).

Thomas A. Smith

Publication:

"The Use and Abuse of Corporate Personality," *Stanford Agora*: An Online Journal of Legal Perspectives (Issue 2, Volume 1, 2001).

Presentations:

Commentator. USD Law Third Annual Faculty Research Colloquium. San Diego, CA. January.

"Partnership Law, Economics & Evolutionary Biology." USD Faculty colloquium, San Diego, CA. June.



Writing Out of the Closet

BY STEVEN HARTWELL

"In a world in which destructive distinctions based on race, sex, and socioeconomic class are now thought to reflect only social ignorance, homophobia remains a glaring example of intolerance. An 'educated' person who would not think of disparaging another on the basis of race, religion or sex might disparage homosexuals. For those of us for whom teaching entails a commitment to creating a safer and healthier world, nothing can be more important than helping to liberate students from this pernicious form of ignorance."

"Writing Out of the Closet," in *Contested Terrain: Exploring Cultural Diversity Through Writing* (Ann Arbor, MI: University of Michigan Press, 2001).



Localism and Lawmaking

BY DANIEL B. RODRIGUEZ

"The lesson here is that local governments are not only the objects of state lawmaking processes, they are also active participants in these processes. This is, at one level, a rather simple insight; what it reveals for the purposes of the analysis here is that the debate over whether and to what extent localism is properly preserved within state political systems should be informed by assessments of not only the legal structure of state and local governance, but also by the political structure of the state. In other words, we need to consider not only state and local law, but state and local governments in modern state government and the prospects for an enhanced localism."

"Localism and Lawmaking," 32 Rutgers Law Journal 627 (2001).





The Executive Power over Foreign Affairs

BY SAIKRISHNA B. PRAKASH AND MICHAEL D. RAMSEY

"We need to wipe the foreign affairs slate clean and start over. In our view, modern scholarship should stop assuming that the Constitution's text says little about foreign affairs and stop treating foreign affairs powers as 'up for grabs,' to be resolved by hasty resort to extra-textual sources. Outside the foreign affairs field, constitutional scholars agree that the text is the appropriate starting point. That should be true of foreign affairs scholarship as well."

"The Executive Power over Foreign Affairs," 111 Yale Law Journal 231 (2001).

"The Excellent Paradox." Paper Presentation. Symposium in honor of Alexander and Sherwin's book, *The Rule* of *Rules*. USD School of Law. November.

"Equality, Evolution and Partnership Law." Presentation at the USC/UCLA Corporate Law Roundtable. USC Law School. Los Angeles, CA. November.

Lester B. Snyder

Presentations:

"Changing the Way We Tax ALL Businesses: The Case for Rational Uniformity." Presentation before the Tax Law Society. USD School of Law. San Diego, CA. November.

"Corporation and Partnership Tax Reform." USD School of Law. November.

Edmund Ursin

Publication:

"Dean Leon Green and the Foundations of Modern Personal Injury Law," (coauthored) 47 Wayne Law Review 91 (2001).

Presentation:

"Enterprise (No-Fault) Liability and Judicial Lawmaking." Presentation at the USD Law Faculty Colloquium. San Diego, CA. January.

Jorge A. Vargas

Publications:

Mexican Law: A Treatise for Legal Practitioners and International Investors. Vols. 3 & 4. (St. Paul, MN: West Group, 2001).

"U.S. Border Patrol Abuses, Undocumented Mexican Workers and International Human Rights," 2 San Diego International Law Journal 1 (2001).

"Mexico's Fishing Law," 14 The Transnational Lawyer 1 (Spring 2001).

"The Other Side of the Treaty of Guadalupe Hidalgo," 5 *Texas Hispanic Journal of Law and Policy* 1 (2001).

Presentations:

"Mexico's Presidential Elections on July 2, 2001." Presentation. USD's University of the Third Age. Manchester Executive Conference Center. January.

"Fray Antonio de la Ascension." Presentation. USD's Invisible University. Manchester Executive Conference Center. San Diego, CA. February.

"International Whale Migration." Presentation, International Law Society and Environmental Law Society. USD School of Law. San Diego, CA. February.

"Law of the Sea Questions between the U.S. and Mexico." Presentation at California Western School of Law. San Diego, CA. March.

