Law Dean Kristine Strachan, USD Sued For Wrongful Termination

Former Assistant Dean Marilyn Young Alleges Firing for Whistle-Blowing

Misuse of Funds Alleged

By LALIQUE CRAIG AND JAMES KUPFENBERG
Marilyn Young, the former Assistant Dean for Administration and Graduate Programs of the Law School, filed suit against both the University and Dean Kristine Strachan in the San Diego Superior Court on October 18 for, among other things, wrongful termination of Young's employment contract and fraud.

The $1.8 million lawsuit received considerable local attention when Young's complaint was covered in an article in the San Diego Union-Tribune on October 19. The newspaper headlined the story "USD sued by official fired from law school: Ex-administrator says dean misused funds." The story appeared at the top of the first page of the San Diego section.

In an interview with MOTIONS, Dean Strachan declined to comment and would only state: "As you know, once a matter is in litigation there is virtually nothing I can say. I am much happier to be able to explain that to you in person then just having to say "no comment." What I can say is that you have the University's statement that it has issued and I fully concur."

Jack Cannon, director of the University's public relations, voiced the University's official statement: "The lawsuit involves a sensitive personnel matter. The University of San Diego will have no comment other than to say that we believe when the facts are brought forward in this case, the University's action will be vindicated." Strachan continued to say, "I can say that I concur completely in that statement and the other thing I can say to you is read the answer very carefully."

Strachan again emphasized the importance of the answer and also promised that eventually she would discuss her position. The answer will tell you the side of the story. When this matter is resolved, when the litigation is brought to a conclusion, I will be able to tell you, in a free-ranging interview, my side of the story, but I can't right now. Obviously that is difficult for me, but I have to do what was instructed by my lawyers."

Young is being represented by David Strauss, a partner with the local law firm of Monagham and Strauss. Strauss recently achieved widespread recognition for his representation of former Sea World Vice-President Donald J. Hall in a wrongful termination suit in which Hall received a verdict in his favor for $800,000. The University and Strachan are being represented by Edward McIntyre and Alison Pivonka of Gray, Cary, Ames, Young's eighteen page complaint allocates numerous misappropriations of funds by Strachan as well as the documenting of statistics for the 1993 U.S. News & World Report national law school ranking survey. Young characterizes herself as a "whistle-blower and claims that when she attempted to bring these alleged improprieties to the attention of the USD administration she was fired. Both the complaint and the seven page answer are summarized in this article.

Faculty members and administration officials interviewed by MonoNs noted that they were unaware of the pending litigation until the article appeared in the Union-Tribune. However, administrators and faculty members were briefed on the issue after the article appeared and told that the University had been dealing with Strauss on the issue for several weeks.

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In The News--

Adjunct Professor Lisa Foster holds symposium on abortion under the Clinton health care plan.

(Received on Page 3)

Christopher Osakwe delivers lecture on aspects of commercial law in Russia.

(Received on Page 5)

Indian Gaming examined. A good bet by Geoff Morrison.

(Received on Page 9)

Real trial experience related to us by third year Susan Kang.

(Received on Page 9)

Our True Romance correspondent goes on a blind date.

(Received on Page 13)

Fear and loathing in the interview room. Look into it.

(Received on Page 13)

Beavis & Butthead meet their match in our opinionists.

(Received on Pages 17 & 18)
What's New at the Legal Research Center? New Books Received

BY FRANKLIN A. WELTON
Senior Reference Librarian

BRODY, EUGENE B. Biomedical Techn- 
cology: an Introduction. 2d ed. 779 p. Laven- 
er. Presents a humane approach to the issue of human 
rights, recognizing that they are inherent in the nature of 
people and governed by the legal systems and 
legislations that exist in the world. The book emphasizes 
that human rights should be respected and protected, 
and the responsibilities of governments to uphold these 
rights.

BROWN, ROGER H. Redeeming the Re- 
public: federalists, taxation, and the ori-
gins of the Constitution. 250 p. Hill and 
W. Shows how local leaders from the 1780s to the 
1820s fulfilled their part in the formation of the 
American Republic. Focuses on the role of taxation in 
the establishment of the nation.

CALVIN, JENNY WILDE. Breaking the Vi- 
cinity Effect: Women and Incest in England and 
Westlaw offlineprinting for student pass-

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Alumnus Todd Stevens Speaks About Pro Bono Activities and the AIDS Crisis

BY KELLY MURPHY

On Thursday, October 28, Todd Stevens spoke at the University of San Diego's School of Law about the AIDS crisis and how law students can volunteer their time to assist AIDS victims. This speech was initiated by the Pro Bono Legal Advocates and funded by the James Irvine Foundation.

Stevens is an alumnus of the University of San Diego School of Law and was named the 1993 Pro Bono Attorney of the Year by the San Diego Volunteer Legal Advocates Program (SDVLP). Stevens is an associate at Kelly, Keeney, Walse and Brown, a pro bono attorney at the Center for Reproductive Law and Policy, sponsored by the AIDS Foundation and the Legal Aid Society of San Diego.

The AIDS Legal Clinic is open every day to assist pro bono clients with legal issues involving estate planning, durable powers of attorney, conservatorships, bankruptcy, discrimination and insurance.

The clinic receives no federal funding, utilizes the services of over 200 pro bono attorneys and serves approximately 2,000 clients per year. As such, it is a model for other programs throughout the country. Stevens discussed how the makeup of client population is changing from pre-dominantly homosexual men of color to heterosexuals, Latinos, women, children and IV drug users.

Stevens mentioned several ways that law students can become involved in assisting AIDS victims. Several US law schools currently participate at the AIDS Legal Clinic. Volunteers are needed for home and hospital visits to AIDS victims and also volunteer at a clinic which is opening in the South Bay (bilingual students are especially needed for this program).

Stevens emphasized that volunteers gain experience in unusual areas of the law—areas unlike those in which you may practice. In a civil case, it is beneficial because the practice of law sometimes gets routine, and pro bono activities are a way to break the routine and enjoy what you are doing.

Law students are encouraged to become involved in the Pro Bono Legal Advocates Program. Interested students should contact Nina Golden, the Pro Bono Legal Advocates Program director, by leaving a note in her student mailbox.

Book Review: Historic Supreme Court Decisions Retold in New Collection

May it please the Court: The Most Significant Oral Arguments Made Before the Supreme Court Since 1955.


By STEVEN TIERE

LRC Reference Librarian

When I was a first-year law student at the UC School of Law, I was introduced to the book that contains the words that would change my life. I remember reading the first paragraphs and being completely immerse in the rapid-fire of Justice Thurgood Marshall's discussion during his arguments before the Court.

It depends on which way you look at it, doesn't it?

Colvin: [The basic facts are pertinent.]

We are here—let me reiterate—neighbors. I am talking about a constituent argument, not just a speech, and I am talking about the kind of speech that I would want to hear. It depends on which way you look at it, doesn't it?

Colvin: It depends on which way you look at it. The problem ... (Marshall: It does?)

Peter Irons, a civil liberties lawyer and director of the Earl Warren Bill of Rights Project at UC San Diego, and Stephanie Guitton, a UC Berkeley graduate student, present a fascinating book and a comparative analysis of oral arguments of the Court. Each oral argument is divided into two parts: a description of the argument and an analysis of the quality of the argument.

The book and tapes contain an edited, annotated transcript of each case and an edited version of the court's decision. Irons's helpful explanations of the legal issues make the book a useful study tool. The book and tapes are also valuable for those who are interested in the lives of the justices and their arguments. Irons's analysis of the oral arguments is especially helpful for those who are not familiar with the cases.

Irons's analysis is based on his extensive knowledge of the cases and the justices. He is also a prolific author and speaker on issues of law and social justice. His analysis is especially helpful for those who are interested in the lives of the justices and their arguments.