"A Demographic Revolution in the United States." Presentation on Current Legal Affairs. USD School of Law. March.

Moderator, USD Drug Conference. Political Science Department and USD TransBorder Institute. USD Jenny Craig Pavilion. April.

Charles B. Wiggins

Presentations:

"Mediation Training for Senior Lawyers." ABA Senior Lawyer's Division. ABA and University of Oregon School of Law. Eugene, OR. June.

"Negotiation and Settlement Advocacy." Training for lawyers. Straus Institute of Dispute Resolution. Pepperdine University. Malibu, CA. July.

"Conflict Resolution and Skills Training." Series of presentations, seminars and workshops on conflict resolution, and multi-day negotiation, mediation and communication skills trainings, in Calcutta, India and Eastern India. Sponsored by the U.S. State Department. September/October. "Exporting Process Technology to Non-US Cultures: A Practitioner's Observations." Presentation at the Annual Meeting of the American Society of International Law. Eugene, OR. October.

Mary Jo Wiggins

Publication:

"Foreword: The Future of Intersectionality and Critical Race Feminism," 11 *Journal of Contemporary Legal Issues* 677 (2001).

Presentations:

"Race, Class and Suburbia: The Modern Black Suburb as a 'Race-Making Situation." Invited Speaker. AALS Section on Socio-Economics. San Francisco, CA. January.

"Race and Gender Bias in the Bankruptcy Courts." Invited Speaker. National Association of Bankruptcy Trustees Spring Education Seminar. Napa Valley, CA. March.

"The Best and Worst of the 'New' Bankruptcy Code." Invited Speaker. AALS Workshop on Bankruptcy. St. Louis, MO. May.

Paul C. Wohlmuth

University Professor 2000-2001 **Publications:**

"The Complexity of Performance and Instruments of Mastery," in *Understanding Complexity*, J. Wilby and G. Ragsdell eds. (New York, NY: Plenum Press, 2001).

"The Driver's Eye Highway Perspective: Infrastructure II" (video animation). Website of the Institute for Law and Systems Research: www.lawandsystems.org.

Christopher T. Wonnell

University Professor 2001-2002 **Publication:**

"Expectation, Reliance, and the Two Contractual Wrongs," 38 San Diego Law Review 53 (2001).

Presentations:

"Efficiency and Conservatism." Presentation. USD Faculty Colloquium. September.

"Lochner v. New York as Economic Theory." Presentation at the USD Law Third Annual Faculty Research Colloquium. San Diego, CA. January.

"Custom as Lex's Competitor." Paper presentation. Symposium in honor of Alexander and Sherwin's book, *The Rule* of Rules. USD School of Law. November.

Conference on "Defining the Moral Community." Participant. USD School of Law Institute for Law and Philosophy. San Diego, CA. November.

Participant/Co-Organizer, Conference on the Fortieth Anniversary of Hayek's *The Constitution of Liberty*, Liberty Fund. USD. November 30-December 2.

Fred C. Zacharias

Herzog Research Professor of Law **Publications:**

"Limits on Client Autonomy in Legal Ethics Regulation," 81 *Boston University Law Review* 199 (2001).

"Some Reflections on Cooperating Witness Testimony," *Cardozo Law Review* (2001).

"The Professional Discipline of Prosecutors," 79 North Carolina Law Review 101 (2001).

Presentations:

Participant, Roundtable on Hate Crime Legislation. USD School of Law Institute for Law and Philosophy. San Diego, CA. March.

Participant, Roundtable on Philosophical Foundations on Freedom of Expression. USD School of Law Institute for Law and Philosophy. San Diego, CA. October.

Conference on Practicing Law in the Interests of Justice. Paper presented. Fordham University School of Law. New York, New York. November.



Internet Team Teaching: One Team's Experience

BY THERESA PLAYER

"In legal education, the applications are only limited by the creativity and imagination of the faculty members. The advantages of team teaching without the constraints of geographical proximity open up great possibilities for collaboration with colleagues to explore new approaches in both content and methodology. The opportunities are especially exciting for those faculty members with no colleagues in their area(s) of practice at their own school. Law practice applications are almost unimaginable in their scope. And in fact, many of the better-resourced firms continuously utilize various technological tools to provide both in-house instruction to geographically distant firm members and to communicate with experts and clients."