The book and tapes are available for purchase from the New Press Publishing Company. They are a valuable resource for those who are interested in the lives of the justices and their arguments. Irons's analysis is especially helpful for those who are interested in the lives of the justices and their arguments.
Adjunct Professor Lisa Foster Brings Real World Expertise to USD
By LALANDE GRAD
Lisa Foster joined the USD Law faculty as an adjunct professor in the fall semester and is currently teaching Sex Discrimination and Family Federal Jurisdiction during the spring semester.
Before coming to USD, Foster spent 10 years as a litigator in Los Angeles. Representing mainly plaintiffs, either as an individual or a class, Foster has dealt with a wide variety of issues ranging from environmental law to civil rights to employment discrimination. Foster still continues to do some public interest inter- est calls she is teaching at USD.
Foster graduated from Harvard Law School in 1984 and did her undergraduate work at the Federal District Court in Los Angeles for Judge Pfaelver who was the first women to bear on our time. A study needs to be done, clients who return for 1R0s against to acquire empirical data on the number of better or by the 'system itself, she or he. may not could follow-up and track the clients through always feel better about the clients and about whether they have a strong legal argument to defend

Domestic Violence Clinic (Continued from Page 3)
that they are not alone, that there is a system they can use to make their lives better, and that they have nothing to be ashamed of by being victims of violence. Foster said at the at the beginning of the session, I almost always feel better about the clients and about myself after we get the paperwork completed. Because feminists have the system has its share of faults and abuses. Among them is that there are no guarantees; just because your client has a TRO against someone, does not guarantee that she or he will be absolutely safe from the defendant. It is frustrating to our clients, our own safety, because they leave the courthouse.
Second, there is no vertical tracking of the client. This means that if your client loses a case, the abuse is not stopped or the system, she or she may not follow through with the TRO or the perma- nent restraining order. Foster said a client could follow-up and track the clients through the entire process, including attending to their needs. Without such support, we would better serve our clients and the system.
Third, is the somewhat related problem of recidivism. A study needs to be done, perhaps by another check-off box on the intake form or by an interested law student, to acquire empirical data on the number of clients who get restraining orders or TROs (for the client never finalized the TRO) or for a TRO against a new and differ-}

May It Please the Court (Continued From Page 3)
Burger: Thank you, gentlemen; the case is submitted.
May It Please the Court infuses the published decisions with the human vagaries of the law and how the court has to bear on the important constitutional questions of our time. The tapes provide a brand new tool for law students and law-yeard law students in their oral arguments, whether before a Moot Court or in the professional arena.

A look is available at the Legal Research Center (KF-4748.M39 1993), while the accompanying sound recordings are available at the Moot Court Center 798.
A quick reference guide to the con-
tents of the tapes:

Part 4: 4: Gideon v. Wainwright; Terry; Ohio; Miranda v. Arizona; Gregg v. Geor- gia

Bersin
(Continued from Page 1)
California—the metropolitan area of San Diego is a source of potentially great economic strength and cul- tural diversity.

Bersin addressed the long-standing not-onion, which he believes is "mostly based on ignorance," that all Mexican law enforcement officials are corrupt. He pointed out that the political life of Mexico has changed and that the law enforcement is no longer the same as it was 20 or 30 years ago. In his professional and dynamic. Bersin's pro- posal is to work with these authorities in two ways, particularly with regard to drug interdiction: one manner is to work out an agreement where individuals charged with misdemeanor offenses are turned over to Mexican officials for prosecution in Mexico. The second proposal is to attempt a cross designation with prosecutors in Baja California, where Mexican prosecutors would be "on staff and available" in the US Attorney's office to assist in criminal prosecu- tion. Bersin looks to the North American Free Trade Agreement to provide the impetus for such bi-national coopera-
tion.

Bersin also noted another major concern for this district is the envi- ronment. Again, Bersin suggested that increased bi-national cooperation would curb environmental threats. To illustrate he noted a recent case where Alco Pacifico, Inc., a Los An- geles-based company engaged in the exportation of grain through San Diego County to Baja California for dumping was success- fully prosecuted for $2 million to clean up the dump. Bersin said that this is the first time that US and Mexican prosecutors have worked together to prosecute of- fending companies. Bersin also had some suggestions for USD students: "In keeping with the notion that we are in- evitably involved with Baja," he sug- gested that as students visit Tijuana and Baja to see local events and concerts and cultural events, rather than the tradi- tional purposes of bar-hopping. Bersin also suggested that as a law student we should pursue some type of relation- ship with Mexican law students to see what they are studying and to learn their perspectives of bi-national coopera-

The exact date for Mr. Bersin's confirmation as US Attorney is un- clear. Bersin was nominated for the post by President Clinton in February. The recommendation of her selection com- mittee, which was chaired by USD Vice President and Provost Sister Sally Purdy. Bersin commented that he felt appropriate that his first public address since his nomination be made at USD.

Budget
(Continued From Page 1)
Academic Affairs and Student Affairs. The University divisions must itemize requests and designate them as man- ageable, important, or not important. The Bud- get Committee evaluates the propriety of these designations and determines which projects can be funded from available funds.

Tuition income represents the pri- mary source of available funds. The Finance Committee of the University Board of Trustees approved a 5.5 per- cent tuition rate increase for fiscal 1994-1995 on October 1. Conse- quently, law school tuition for next year's entering full-time day students will rise to $17,340. Interestingly, the Finance Committee actually came one vote short of approving a tuition freeze.

The budget Committee faces the task of allocating this additional tuition rev- enue. Approximately one-third of the funds from this revenue is set aside for academic and support projects, which can be funded from available funds.

Tuition income represents the pri-

eral committee members advocated a 4% increase, arguing that salaries must stay competitive so that the university can continue to attract quality faculty and staff. A figure of 3.5 percent was tentatively agreed upon for the purposes of revised budget calculations, although no salary increase has been approved for fiscal 1994-1995. If the requested amount is allocated to financial aid, the anticipated 3.5 per- cent increase is approved, approximately $700,000 would be left over to allocate to urgent requests, which total nearly $6,000,000. Consequently, budgetary battles lie ahead.

These battles will be fought at the next University Budget Committee meeting on November 9. On Thurs- day, November 18, an open budget hearing will be held from 3-5 p.m. in the University Center's Room 107.

The preliminary budget determined by the University Committee of the Board of Trustees and the Academic Affairs Committee on December 3. Additionally, Vice President and Provost Sister Sally Pur- dy expressed interest in the work of the Academic Affairs Committee. Some active discussion. Faculty members have expressed interest in the work of the Academic Affairs Committee. Some active discussion. Faculty members hope to see more faculty input into the budgeting process. Faculty members hope to see more faculty input into the budgeting process.

If you have questions or sugges- tions regarding the University Budget, please drop a note in my mailbox—I appreciate all the input I can get.

Write for Motions and See the World!
Ipso and Facto: Laptop Law Kittens for Adoption

By ANAHIE NATIONS

Ipso and Facto, like good little attorney wanna-be’s, are very vocal about their views and opinions. It was their squeaky little cries that saved them from a slow, painful death and got them into law school. Don’t speculate as to which is worse!

A San Diego woman called me, a first year law student and animal lover, when she heard the ghastly cries of kittens coming up through the floorboards of her house. I crawled beneath the house and pulled out a litter of tiny kittens, only a week old and near death from dehydra-

...continued...
Background

Young first went to work for USD in 1982 as Director of Financial Services of the University of Southern California (UCSC) at a salary of $21,800. She was promoted within six months to Director of Financial and Facilities Planning, ultimately becoming Assistant Dean for Administration at the Law School. By 1993 Young was earning $75,000 to $125,000, and was characterized by a "secretary" employee of above average performance.

The complaint states that Dean Strachan, as Dean of the Law School, was responsible for and in his capacity as Dean of the Law School. A committee comprised of members of the USD administration, including Young, was responsible for this choice. Sister Sally Furay, Vice-President and Provost of the University, sat on the committee. Young alleges she was a strong supporter of Strachan from the beginning and her influence persuaded the committee to em- ploy Strachan as Dean.

In March of 1992 Young's responsibilities were expanded when her official title was changed to Assistant Dean for Administration and Graduate Programs.

Financial Improperities

The complaint states that USD policy required Deans to submit their reasonable entertainment expenses to Sister Furay's office for approval. Young alleges the committee managed their expenses and supported their requests with related receipts.

Young further alleges that Strachan's request for reimbursement of money spent in 1992 was not approved by Furay, her ten-ure as dean. The complaint states that in 1990 she submitted 17 receipts totaling $9,991. Strachan reported expenses totaling $5,160.43, and in 1991 and 1992 she submitted 21 receipts totaling $5,160.43, and in 1991 and 1992 totaling $2,533.47. Young alleges that with the various claims submitted in 1991 and 1992 by Strachan, she did not distinguish between personal and business items as she did in 1990. Young also alleges that Strachan failed to explain the necessity of the meals, and lost her son, at the USD dining facilities without reimbursement. Strachan's conduct was not consistent with the responsibilities with which she was charged.