"Internet Team Teaching: One Team's Experience," appearing in the "Lessons From the Web" section of *Juris*, a resource website for law professors (November 2001).



Review of Desmond Tutu, No Future Without Forgiveness

BY ROY L. BROOKS

"The success or failure of reconciliation and democratic unity rests less on the amnesty question than on the extent to which the new South Africa can achieve social and economic equality between blacks and white Afrikaners. Blacks continue to be barred from private establishments and continue to suffer tremendous economic deprivation. This unpleasant yet vital truth does not escape Tutu's critical eye: "unless houses replace hovel and shacks in which most blacks live, unless blacks gain access to clean water, electricity, affordable health care, decent education, good jobs, and a safe environment-things which the vast majority of whites have taken for granted for so long-we can just as well kiss reconciliation goodbye."

Given this admission, a more accurate title for the book would have been *No Future Without Forgiveness and Equality*. Yet, still, the book delivers an insightful and balanced account of democracy's difficult birth and nurture in South Africa. It is a valuable contribution to a growing body of literature on this important struggle."

"Review of Desmond Tutu, *No Future Without Forgiveness*," 4 *Contemporary Justice Review* 40 (2001).

academic year in review school events

USD faculty and student groups hosted a variety of extracurricular events, many of which are listed below. They enriched the School of Law's intellectual life during the 2001-2002 academic year.

"A Day in the Life of an FBI Agent," FBI Special Agent Mark Davis, sponsored by the Criminal Law Society, August 2001.

"The New Mexican Democracy," first discussion in The "Discovery Series," with LL.M. in Comparative Law participants Noralinda Aquino, Maria Deorduna, Edison Mateospayro, Liliana Sandoval, sponsored by the Graduate Programs Office and the Comparative Law Forum, September 2001.

"The Perspective of the IP Attorney," Kevin Cheatham of Howrey Simon Arnold and White, sponsored by the Intellectual Property Law Association, September 2001.

"Careers in International Law," USD Law Professor Jorge Vargas, sponsored by the International Law Society, September 2001.

"Civil Liberties in the Wake of Terror," a discussion with students led by USD Law Professors Larry Alexander and Maimon Schwarzschild, September 2001.

"The Red Mass," celebrated by The Most Reverend Robert H. Brom, Bishop of San Diego, presented by the University of San Diego School of Law and the St. Thomas More Society of San Diego, October 2001.

"Afghanistan: Captives of the Warlords," PBS documentary film, co-sponsored by the Student Bar Association, the Comparative Law Forum and the Graduate Law Programs Office, October 2001.

"Hunting bin Laden," PBS documentary film, co-sponsored by the Student Bar Association, the Comparative Law Forum and the Graduate Law Programs Office, October 2001.

Town Hall Meeting with experts on the Middle East, Islam and International Law, featuring Professor Vali Nasr, USD Political Science Department; Professor Ali Gheissari, USD Department of Religious Studies; and Professor Maimon Schwarzschild, USD School of Law, co-sponsored by the Student Bar Association, the Comparative Law Forum and the Graduate Law Programs Office, October 2001.

Women and Children Inside the Taliban: a forum on how the Taliban regime has affected women and children in Afghanistan, sponsored by Amnesty International and the Women's Law Caucus, October 2001.

"How to Make Partner and How to Succeed in a Private Firm and in Life," Carl E. G. Arnold of Cozen & O'Connor, presented by the Black Law Students Association and La Raza Law Students Association, October 2001.

"International Casework in China," David Peters, Esq., sponsored by the International Law Society, October 2001.

The Mexican Human Rights Forum: Human Rights Violations of Undocumented Mexicans by U.S. Border Patrol Agents, featuring Roberto Martinez of the American Friends Service Committee, victims of border patrol abuse, and representatives from the Mexican Consulate and the U.S. Border Patrol, sponsored by Amnesty International, October 2001.

"How I Became a Judge" and "A New Program for Issuing TRO's," featuring the Honorable Christine K. Goldsmith, San Diego Superior Court, sponsored by the Pro Bono Legal Advocates, October 2001.