Young's complaint states that she realized Strachan's conduct violated USD's reimbursement policies, constituted a misappropriation of University funds, and was in violation of the law, Young took action to inform the proper officials at the University and was referred to Sister Furay for her identity to be concealed with re- gard to her investigation into Strachan's financial conduct. Young claims that cer- tain officials refused to question Strachan's financial integrity. After an investigation school officials allegedly had Strachan reimburse USD for the disputed documentation and in some cases alleged she simply deleted the documentation.

Finally, Young alleges that between January and March of 1993 Strachan in- terfered with Young's work by demanding budgetary allocations the Journal of Contem- porary Legal Issues. Young alleges that she was directed to facilitate Strachan's misrepresentation to two Law School faculty members that the Journal had been allocated $20,000 when, accord- ing to Young, it had received $30,000.

Young, Young alleges in May of 1993 Furay in- formed Young that USD no longer re- quired her service. Young alleges that she informed President Hughes who upheld Furay's de- cision.

Claims of Action

Young has brought a total of eight causes of action, six against USD, one against Furay, and one against Strachan. Against Strachan Young is claiming Intentional Interference with Contract, Young claims Strachan inten- tionally engaged in non-privileged con- duct to interfere with Young's contract of employment with USD. Young further alleges that Furay, acting in con- spiracy to Interfere with Contract. Young claims both comprised in such a way to interfere with her contract for employment with USD.

Against USD Young is claiming Breach of Contract of Continued Employ- ment, Breach of the Covenant of Good Faith and Fair Dealing, Invasion of Pri- vacy (evaluations not kept confidential), Treasurer, Young also alleges that Furay's acts were privi- leged, Young's claims are barred by the statute of limitations and by the doctrine of res judicata and damages, and that USD's conduct was private and did not involve public policy.

Student Bar Association Petitions Report

BY BRAD FIELDS

Now that the Halloween party has passed we have begun preparing to program the traditional SBA events for the spring semester, including: A Bar Review, the Student Bar Association (SBA) elections, BALSA and the other diversity organizations on the Martin Luther King Cel- ebration, the Tax Assistance (VITA) Training Program, working with PAD on the St. Patrick's Day Law Review Talent Show, our SBA Scholarship Review, and SBA Graduation Ceremony.

If you have interest in assist- ing with any of these events, or would like to present a SBA sponsor other events, please let us know.

We have recently unveiled the Law School First Amendment Board. It is lo- cated to your immediate left as you enter the Writs from the parking lot. You may post items on the board for all to see. You must date the submission (so that it can be removed when all available space is gone) and ask, but don't require, that you sign the submission. This is the space where law students can express themselves... have fun!

Now that the bulk of our pro- gramming for the semester is behind us we are beginning committee work in a number of areas.

1. DSAC. The Dean's Student Advisory Council is composed of seven students who meet monthly with the Dean to discuss student issues. Currently, we are working on student tenure evaluations for Professors Allen Snyder and Laura Berend. Please drop a note to DSAC members in the SBA suggestion box regarding any issues that you want the DSAC to discuss.

2. SPOUSO. Our student committee that works on programming for and issues concern- ing those of us that have spouses is currently working on a survey to be issued a questionnaire to solicit student input.

3. There are also students who sit on a number of faculty and student commit- tees. If you have any questions or input regarding issues such as the curriculum, the Law School's deliberations, or other SBA so that we can put you in contact with the appropriate student representa- tives.

Lastly, we are now looking into the possibility of somehow acquiring a room to hold a SBA social event that would be crowed for the Writs. These ideas arose from student input. If you have any suggestions regarding how the SBA can better serve your interests please contact the SBA office in the Writs or at extension 4346.
PILF Pub Crawl Resounding Success

By PILF Staff

On October 14, 1993, over one-hundred-twenty-five USD law students attended the Pub Crawl for Public Interest Law. The proceeds went to benefit the Loan Repayment Assistance Program. Those who participated received a drink coupon for each of the participant bars in the Gaslamp Quarter (good for an alcoholic beverage of soda), and a commemorative T-shirt.

The student contribution to LRP for the event was about $1750. Dean Strachan is matching that amount with funds raised from the alumni, making the total contribution $3500. When the Loan Repayment Assistance Fund becomes large enough, certain alumni who work in public interest law will reimburse payments to assist them in repaying their student loans.

The idea of a pub crawl to raise money for the Loan Repayment Assistance Program (LRAP) sprang from... well... laziness. "As organizer of 'Bar Review' (the Thursday night cocktail mixer), and chairman of LRAP, it was only natural to combine the two when the LRAP was pressed for funds," Bruce Rosen attested. "'Bar Review' is so well attended, I figured I could kill two birds with one stone. I decided it would be a first class event, but affordable for all," Rosen added.

A good time was had by apparently all who attended the event. Breffni Keohoe, a "Bar Review" veteran, stated, "The bars were outstanding, the women were hot, and... the women were hot. It was heaven."

But he was not the only one who found the evening enjoyable. Susan Kang commented, "It was the best law school social event that I ever attended."

Jennifer Gaghen, also known as Jennifer O’Gaghen, added, "It was the best pub crawl that I ever went on, and I have been on my share of them."

The participants were all strategically chosen so as to be within walking distance of each other. In fact, all the bars are located in Fifth Avenue in the Gaslamp Quarter. The participant bars included Buffalo Joe’s, Ole’ Madrid, Pachanga, and Dick’s Last Resort.

For those that missed out, Buffalo Joe’s is in San Diego’s hottest Country/ Rock bar. After gorging yourself with one of their fantastic barbecue dishes, step out on the dance floor for authentic “line dancing.” Don’t worry if you don’t know how to “line dance.” Bufalo Joe’s provides free lessons.

Those who are partial to high-stepping, might want to check out Ole’ Madrid. Night clubs in Spain can’t touch this San Diego hot spot. They spin “house music” and funk seven nights a week. Don’t go home for the holidays without trying their Tapas.

If you want to try something “hot,” try “salsa dancing” at Pachanga. Latin America gave birth to this pastime, and it is taking downtown San Diego by storm. Pachanga has free dance lessons for those willing to learn. This is a great place to take a date.

Live music and great beer is Dick’s Last Resort’s recipe for fun. There is never a dull moment in this bar. Order a plate of appetizers sometime for a real treat. Dick’s Last Resort has an incredible chef.

Don’t worry if you missed this year’s Pub Crawl; there is always next year’s.

Public Interest Law Foundation Holds Monte Carlo Night

By PILF

Gambling, drinking, bidding on prizes, and helping the community are not things you can often do at one time, but on November 6, USD law students were able to do all four. The Public Interest Law Foundation (PILF) hosted its third annual Monte Carlo Auction Raffle Night. The Ramada Inn on Hotel Circle hosted blackjack, roulette, and the chance to bid on many fabulous prizes with winnings.

The PILF is a non-profit, law student organization dedicated to providing legal assistance in under-represented areas. Its most direct link to the community is the sponsorship of USD law students working throughout the country in public interest summer programs. These students may help a variety of individuals commonly neglected by the legal system, including the elderly, the mentally ill, the homeless, victims of domestic violence and immigrants. They may also assist in promoting such interests as the environment, civil liberties, and consumer protection.

PILF is associated with the National Association of Public Interest Law. Last year, student organizations such as PILF raised over $1.5 million and funded over 600 grants. This year PILF hopes to raise enough money to distribute a record number of grants.