"Proyecto ACCESO: Creative Lawyers Collaborate to Find Optimal Solutions," featuring Professors James Cooper and Lilia Velasquez of California Western School of Law, presented by the San Diego International Law Journal, November 2001.

Symposium on The Rule of Rules, by Professor Larry Alexander and Professor Emily Sherwin of the USD School of Law. A symposium in honor of Professors Larry Alexander and Emily Sherwin and *The Rule of Rules: Morality, Rules and the Dilemmas of Law,* published by Duke University Press. Program highlights: Opening Remarks, USD Warren Distinguished Professor of Law Michael S. Moore; "Custom as Lex's Competitor," USD Law Professor Christopher Wonnell; "Functionalism, Jurisprudence and the Gap," by Professor Jules Coleman, Yale Law School; "The Toothless Gap," Professor Philip Soper, University of Michigan Law School; "The Excellent Paradox." USD Law Professor Thomas A. Smith: "The Problem of Rules," Professor Richard Arneson, UCSD Department of Philosophy; "The Gap," Professor Meir Dan-Cohen, UC Berkeley. Boalt Hall School of Law: Closing Remarks, USD Law Professor Heidi M. Hurd; presented by the University of San Diego School of Law, November 2001.

"Women Helping Women: The Violence Against Women Act and How It Affects Battered Immigrant Women," Carmen Chavez, Staff Attorney, Casa Cornelia, sponsored by the Women's Law Caucus and Amnesty International, November 2001.

"The Tolerance of Islam," second discussion in The "Discovery Series," with LL.M. in Comparative Law candidate Ayman Abdul-Mottaleb leading a discussion on the peaceful foundation and origin of Islam and its relationship to terrorism, sponsored by the Graduate Programs Office and the Comparative Law Forum, November 2001.

Recent Alumni Panel & Reception sponsored by the Women's Law Caucus, November 2001.

"Corporation and Partnership Tax Reform," USD Law Professor Lester Snyder, sponsored by the Tax Law Society, November 2001.

"The State of IP Law in San Diego," Sam Talpalatsky, President of the San Diego Intellectual Property Law Association, sponsored by the Intellectual Property Law Association, November 2001. "Changing the Way We Tax ALL Businesses: The Case for Rational Uniformity," a discussion led by Professor Lester Snyder and Charles Taylor, LL.M. in Taxation candidate, sponsored by the Tax Law Society and the Graduate Programs Office, November 2001.

"The South Bay Power Plant and Its Impact on San Diego Bay," Laura Hunter, Clean Bay Campaign Director for the Environmental Health Coalition, presented by the Environmental Law Society, November 2001.

"What It's Like to Work in the U.S. Attorney's Office," U.S. Attorney Gonzalo Currel, Chief of the Narcotics Department, sponsored by the Criminal Law Society and Phi Alpha Delta, November 2001.

Conference: The Fortieth Anniversary of Hayek's The Constitution of Liberty, with conference director Eugene Meyer of The Federalist Society and discussion leader Professor Gail Heriot of USD School of Law. Other participants include: Jonathan Adler. Case Western Reserve School of Law: Randy Barnett, Austin B. Fletcher Professor, Professor Anthony J. Bellia, Notre Dame Law School; Professor Dale Carpenter, University of Minnesota Law School; Edward J. Larson, Richard B. Russell Professor of History and Law, University of Georgia; Professor Daniel H. Lowenstein, UCLA Law School; Professor John O. McGinnis, Cardozo Law School; Professor Jeremy Rabkin, Cornell University; Professor Michael Rappaport, USD School of Law; Professor Keith Sharfman, Rutgers University-Newark, School of Law; Professor Christopher C. Wonnell. USD School of Law; Professor Judith Kleinfeld; Judge Andrew J. Kleinfeld, U.S. Court of Appeals; Dr. Sarah Skwire, Dr. Hans L. Eicholz, and Ms. Carol Hommel, Liberty Fund, Inc.; November-December 2001