The number of grants PILF is able to provide depends on the success of annual fund-raising efforts. The proceeds from the Monte Carlo Auction Raffle will go directly to student grants.
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#### San Diego

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<tr>
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Friday through Monday five courses will be held at California Western School of Law, 350 Cedar Avenue, San Diego – Auditorium B. A discount of $100 may be taken for those who register in advance. Pre-Registration Guarantee: Space & Outline 

**$500 per Seminar * $450 Group Rate**

**Schedule of Classes**

**San Diego**

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**Pre-Registration Guarantees Space & Outline: $500 per Seminar * $450 Group Rate**

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**Orange County**

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<tr>
<td>Tuesday, Dec. 1, 1993</td>
<td>6:30 pm to 10:30 pm</td>
<td>EVIDENCE I (Relevant, Opinions, Character, Circumstantial Evidence, Hearsay, Confession of Guilt)</td>
<td>Location to be Announced</td>
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<tr>
<td>Wednesday, Dec. 2, 1993</td>
<td>1:00 pm to 3:00 pm</td>
<td>REAL PROPERTY II (Situs, Secrecy, Express, Implied, Constructive, Violations, Easements, Covenants, Equitable Servitudes)</td>
<td>Location to be Announced</td>
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<td>6:30 pm to 10:30 pm</td>
<td>CONTRACTS I-U.C.C (Formation, Breach, Remedies)</td>
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<td>Friday, Dec. 4, 1993</td>
<td>1:00 pm to 3:00 pm</td>
<td>TORTS I (International, Torts, Defenses, Negligence, Causation Emphasis)</td>
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<tr>
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**Course Lecturer:** **PROFESSOR JEFF A. FLEMING**

**Attorney of Law • Legal Education Consultant**

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Mr. Fleming's experience includes the Lecturing of Pre-Law School Prep Seminars and First, Second and Third Year Law School Final Reviews. He is the Organizer and Lecturer of the Baby Bar Review Seminar and the Founder and Lecturer of the Legal Examination Writing Workshop. Both are seminars involving intensive exam writing techniques designed to train the law student to write the superior answer. He is the Founder and Lecturer of LongShott Bar Review in addition, Professor Fleming is the Publisher of the Professional Examination Writing Manual, the author of the First Year Essay Examination Writing Workbook, the Second Year Essay Examination Writing Book, and the Third Year Essay Examination Writing Book. These are available in Legal Inducements

Throughout the United States.

Mr. Fleming has taught as an Assistant Professor of the Adjunct Faculty at Western State University in Fullerton and is currently a Professor at the University of West Los Angeles School of Law where he has taught for the past ten years. He maintains a private practice in Orange County, California.

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A Tale from the Criminal Courts

By Susan H. Kang

I now belong to an elite fraternity of those who have done it. Those already in the fraternity told me that unless I have experienced it, I would’ve — couldn’t — understand the joys and the pain. They say you never forget your first, whether good or bad, whether it was quick or last- ing. They shared with me the tales of their first, always with a chuckle and sometimes with a far away, longing look. Although it has only been ten days, the sights and sounds of my first seem to float in frames of vignettes. The dynamism of my mollusc, the clamminess of my palms, the pounding of my every artery, and the deep fear of doubting … what if I can’t perform? And looking back I wonder, would it have been just as satisfying without the ultimate climax ending in a sweet smell of victory? Now that I’ve done it, I could never go back, nor do I want to. I can’t wait until I do it again. I am talking about, of course, my first jury trial.

Monday, August 30, 1993

The day starts out like it any other Monday of a scheduled trial. I had been given the day off before the trial and they had all pledged to the court (counsel in my opinion) on the day of trial after rejecting the position. The experienced deputy district attorneys (DDA) told me to stop preparing for them, because if you answer their questions, then you are under the jurisdiction of Murphy’s Law and your case inevitably proceeds forward.

I didn’t listen. I sit in Judge M. ’s courtroom in Clutching my twelve- tab, two-inch thick trial notebook, all ready to proceed, yet feeling incredibly un- parted. I crane my neck to see whenever the courtroom door swings open, hoping that I would see the defense or even his counsel. Both are AWOL, but I’m not surprised. This is my second summer in the criminal justice system and I know defendants are not the most responsible group of people. I check with the court clerks just one more time to see if anyone had told the Court that this clerk my card with my extension number and come back to the office. Had this been a preliminary hearing or a sentencing, I would have immediately asked for a bench warrant and asked the court to sanction counsel. Yet on this Monday, I feel more generous, more patient, mostly motivated by my eternal hope that this one will actually go to trial.

I meet with my officer for the first time. Office Worker of the CHP is clean cut, articulate and overall likeable. The jury is going to love him. I send him home for the day so that he could get some sleep after his graveyard shift.

I call my opposing counsel’s office to tell them that I will be forced to ask for a bench warrant if his client doesn’t show up. Counsel finally shows up around two in the afternoon, with muffled and trailing all day. He arrogantly informs the Court that he told his client that he could “either show up or not show up.” He was out to a courtroom. We wouldn’t want to inconvenience the defendant by actually asking him to appear on the time and date of trial.

In summary, I tell the court that this

Please Turn to Page 10, Column 1

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Indian Tribal Gaming

Local Tribes Entice Californians into “Temples of Chance”

By Geoff Morrison

Local governments mince no words with respect to their antipathy towards illegalized gambling. The cities of San Diego, Desert, and National City, among others, have attempted to stem the growth of gambling within their metropolitan areas by refusing to issue new card room permits. At the same time, local city governments have used every available excuse to close those card rooms already in existence.

Ironically, at the same time that local cities have struggled to rid themselves of gambling, San Diego County has seen an explosive growth of casino gambling within the Indian reservations scattered throughout the county. Since its inception in 1979, large-scale Indian gaming (or gambling to the uninstructed), has become one of the fastest growing industries anywhere in America. Entirely out of necessity, Native American tribes have sought regulatory and constitutional legitimacy to conduct gaming operations.


In California v. Cabazon Band of Mission Indians, 480 U.S. 202 (1987), the Supreme Court addressed the legality of California’s attempts to prohibit large-scale bingo and card playing operations on Indian reservations. The Fifith Circuit agreed with the state’s interpretation of the law as it applied to criminal legislation. It did not, however, agree with the characterization of Florida’s anti-bingo statute as criminal. The court noted that, because the state allowed certain charities to run bingo con- tests, the statute in question was merely regulatory. Consequently, because the stat- utes was not criminal, the court held that Florida would exceed its jurisdiction by enforcing its anti-bingo legislation on the reservations. See Seminole, 658 F.2d at 315-316. Under this decision, in order for a state to be able to prohibit bingo on its reservations, it would have to prohibit all forms of bingo generally.


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First Time
(Continued from Page 9)

is my first trial. Counsel tells the Court that the defense has had six months for preparation for about ten years. From the corner of my eye, I can see Counsel smiling. Secretly, I am exceedingly grateful that this is a private counsel from out of town. Had he been a public defender, he would have known Judge M. would have "made this go away" by downcutting the People’s last offer. We are sent to downtown Richmond. We are back. I come back to the office. I am set to go, except I haven’t talked to the officer who was driving. I was trying to get in touch with him for weeks, without much success. I don’t even know if he will actually show. Unfortunately, some witnesses view subpoenas as "invitations" to appear, rather than a court order. Stewart works nights as a security guard so he doesn’t answer his phone at work. The man needs to leap into the twentieth century and buy himself an answering machine. Mike, the DEA attorney, is set to go. He offers to go with me to find the security guard.

It’s around 7:30pm and I am still at the office. The office is located on the second floor of the building. I enter through the door, passing a large, imposing window. The police are in their office. I can hear them talking about the officer. Mike is trying to get him to go. I am standing in front of his desk, calling yet one more time to get in touch with Stewart the security guard.

I am standing about two feet from the window when I hear a loud "boom" which almost sounded like a backfire from a car. Mike and I look at each other understandingly. I am not likely to be any help at this point. The usual suspect is the police officer’s bullet. The bullet is coming from the same gun. Why don’t you look outside?” I instinctively crank my neck above. About five seconds elapsed after the first boom. We then hear a louder boom, and the windows to my left shatter crashing down into the office. We both hit the floor. Mike screams, "Get down and lock the door." I get down and lock the door. Mike calls 911 crouching from behind the desk. I am shaking. Even Mike is trembling. We both take a breath to calm down. I am not sure if I am able to move. I turn to my side and see the window. I can see the officer’s car. I am not sure if he was hit. I can see his head. He looks like a gun shot. Why don’t you look outside?”

The day starts out like it only other Monday. Mike tells me about the officer’s cases to take to trial and they had all pled to the court (cowardly in my opinion) on the day of the trial. After rejecting all previous offered deals by the experienced deputy district attorneys (DDA) told me to stop preparing for them, because if you prepare yourself, you can use it under the jurisdiction of Murphy’s Law and your case inevitably proceeds forward.