"School Choice, Charters, and Vouchers: The Critical Issues of Today and Tomorrow:" a statewide conference featuring Dr. Frank Kemerer, Visiting Professor, USD Schools of Law and Education: Dean Paula A. Cordeiro, USD School of Education: Dean and Professor of Law Daniel B. Rodriguez, USD School of Law; John Coons, Professor of Law, University of California, Berkeley; Julie Underwood, General Counsel, National Association of School Boards; Ken Godwin, Marshall Rausch Distinguished Professor of Political Science and Public Policy. University of North Carolina. Charlotte; Eric Rofes, Professor of Education, Humboldt State University; Larry Rosenstock, Principal and CEO, High Tech High Charter School: Doris Alvarez, Director, The Preuss Charter School, University of California, San Diego; Neil Derrough, Director, School Futures Research Foundation, San Diego; Alan Bersin, Superintendent, San Diego Unified School District; Dennis Chaconas, Superintendent, Oakland Unified School District: Bruce Fuller. Professor of Education, University of California, Berkeley; Libby Gil, Superintendent, Chula Vista Unified School District; Nancy Capello, Connecticut State Department of Education. Office of Charter Schools: Reed Hastings, Chairman, California State Board of Education: John Walton. School Choice Promoter; Jesse Choper, Earl Warren Professor of Public Law, University of California, Berkeley; Brian Bennett, California Proposition 38 voucher consultant; Mimi Baer, Executive Director. California Association of Independent Schools; Stephen Sugarman, Agnes Roddy Robb Professor of Law, University of California, Berkeley; Fred Galloway, Associate Professor of Education, USD; Larry A. Alexander, Warren Distinguished Professor of Law. USD; Jean Montoya, Professor of Law, USD; Ana Tilton, Regional Vice

President, Edison Schools; Charlie Mae Knight, Superintendent, Ravenswood Unified School District; Don Shalvey, Aspire Schools, San Carlos; Beverly Tucker, General Counsel, California Teachers Association; Mary Bergan, President, California Federation of Teachers; Dede Alpert, Chair, California Joint Committee on the Master Plan for Education, California State Senate; and John Vasconcellos, Chair, California Senate Education Committee; sponsored by University of San Diego Schools of Law and Education, January 2002.

"The Most Difficult Issues Criminal Defense Lawyers Face: Ethical Issues and Cultural Perspectives," a two-day seminar featuring presentations on "The System Through Your Client's Eyes," Professors Margaret Montoya and Christine Zuni Cruz, University of New Mexico: "Ethical Considerations for Advisory Counsel," The Hon. Michael Wellington, San Diego Superior Court, and Nancy Rosenfeld, Esq., San Diego; "Whose Case Is It?" Judy Clarke, Executive Director, Federal Defenders of Eastern Washington, and Charles Gessler, Esq., Los Angeles; "Deep Ethics," Charles Sevilla, Esq., San Diego; Keynote Address: "A Narrative Braid," Professors Margaret Montoya and Christine Zuni Cruz: "Conflicts of Interest." Professor Laura Berend, USD School of Law. The Hon. Frederic L. Link, San Diego Superior Court, Browning Marean, Esq., Gray Care Ware & Freidenrich, San Diego; and "Avoiding and Confronting Contempt," the Hon. Judith L. Haller, Court of Appeal, Fourth District, and Christopher Plourd, Esq., San Diego; sponsored by the University of San Diego School of Law with the support of Community Defenders, Inc. of San Diego, January 2002.

academic year in review school events

"Celebrating the Life of Professor Paul Wohlmuth: A 'Here and Now' Memorial," featuring remarks by Dean Daniel B. Rodriguez, Professor Roy Brooks (read by Watson Branch, Class of 2002), Professor Charles Wiggins, Professor Walt Heiser, Professor Steve Hartwell, Professor Corky Wharton, and Professor Bert Lazerow; presented by the University of San Diego School of Law, January 2002.

Guest speaker Tom Iannocone, USD Director of Athletics Administration, sponsored by the Sports and Entertainment Law Society, February 2002.

"The Trial of Little Red Riding Hood," Education Outreach Program, sponsored by La Raza Law Students Association, February 2002.

"A Plea for Complexity," 18th annual Nathaniel L. Nathanson Memorial Lecture, featuring John H. Garvey, Dean, Boston College Law School, February 2002.

Black History Month guest speaker Randy Jones, U.S. Attorney, sponsored by the Black Law Students Association, February 2002.