Corona police soon arrive. You can’t fault them for their response time. Wouldn’t it be ironic if I was killed the day before I try a "dude" (drunk driving). I mean it, if I am destined to get killed while prosecuting a case, I should die because I took the job. The police can’t move, although I am keeping a cautious distance from the windows. Mike puts his arm around me. "Hey, it’s going to be okay. I’ve always wanted to say ‘down and stay down’ just like they say in the movies. And do you still want to be a prosecutor?” Crazy enough, I do. More than anything.

I finally get in touch with Stewart at 9pm. He has been very ill due to a kidney infection. I give him the good citizen speech and try to fire him up about coming to testify. He finally agrees. I breath a sigh of relief. This case is not yet over. I must go. Oh God, the case is actually going to go.

Tuesday, August 31, 1993
At 9:03am, Courtroom 51 is bustling as usual. My case is the first one called for trial readiness. Thank goodness the

Indian Gaming
(Continued from Page 9)

indeed, among the largest financial contributors to the fight against the legalization of Indian gaming were the successful Los Angeles County chapter of the American Civil Liberties Union (ACLU). On the one hand, there were those who decried Indian gaming as an invitation for organized crime to infest the states where they are permitted, those states where they are permitted to play card games, but only in North Dakota. Class II games are only legal in those states which have a moral conviction which precludes them from accepting indemnity. Class II and Class III games are subject to state regulation. The federal government is responsible for Indian gaming facilities in California.

Indian gaming facilities in California have been transformed from the previous financial success—so much so that Caesar’s Palace of Las Vegas has announced plans to enter the Indian gaming market with the Agua Caliente Tribe to construct a casino in Southern California. Not surprisingly, this announcement has fueled the fires of discontent among those who view Indian gaming as nothing more than a means to an end in the corruption and exploitation of California’s Native American populations.

Whatever the critics of Indian gaming facilities have to say, at least two things are clear. First, given the apparent legislative and judicial support for Native American gaming generally, the casinos on reservation have become a success. Second, regardless of the "immoral- ity" they might project, Indian reservation casinos have dramatically raised the standard of living for the Native American residents of the reservations on which they sit.
First Time
(Continued from Page 10)

a lady who had two cousins on death row, three people who had family members convicted of murder, and I just didn’t feel right. Surprisingly, Counsel didn’t kick off Juror #4, Mr. S., who had answered to the Task Force of 100 innocent persons to get the one guilty. Did he forget? Vermont police, except one are married. Many of them have family in law enforcement. Both the People and the defendant accept the jury as is presently constituted. As the jury was sworn in, my heart was racing. I wonder if the jury can tell?

After I designate Officer Walker as my investigating officer, I realize that I must commence my opening statement. My introduction, the explaining of the charge and the purpose of opening statement coming fly out of my mouth. I am as nervous as I was during my first “show and tell” in kindergarten. I take a deep breath. These people don’t know that I am not a real District Attorney. I am on my first trial. Or do they suspect it? I introduce the witnesses and the evidence the People expect to present in their case. I confidently told the jury that at the close of all of the evidence, the People will request the jury to find the defendant guilty as charged in each of the sections 23152(a) and (b). I wanted the jury to get used to the word.

When Counsel chooses to have his opening until the beginning of his case, the People call Stewart the security guard. When the Bailiff opened his door, I felt like the character who was waiting in the lobby. I was so confident I told the jury that at the close of all of the evidence, the People will request the jury to find the defendant guilty as charged in each of the sections 23152(a) and (b). I wanted the jury to get used to the word.

During one of the breaks, the judge asks me why this case was in trial. I answered that there were several constitutional rights. He is annoyed that he has to have a Muni-Court case when his husband is out of town. And on the evidence brought out during chambers conference, he is convinced that the defendant is guilty. I am worried that he will not give his full attention to the most important trial of my life.

I try to establish Stewart’s illness. I want him to show the Court that he would rather be home in bed as he has no bias against the defendant. The body of the direct is simple. He is a security guard who works for the Green River Golf Course. On the night in question, Stewart saw a white van around twelve the night in question, Stewart

Wednesday, September 1, 1993
I stand up. Officer Walker’s sympathy before I start with the DOJ expert. My expert witness is a young, pleasant looking woman. She patiently draws charts and explains to the jury in laymen’s terms the correlation between FST’s and the ability to drive, the effects of blood alcohol and the accuracy and the performance of the test. She is like a school teacher.

In the cross, he asks whether she is paid by D.A. to testify. Counsel could only touch on the chains of custody issue. So far, I can’t really figure out his theory of the case.

Counsel makes his opening statement. He says that the defendant was never driving that night. A night that Dave was drove him to the Red Onion because the defendant was upset that his friend was cheating on him, drove the defendant to the golf course and left him after getting into a fight. Dave took the keys with him and hitchhiked home.

Counsel calls Dave to the stand. Dave is wearing a kid’s golf shirt and a faded Hawaiian-type shirt. Besides deserving a fashion citation, he looks and acts just absolutely dange- rous. Dave contradicts Counsel’s opening statement and says after he drove the defendant to the golf course, he threw the keys in the back of the van and left the defendant and called his girlfriend to pick him up. (I wonder where Counsel got his version of the story?) During my cross, I bring out the fact that he left a friend of twelve years alone in his car.

In my cross-examination I bring out the fact that he had(Op. D.A. to testify. Counsel could only touch on the chains of custody issue. So far, I can’t really figure out his theory of the case.

Counsel finally shows up around two in the afternoon after the case has been trailing all day. He arrogantly informs the Court he was upset that he could be on the case is sent out to a courtroom. We wouldn’t want to inconvenience the defendant casually appearing to call on the time and date of trial.

This is the moment that every prosecutor waits for. As lawyer, I am going for it. I really wish I were naturally brilliant. Tom, another DDA, gives me a pep talk.

Before I go into Department 61, a DDA named Stephanie pulls me aside. “I was in the ele- volt with your opposing counsel. I over heard him telling his client, ‘your prosecutor is a liar. He is that he had pretty at least it will be an interesting trial. I want you to kick some butt in there.” Hello, Counsel calls Dave to the stand. He is a man of calling female attorneys, “ma’am” while addressing male attorneys “counsel.”

I am a dark golf course knowing his friend was drunk, far from home and has been upset all day. Dave cared so much to take this friend all night, but he is unable to care how got home? I also pinpoint the fact that Dave was not there when Stewart drove up nor when Walker arrived.

Counsel calls the defendant’s now ex girlfriend to the stand. She is pretty and neatly dressed, but in a gaudy way, like a Las Vegas showgirl. She testified that she saw Dave and the defendant together at the Red Onion and saw them leave to get together around twelve. During direct, she testified that she was at the Red Onion celebrating because she had just graduated from the Southern California Institute of Massage. Thank goodness I have long hair. A just pull it forward, my hair was browned, head down and hope that the jury cannot see my head bob- bing. From laughter with brilliant cross-examination. The de- fendant is saying that “I didn’t do any thing wrong” to mean that he was not driving.

During both testimonies, the judge sustains most objections by Counsel. He grudgingly shoves the defendant’s guilt so that he doesn’t want me to beat the under the influence issue to death. I want to establish the strong points of my case to balance out the driving issue. Also, I simple testify that he was drunk. I want him to get home. I am too exhausted to sleep.

In closing arguments, Counsel implies that Stewart has been conspiring with the District Attorney’s office. When he asked, “You’ve been talking to the District Attorney (meaning me because he

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didn’t want the jury to know that I was a law clerk. I care for the sympathy from the jurors) about this case, haven’t you?” Stewart replies, no he has not been talking to me about the case. Yes, he has spoken to me twice about his health and coming to testify. The answer is even sweeter since Counsel had put my integ- rity on the line.

Next, the People call Officer Walker. As I had expected, he is a great witness. He identifies Counsel by his face, answers to the District Attorney (meaning me because he didn’t want the jury to know that I was a law clerk. I care for the sympathy from the jurors) about this case, haven’t you?” Stewart replies, no he has not been talking to me about the case. Yes, he has spoken to me twice about his health and coming to testify. The answer is even sweeter since Counsel had put my integ- rity on the line.

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First Time
(Continued from Page 9)

Walker is a good cop, yet Officer Walker had left out things in the police report. Counsel also argued that Stewart the security guard who wanted to harass his poor client because Stewart is a cop-wannabe in collusion with the District Attorney's office. Finally as I had hoped, Counsel takes the bait by urging the jury to acquit his client and believe his side of the story. I had reserved most of my ammunition for the rebuttal. "Remember when Counsel asked you during jury selection what the most important thing you could teach your children and you all answered honesty? Isn't it funny how Counsel has client because office. Finally as Walker is a good cop, yet takes the bait by urging the jury to acquit what the most
counsel has asked to believe his version of the story but he has not once mentioned the word truth?" I urge the jury to look at the whole picture and take all of the evidence and figure out the truth. I am looking as if he is trying to hide something.

After many analogies, stories and impassioned pleas, I finished off the argument with the meaning of "beyond a reasonable doubt." "For obvious reasons, my mom has been interested in this trial. Because she didn't grow up in this country, she doesn't understand the legal system. When I told to her that a jury has to find a defendant guilty beyond a reasonable doubt, or to an "abiding conviction to a moral certainty," she had a confused look on her face and asked me what that phrase meant. I couldn't think of a direct translation so I tried to substitute the words. Abiding means lasting. Conviction means belief. Moral certainty means that you feel you did the right thing. I had reserved most of my ammunition for the rebuttal. "Remember when Counsel asked you during jury selection what the most important thing you could teach your children and you all answered honesty? Isn't it funny how Counsel has asked you to believe his version of the story but he has not once mentioned the word truth?" I urge the jury to look at the whole picture and take all of the evidence and figure out the truth. I play a portion of the defendant's tape. "I didn’t do anything wrong ... Even if I did drive, you know, I can’t confess ..." Do you really think the defendant will confess now? Beyond a reasonable doubt means that you feel that a week from now or even years from now, you will have a lasting belief that you did the right thing." It was a parallel of "I’m just a caveman speech, or rather “I’m just an immigrant speech.”

Finally, I ask the jury to return with a verdict of guilty on both counts. I sit down. I forgot a one-liner that I had been practicing all week. However, it is out of my hands. Instead of I wish I could do it all over again and do it better this time. The jury picks a foreperson and go home without declaring a verdict. Friday, September 3, 1993

Judgment day.
I am at the office by 9am when the jury is supposed to begin deliberating. I wish they would be up and decide. I suddenly notice that I have been pacing. I can’t sit down. At 9:30, the phone rings. I jump. The clerk is on the line. She informs me that the jury wants Stewart’s testimony read back. I run around the office asking DDA's what this means. They reassure me that this is a good sign and that jurors were trying to convince the remaining ones to vote their way.

At 10:30, the phone rings again. They want Dave the aliibi witness’ testimony read back. This is not good. I can’t stand this. I wish the jury would just put me out of my misery. I try to prepare myself that it doesn’t matter whether I win or not. The important thing is that I went through the process, right? Why do I want to win so badly then?

At 11:40, the clerk informs me that the jury has reached a verdict, but it will take the defendant 45 minutes to get to the courthouse. You mean, I have to wait until 1:30 to find out. I run around the office again asking for advice. They tell me that a quick verdict when the case against the defendant is strong is always a good sign. I am not so sure.

At 1:30, two DDAs volunteer to be my moral support and offer to take the verdict with me. I am feeling more positive by the minute. Judge M. walks in to take the verdict on behalf of Judge H. who has left on vacation. Before the jury comes back, Counsel demands a mistrial. He then reserves his right to a mistrial until after Judge H. gets back. I keep my poker face.

Everything is in slow-mo. The foreperson, Juror #9, Mrs. V., gives the verdict to the judge. He reads it without any expression and gives it to the clerk. She reminds me not to play poker with him. The clerk’s voice seems to slow down as she begins reading, “in the above named action and title...” I feel like the lady on the Mervyn's commercial, urging "open, open, open." Finally, after what seemed like an eternity, the clerk reads "guilty." I knew I didn’t dare breathe. I don’t want the jury to think I am happy convicting this guy. After the verdict, the court informs the jury that I am a law clerk and not an attorney yet. I received a lot of smiles, nods and even a few abs.

Counsel walks out without saying a word to me. I think it really got to him that a "cute, little Oriental thing" who is not a real attorney beat him in a jury trial. The jury takes off in a hurry to start their long weekend. I don’t blame them, but I really hoped that I could get their feedback.

After work, I am surrounded by DDAs who want to trash my victory (I only go out once a week because I don’t want the headlines to read, “Prosecutor Charged With DUI After Obtaining First Jury Conviction.”). They all want to hear tales of their first. Now I’ve got a war story of my own.

Editors Note:
Ms. Kang is currently third year student at the University of San Diego School of Law.
Blind Man's Bluff: Mystery Dating
Deception, Angst

By Elizabeth Freeland
Our True Romance Columnist

Blind dates shouldn't be so bad. After all, isn't the person who's setting you up your good friend? Haven't they heard you talk about the qualities you want in a mate? Don't they know the person they're matching you up with? Can't they tell if the two of you will get along? Absolutely not. I never have had a decent blind date. Very unfortunate.

I don't care how honest my friends are in their everyday lives. As soon as they want to fix you up, they become the biggest liars in the world. I shouldn't worry about conversation on the date because we could always compare the lines we've been told about each other:

He: I was told you had long legs!
Me: Ha! He told me you had hairy hair!
He: Good one! I heard you were a fast date!
Me: He: Hi! You bathed everyday!
I dreaded going on my last blind date. I knew it wouldn't work as soon as my friend started telling me about her. She said, "I know what that means—he hasn't been on a date in two years. "He's very nice." Three years. "You two have a lot in common." We both stand upright. "He's five feet two." Bingo. I knew it. That was it. I'm short... he's short. Of course we're the perfect each other! Hannny! We both have non-active patriotic glands.

She told him all about me. And reported that it was really exciting about meeting you. It sounds desperate.
No one wants to date anyone that sounds too desperate. He should be mildly interested, but slightly ambivalent. I'm suspicious of anyone that's too enthusiastic. Most of my friends have learned about this me:

Me after date #1: We got along real well. We talked the whole time. We have the same background and the best time! Friend: He'd definitely call you. He really liked you!

Me: I don't think there might be something wrong with him.

Me after date #2: We got along real well. We talked the whole time. We have the same backgrounds. I had the best time! Friend: You repulse him. He thinks you're too:

Me: Oh, I hope he calls!
But I agreed to meet this over-enthusiastic short man. I called my mother for advice.
"Wear a purse up there," she said.

We decided to meet at Horton Plaza. Stupid. It was so busy, I could have missed the little guy in the crowd. Pretty smart. Unfortunately I found him. And then we started the same routine I always go through on a blind date. You know, the I-don't-know-what-to-say-but-I-better-say-something conversation. We both make a big deal about traffic even if there isn't any. Then we act as if we know what we're talking about.

Me: Gee, wow, look at all the choices!
He: You're right. So much food. I'll never do this again.

Me: But I guess we'll have to order!
He: Oh yes, we've got to order!
Silence. And more silence. Relieved when the waiter comes over to ask if we

Please Turn to Page 14, Column 1

Fear and Loathing in the Interview Room: My Side of the Story

By S.P. Jones

I was to be interviewed for a law position with a firm who shall remain nameless pending litigation. I fear that future stories regarding this interview will be one-sided and meant in an attempt to cast shadows on my otherwise impeccable reputation, excepting of course my past run-ins with certain key figures in Las Vegas. Before these vicious stories hit the news, I would like to share with you my version.

Now additional fact I had been drinking for some time prior to the interview (some accounts have it at three days, but I can't be sure, as I had suffered some blackouts during the period prior to the interview), but this drinking had little to no affect on my thinking, and just a small affect on my your past experience: well. Wetalkedthewholetime. We have the be sure, as I had suffered some blackouts really turn-off "You Of stand upright knew it. That was it. I'm short ... he's what that means—he hasn't

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Travels in Europe: "Tourism and Tragedy Juxtaposed During Summer Study Tour"

BY KIM ZARITSKY

Last summer, I had the pleasure of being in an audience of law students in Cambridge, England when Justice Antonin Scalia delivered four 90-minute lectures on the separation of powers. My favorite Supreme Court Justice prides every bit as witty and likable as he is reputed to be. I wish I hadn't been so intimidated by his rank that I barely spoke to him.