"The Role of the Public Defender in the Criminal Justice System," featuring Deputy Public Defenders Alex Balvaneda and Richard Castellanos, sponsored by La Raza Law Students Association, February 2002.

Panel Discussion on Corporate Law, featuring Anne Celentino, Cubic Corporation, and president, San Diego chapter of the American Corporate Counsel Association, February 2002.

"Coercion and Sex: Intoxicated Consent to Sexual Relations," a public lecture by Alan Wertheimer, Visiting Professor, USD School of Law and John G. McCullough Professor of Political Science, University of Vermont, sponsored by the USD School of Law Institute for Law and Philosophy, February 2002. "The Palestinian Struggle: Geo-political, Cultural, and Economic Factors Behind the Current Crisis," Professor Bachir Idoui, sponsored by the National Lawyers Guild and International Law Society, March 2002.

"Urban Growth: How Should We Face the Challenge?," The Third Annual Environmental Law Conference, with panelists Corky Wharton, Director of USD Environmental Clinic and environmental law practitioner; Garry Papers, architect and advocate of "smart growth"; Duncan McFetridge, Founder, Save Our Forests and Ranchlands (SOFAR); and David Long, City Planner, City of Villages board member; sponsored by the Environmental Law Society, March 2002.

Conference on Property Rights: From Magna Carta to the Fourteenth Amendment, by Professor Bernard H. Siegan, published by the Social Philosophy and Policy Foundation and by Transaction Publishers, and featuring Professor Stuart Banner, Washington University Professor and Visiting Professor, UCLA School of Law; Professor David E. Bernstein, George Mason Law School: Professor Nicole S. Garnett, Notre Dame Law School, John F. Hart, Lecturer in Law, University of Chicago; Dr. Roger Pilon, Vice-President for Legal Affairs, Cato Institute, Washington, D.C.; Justice Richard B. Sanders, The Supreme Court, State of Washington; Warren Distinguished Professor Larry Alexander, USD School of Law; Professor Carl Auerbach, USD School of Law: Professor Kevin L. Cole, USD School of Law; Professor Michael Rappaport, USD School of Law; Dean Daniel B. Rodriguez, USD School of Law; Professor Bernard H. Siegan, USD School of Law; Professor Emily Sherwin, USD School of Law; and Professor Chris Wonnell, USD School of Law; March 2002.

"Women in the Workforce and Employment Law Issues," Abby B. Silverman, USD alumna and partner, Baker & McKenzie, sponsored by the Women's Law Caucus, March 2002.

"Issues in Public Interest Law," Andrea Caruso, Casa Cornelia Law Center, sponsored by the Pro Bono Legal Advocates, April 2002.

"A Day in the Life of ..." guest speaker Reid Middleton, corporate counsel for The Upper Deck Company, LLC, sponsored by the Sports and Entertainment Law Society, April 2002.

"Patented Medicines: Bringing Life-Saving Drugs to the Developing World," a Symposium and Panel Discussion featuring Professor J.H. Reichman, Duke University School of Law, and local attorneys, sponsored by the Intellectual Property Law Association, April 2002.

"Nations Within: Aspects of Tribal Sovereignty: American Indian Legal Issues Workshop," with guest speakers Mark C. Tilden, Esq., Native Americans Rights Fund, and Colin Cloud Hampson, Esq., Sonosky, Chambers, Sachse, Endreson & Perry, sponsored by USD's 1st American Indian Celebration and USD School of Law, April 2002.

"Islam," third discussion in The "Discovery Series," with LLMC participant Ayman Abdul-Mottaleb, sponsored by the Graduate Programs Office and the Comparative Law Forum, April 2002.

academic year in review faculty colloguia

A listing of the faculty colloquia presented during the 2001-2002 academic year.

Chris Wonnell, University of San Diego School of Law: "Efficiency and Conservatism," September 2001.

Jay Kesan, University of Illinois College of Law: "Getting It Right at the Outset: Granting Patent Rights Commensurate with Innovation," September 2001.

Jim Chen, Julius E. Davis Professor of Law, University of Minnesota: "Reconciling Intellectual Property with Biological Diversity: A Blueprint for Effacing Humanity's Footprint," October 2001.