This article, however, is not really about the U.S. Supreme Court's most eloquent and principled tennis-player. Rather, it is about a visit to other highlights of my summer in Europe.

One was my visit to the concentration camp at Dachau, south of Munich. Even after the unprecedented experience of having a beautiful French woman ride up on a bicycle and while parking her bike say something to me that was apparently not a (mis)fortunately, I did not mean anything to her—I have resolved to learn French, because when this woman discovered that I was an Englishman, I was horrified in its way, not but as remarkably as horrifying as Dachau. At least in some times they dig up joy were not the Nazis had no excuse for genocide. What I mean is, however, that the wall surrounding the camp was horrifying in its way, but not as raging souls by torturing a few people. The Nazis had no such excuse for genocide. What I mean is, however, that the wall surrounding the camp was horrifying in its way, but not as raging souls by torturing a few people. The Nazis had no such excuse for genocide. 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Ms. Motions: Helpful Hints for the Hopeless

Dear Ms. Motions,

I have a rather large hips, and I have

bought a beautiful, long white dress which is

very slimming and flattering. May I

wear thisto a wedding?

One may wear whatever one wants to a wedding. That is, if, for example, one is the bride or groom, or if the bride or groom is the one most anxious to wear a white dress, then it's all right. However, if the bride or groom is not the one most anxious to wear a white dress, then it's not appropriate.

Dear Ms. Motions,

I've recently become involved with a man fifteen years my senior. He's very, very well known and told people that he has a few pounds by the time he's thirty, I'll propose. What should I tell him?

Robbed From the Cradle in El Cajon

Dear Ms. Motions,

This usually works: "Don't call, Don't write, and Don't send postcards."
Two Years, 21 Weeks Left: Some Thoughts on First Year of Law School

BY MIKE BATIN

The first year of law school is one of the more well-documented "firsts" that there is. (See also: The Paper Chase, 1L, etc.) Possibly, it is because of its enigmatic nature that people attempt to demystify it. Possibly, happens just like to hear themselves write (sic?). However true this may be, I unashamedly offer my first impressions of this academic pledge period. For fellow first years, perhaps it will help to ally some fears to know that others (at least one other) is experiencing some of the same aggravating minutiae. For the upperclassmen, maybe it will afford them a source of humor.

When I get to USD, I had a lot of questions. I still do.

Questions about USD (and some that have nothing to do with USD)

1. Why are we the Toreros? Doesn't anyone find a bullfighter an ironic mascot for a Christian school? Anyone recall the lions and the Christians? I guarantee you that we weren't the Torero in that scenario; we were the Toreree.

2. In that Manifest Mano's Earth band song, "Blinded by the Light," does he really say: Blinded by the light I wreaked up like a douche?

3. Why is it that we can't have beer at the softball games but if the law school administration so much as sends a memo, its reason enough for a keg? (Not that I'm still looking for it.)

4. Is it even reasonable to consider the possibility that the second and third years gave up on life's reason enough for a keg? (Not that I'm still looking for it.)

5. Wang Chung tonight.

6. Shepardize your favorite cases. (Just kidding)

7. Go running (this will be the distance I'm logging while I'm here; Sat-Sun; nor any day that has a T Blessing)

8. Who thinks that people attempt to fire you upon telling him that I'd love to be his personal trauma featured a loathsome drive to Hana in stifling heat (of course, my austere realization that this is the poor man's Trader Joe's)

9. Who is John Galt?

The orientation was extremely helpful and I appreciated the invaluable insights that the second and third years gave - especially one guy's piece of advice that, according to him, "will get you through law school if you just remember this one thing. Don't get together with anyone in your section!" He thought me for a study group and upon telling him that I hadn't really decided that on yet, he exclaimed: "No man, I mean don't get together with anyone, man, like a girl!" Thanks. Divorce law, anyone? Still, there are some rather valuable pieces of information that slipped through the cracks. I wish that someone had told me, right off the bat, that I was a 1L. I thought that somebody's battleship had been sunk. ("1L?! You sunk my battle- ship?!") I wish someone had tipped me off to the fact that if I need to get to somewhere on campus, the tram is the second to last option for timeliness, just edging out our "bloody stumps." Finishing above the tram in intra-campus transportation options was hitching a ride with a biker named Marion ("Tyn") who's on Prozac and whose life ambition is to sing back-up vocals for the Judas, just once."

The best piece of advice, in my opinion, is that I've received to maintain some "balance" in your life. Find something to do to take your mind off of law, even if it's only for a little while. Now, there are some people who have so much balance, they're about to fall over (the author is thinking of the famed "Dad")

Things to do to take your mind off of the fact that you probably shouldn't be doing these things:

1. Work out at the fine USD weight facility.
2. Go running (this will be the distance I'm logging while I'm here; Mon-Fri; nor any day that has a T Blessing)
3. Try to find the supposed image in one of those 3-D pictures
4. Help move one of the USD lawns.
5. Listen to the new Rush album, "Counterculture".
6. Investigate the Philadelphia Federal Reserve Bank's cover up of money launder- ing in the Watergate scandal.
7. Hang someone. (Is this a battery?)
8. Find out the average gestation period for an African elephant.
9. Think of absolutely nothing. (Tough ain't it?)
10. Try to find the supposed image in one of those 3-D pictures.

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9. Think of absolutely nothing. (Tough ain't it?)
10. Try to find the supposed image in one of those 3-D pictures.
Free Agency: "Greatest Thing Ever to Happen to Baseball"

The letter is in response to Eric Siegel's article "Free Agency: Baseball's Boon or Bane?" in the October 12 issue. I've never felt compelled to write a letter in response to an article, but when you attack baseball, you're getting personal.

The title of the article suggests that we are going to read about the pros as well as the cons of free agency. Mr. Siegel neglects to do this, proceeding to give us his fair tale version of free agency as single-handedly destroyed America's pastime. Well, I'm here to cut through this fiction because and present the other side of the story.

Mr. Siegel's three major effects of free agency are: greedy players, the demise of team cohesiveness, and loss of fan support (due to rising costs passed on to fans). I don't call someone who takes the most money for his service greedy, I call him smart. Just because you've played your first few years with a team doesn't mean you're obligated to stay with them forever. That's like saying you have to work for the same company your whole career because they gave you your first job. What if you hate the people you work with, the city the company is in, or your current salary? According to Mr. Siegel, you should stay with that company because they gave you your first break and have invested so much time in developing your skills. That doesn't sound logical does it?

I don't know about you but I've yet to stumble upon a player that I would want to see stay with the same team for the rest of his career. As long as free agency exists, there is a chance that my team will sign a couple of players to make us winners—we've got a chance to improve immediately instead of suffering in mediocrity for a few years.

Free agency is the greatest thing ever to happen to baseball. Free agency allows a thirteen year veteran like Paul Molitor, who spent his first twelve years with the mediocre Brewers, to finally get back to the World Series with the Blue Jays. It badly. With free agency they're given the chance to join a winning team or if they've spent the last few years with some loser (Can you say Cleveland)? Remember, it's called free agency.

I'll be the first to admit that baseball has drastically changed. I'll also admit that this change is in part due to free agency. But I will not agree that free agency has brought about the demise of baseball. It is quite apparent the threat behind the most major changes in baseball, good or bad, is television. As network television contracts get larger, player salaries rise. It seems fair to me that if the owners are suddenly making more money, that the players can expect their fair share.

Mr. Siegel points out that some smaller market teams, such as Pittsburgh, have lost their star players to free agency. This is not due solely to the fat that they were free agents, but the team couldn't afford to pay them their fair market value. The reason some teams, like Pittsburgh or St. Louis, are at a disadvantage in the free agent market is that they receive very little money from television contracts. For example, the Minnesota Twins receive about $5 to 7 million in cable television revenue whereas the New York Yankees receive over $30 million. This is the prime source of the disparity between large and small markets. Thus, the larger market teams are able to spend more on free agents, sometimes taking away from the smaller ones.

If Mr. Siegel wants to blame someone or something for ruining America's pastime, he should look no further than his television set.