David A. Hyman, Professor of Law, University of Maryland School of Law: "You Get What You Pay For: Result-Based Compensation for Health Care," October 2001. Mitchell Berman, Professor of Law, University of Texas at Austin: "Commercial Speech and the Unconstitutional Conditions Doctrine: Second Look at 'the Greater Includes the Lesser'," October 2001.

Gail Evans, Visiting Professor, University of San Diego School of Law: "Defending the Dark Victory of TRIPS: In Search of a More Equitable Jurisprudence for Resolving Intellectual Property Disputes in the Supercourt of the World Trade Organization," November 2001.

Elizabeth S. Anderson, Professor, Department of Philosophy, University of Michigan: "Integration, Affirmative Action, and Strict Scrutiny," September 2001. Barry Dean, Professor, University of Kent, England: "Legal Globalization and Legal Education," November 2001.

Susan R. Klein, Professor, University of Texas at Austin: "Independent-Norm Federalism in Criminal Law," December 2001.

Stuart Banner, Professor, Washington University, and Visiting Professor, University of California, Los Angeles: "Native Proprietors: American Indian Property Rights Under English Colonial Law," February 2002.

Connie Rosati, Professor of Philosophy, University of California, Davis: "The Normativity of Constitutions," February 2002. Scott Altman, Professor of Law and Associate Dean, University of Southern California Law School: "A Theory of Child Support," February 2002.

Jonathan H. Adler, Assistant Professor, Case Western Reserve University School of Law: "Conservatism through Collusion: Antitrust Barriers to Cooperative Fishery Management," March 2002.

Abraham Bell, SJD Fellow, Harvard Law School: "Pliability Rules: Reconceptualizing the Cathedral," March 2002.

William K. Kelley, Associate Professor, Notre Dame Law School, March 2002.

USD-UCSD Law, Economics, and Politics Workshops, 2001-2002

The Law. Economics. and Politics Workshop Series is a collaborative effort sponsored by the University of San Diego School of Law and the University of California at San Diego, Department of Political Science. The series is hosted by Dean Daniel B. Rodriguez of USD and Professor Mathew D. McCubbins of UCSD, and features distinguished scholars from around the country as well as from USD and UCSD. Lectures rotate between the two venues and provide a forum for the intellectual exchange of ideas as well as foster fruitful collaborations between two distinguished and unique academic institutions in San Diego.

Rui de Figueredo, Jr., Professor, University of California at Berkeley, Haas School of Business: "Self-Enforcing Federalism," November 2001.

Michael Ensley, Professor, University of Michigan: "Ideology, Competitiveness, and Campaign Contributions: Campaign Finance in Senate Elections, 1988-1992," February 2002.

Lee Epstein, Professor, Washington University (St. Louis):"The Rules of Inference," March 2002. Lynn Baker, Thomas Watt Gregory Professor, University of Texas School of Law: "Toward a Federalism for the Twenty-First Century: A Role for Nonparametric Judicial Review Under the Spending Clause?," March 2002.

Jesse M. Fried, Professor, University of California, Berkeley, Boalt Hall School of Law: "Using Inside Information to Abstain from Trading," April 2002.

Douglas A. Kysar, Professor, Cornell University Law School: "Law, Environment, and Vision," May 2002.

Linda Cohen, Professor of Economics, University of California, Irvine, May 2002.

academic year in review faculty colloquia

Ronald J. Allen, Wigmore Professor of Law, Northwestern University: "Legal Phenomena, Knowledge, and Theory: A Cautionary Tale of Hedgehogs and Foxes," April 2002.

Donald C. Langevoort, Professor of Law, Georgetown University: "Taming the Animal Spirits of the Stock Markets: A Behavioral Approach to Securities Regulation," April 2002.

G. Marcus Cole, Professor, Stanford Law School: "Delaware is Not a State: Are We Witnessing Jurisdictional Competition in Bankruptcy?," April 2002. Hanach Dagan, Affiliated Oversees Professor, University of Michigan School of Law: "On Marital Property," April 2002.

Larry Alexander, Yale Kamisar, Michael Rappaport, and Dean Daniel Rodriguez, Professors of Law, University of San Diego School of Law:Colloquium: "The Role of Interdisciplinary Scholarship Within the Legal Academy," May 2002.

John Copeland Nagle, Professor, Notre Dame Law School: "Causation, Culpability, and Pollution," July 2002.

Fourth Annual USD Faculty Research Colloquium— January 2002

Professor Michael D. Ramsey, "Textualism and War Powers" Commentator: Professor Sai Prakash

Professor Laurence Claus: "When is cruel punishment unusual? A reconsideration of the Eighth Amendment" Commentator: Professor Michael Rappaport

Professor Steve Hartwell: Legal Processes and Hierarchical Tangles" Commentator: Professor Mike Kelly Professor Emily Sherwin: "A Comparative Puzzle: Standards of Proof" (with Kevin Clermont) Commentator: Professor Chris Wonnell

Professor Maimon Schwarzschild: "Acton's Liberal Multiculturalism and Today's" Commentator: Professor Alan Wertheimer

*Thanks to Professor Larry Alexander who coordinated the faculty colloquia series, and to Professor Alexander, Professor Lynne Dallas, and Professor Maimon Schwarzschild who coordinated the Fourth Annual Faculty Research Colloquium.

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Any news? We want to hear from you!

JANUARY 2, 2003 Washington, D.C. Chapter: Annual Regional Reception Contact the Office of Developmen and Alumni Relations 619:260-4692

JANUARY 25, 2003 "Sentencing and Beyond" — daylong seminar on sentencing issues and sentencing alternatives. (Supported by a grant from Community Defenders, Inc.) CLE credit available. Contact Professor Laura Berend 619-260-2345

FEBRUARY 4, 2003 Law Alumni Board Meeting Contact the Office of Development and Alumni Relations 619-260-4692

FEBRUARY 11, 2003 Alumni Association: Brown Bag Lunch for 1Ls "After Finals... Now What?" Contact the Office of Development and Alumni Relations 619-260-4692

FEBRUARY 12, 2003 Law Alumni Advisor Program: Careers in the Law Contact the Office of Development and Alumni Relations 619-260-4692

MARCH 13, 2003 Recent Alumni Happy Hour Contact the Office of Development and Alumni Relations 619-260-4692

MARCH 18, 2003 Paul A. McClennon Honors Moot Court Competition: Final Rounds, Justice Clarence Thomas, presiding. Please contact Theresa A. Hrenchir, Director of Special Projects. 619-260-7438 or hrenchir@sandiego.edu

SPRING 2003 Reception and Tribute to Distinguished Professor Carl A. Auerbach: A celebration of Professor Auerbach's 55 years in teaching. Details to follow. Interested alumni should contact Theresa A. Hrenchir, Director of Special Projects. 619-260-7438 or hrenchir@sandiego.edu

19th Lecture in the Nathaniel L. Nathanson Lecture Series—featuring Victor G. Rosenblum, Nathaniel L. Nathanson Professor of Law Emeritus, Northwestern University School of Law. Lecture and Reception. MCLE: 1 hour general credit. Please contact Theresa A. Hrenchir, Director of Special Projects. 619-260-7438 or hrenchir@sandiego.edu

APRIL 1, 2003 Alumni Association: Brown Bag Lunch for 1Ls: "How to spend your summer" Contact the Office of Development and Alumni Relations 619-260-4692

MAY 6, 2003 Law Alumni Board Meeting Contact the Office of Developmen and Alumni Relations 619-260-4692

MAY 23, 2003 Graduation Awards Ceremony Contact the Office of Development and Alumni Relations 619-260-4692

MAY 24, 2003 Commencement Ceremony Contact the Office of Development and Alumni Relations 619-260-4692

For further information, please contact the Office of Development and Alumni Relations via email at lawalum@SanDiego.edu or at 619-260-4692.

on the docket



Present at the Creation. Thomas J. Fanning served as dean pro tempore of the USD School of Law from its inception on April 5, 1954 until 1955, when Howard Dattan was named the law school's first permanent dean. Together with Father James T. Booth, regent, Dean Fanning initiated courses for what was then a part-time evening school within the College for Men. These days Dean Fanning, 95, is enjoying his retirement in Point Loma and looks forward to the law school's 50th anniversary celebration in 2004.

parting shot

School of Law

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