Mark Sloop

writes some gosh-darn catchy hooks.

Songs like 'Peace of Mind,' "Sublime" and "Bliss is Unaware" skip along pleasantly; they're funny ditties, stuff to hum mindlessly. "Crash" is sweetly sad, maybe the best tune they've made. Oh, but when Beneath is bad, it's bad.

Schelzel quotes poetry in "Cathedral Belle"—"Charlemagne, you and your coattails are broken," he facetiously. Sensitivity, sentiment: "Ice skating at ni-
y-y-ite," from (what else?) "Ice Skating at Night." Please. It's just rock and roll.

"I'm constantly avoiding the extremes," warbles Schelzel in "The Relatives," the only moment that isn't covered on Be-
neath. I sing along with the entire album, though. It's a perfect addition to my guilty-pleasure collection I hide behind my Led Zeppelin.

And allow Andre Dawson a chance to play with the Chicago Cubs when no one else wants to play for them forever. That's like saying you have to work for the same company your whole career because they gave you your first job. What if you hate the people you work with, the city the company is in, or your current salary? According to Mr. Siegel, you should stay with that company because they gave you your first break and have invested so much time in developing your skills. That doesn't sound logical does it?

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TELEVISION VIOLENCE

Leaves it to Beavis

BY KEVIN KISPER

Pity Beavis and Butthead. With all the hysteria, one could draw the reasonable conclusion that MTV’s animated teenage miscreants have supplanted cigarettes as the leading cause of death in America. Not only are they being blamed for the death of a two-year-old in Ohio, but now they are being targeted by the U.S. Senate and Attorney General Janet Reno as the poster boys for tastelessness, violence and insipidity in the media. Yes, the Senate actually conducts hearings for the purpose of determining that the content of television programming is often stupid and violent. An excerpt:

“We’ve got this—what is—Buffcoast and Beaver or Beaver and something else ... I haven’t seen it; I don’t watch it; it was at seven o’clock—Buffcoast—and they put it on now at 10:30, I think.” The speaker, U.S. Sen Ernest Hollings, D-S.C., the sponsor of a measure which would prohibit the broadcasting of violent programming during hours when children would be “reasonably likely” to watch. I hope that Beavis and Butthead are able to take solace in the knowledge that U.S. Senators won’t always talk down to them.

For those of you out of touch, Beavis and Butthead are teen-aged, screw-headed, screw-up teenagers who spend most of a half-hour making superficial judgments on the merits of their sadistic videos, punctuating their comments with an annoying snort that passes for laughter. These video clips, usually featuring the sophomoric fantasies of children’s horror shows, are broken down by B & B into two categories. Either a video is “cool,” or it “sucks,” (which, by the way, are underlined in their language).

Besides their insightful commentary, Beavis and Butthead are able to take solace in the knowledge that U.S. Senators won’t always talk down to them. Sometimes they are able to ignore children’s programming simply by leaving the room.

And now the Senate is startled by the popularity of this dumb humor? It shouldn’t be. Each generation gets more stupid. It’s from watching TV. The people who grow up watching Gilligan’s Island are now in charge of programming. They may not even know “Beavis and Butthead” is stupid.

So what’s the big deal? One man’s stupidity is another man’s art. Unfortunately, the attacks on “Beavis and Butthead” smacked of a larger and more disturbing trend in society—shirking responsibility.

Last month, a five year-old boy started a fire with his parent’s cigarette lighter that burned down the family mobile home and killed the boy’s two-year-old sister. Rather than blaming himself for leaving a lighter where her son could get to it, the discontented mother blames a steady diet of “Beavis and Butthead” and its proto-technic protagonists. Fire’s cool...heh, heh. I guess this was inevitable. No one takes responsibility for their actions anymore. It’s always someone else’s fault. Blame it on a corporation. Blame it on the media. Blame it on society. Blame “Beavis and Butthead.” If B & B’s antics are “obviously unacceptable and not to be emulated in real life.” This should mollify the sensitivity police, but the larger issue of finger pointing remains unaddressed.

Although children’s fascination with fire has been around as long as fire has, Beavis and Butthead get the blame. In the rush to assign responsibility where it doesn’t belong, no one questions how TV got to be more influential in a household than a parent.

Let’s face it—the American public is enthralled with things puerile, pointless, and porous. But instead of dealing with this, we point fingers at “Beavis and Butthead.” Perhaps the real buttholes are parents who fail to supervise their kids’ viewing habits and behavior.

Those who seek to blame television in general, and Beavis and Butthead in particular, completely miss the point. The show doesn’t have a hidden agenda of mind control and destruction, and it doesn’t inspire a legion of adolescents around atomsats. It’s humorous, and if anything, Beavis and Butthead should be reviewing MTV’s pretentious, bleeding-heart public affairs programming. Indeed, they should be reviewing all the network shows, too. “Beavis and Butthead” haven’t hurt anyone. It’s irresponsible, by itself.

As for the mother in Ohio? When I was a young lad, I loved to watch Wile E. Coyote in vicious conflict with the Roadrunner, yet I never ordered an ashtray from the Acme Co. catalog so that I could drop it on the bully down the street. I knew it was a cartoon.
The Anabasis of Censorship

By Eric Singer

Censorship. Just when you think that such Caesarchian notions were being phased out, people get off on the wrong foot. Sunday's San Diego Union-Tribune ran a story about how censorship is thinly disguised as an attack on television for showing too much violence and that the police are on to CBS for doing a minors on the Mendocino case.

It is hard to see how for showing violent video, it is condemned as a form of violence. It is condemned for its portrayal of violence on television. It is condemned for the way it is shown on television.

In actuality, the programming on television is a result of society's morals, not a cause. It is condemned because it presents a moral dilemna, not because it presents a moral dilemma. It is condemned for its portrayal of violence on television. It is condemned for the way it is shown on television.

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Get Serious: Motions Name Game Has International Ramifications

BY JOHN M. CALAHAN

SAN DIEGO—In a drastic and earth-shattering move last month, the editorial staff of the law school publication Motions staged a coup d’etat against the centralized Student Bar Association’s Government. One night the radical editors took place that the radical editorial staff unilaterally and without authori- zation changed the name of their newspaper from Motions to The USD Law Reporter. Reaction from SBA President Brad Fields was immediate (see Brad Fields’ resolution in this issue).

This, by itself, would not mean a great deal. However, the most important detail conveyed to the SBA by the Dean was that she might be forced by the faculty to deal with the renaming of the law school newspaper, or that the process might be taken out of the hands of students and the SBA. We felt that this, while in the Dean’s power, was wholly unacceptable to us as elected members of the student body. We wanted to keep the decision within the hands of the students, the SBA in control. The SBA resolution allows for such involvement.

Force Majors

Individuals, either of these reasons for SBA involvement has merit. Collectively, they appeared overwhelming. Al- though some of the student voting choices made by SBA Coun- cillors, the SBA passed the resolution by a vote of 20 to 10. Those voting on this issue included both elected representatives to the SBA and representatives from student or- ganizations, who also serve as SBA Coun- cillors and voting members. I hope that this letter assures all students that the SBA will continue to stand up for all students, faculty, or administrators who attempt to restrict the rights of law students.

We must now work with the specifics required by the SBA resolution. It calls for two open forums, one scheduled at a time convenient to evening students, regarding the issue of the name of the law school paper. These forums occurred on Novem- ber 1 and 2. The name of the law school newspaper may be changed. This purpose of this letter is to let you know what happened, what is involved regarding the renaming of the law school newspaper and why the SBA chose to get involved in the process.

The SBA chose to get involved in the renaming of the law school newspaper because we were disappointed by the way it was handled. The editors of Motions who made this decision did not notify the remainder of their editors, their advisors, the publisher of the paper (Dean Strachan), or their advisors (Dean Wilson and Professor Schwarzschild), or the SBA. Why is this important? Why should the editors not be able to change the name of the paper at will? Most importantly, why should the SBA get involved in the process? There are two reasons for SBA involvement.

First, as the elected representatives of USD law school students, we fight to ensure that student interests are not infringed on by anyone. Quite frankly, there are some pow- ers, such as the authority to change the name of the newspaper, which are too important to be decided by a few members of a student group. There are few things at the law school which better identify our school than our newspaper. However, the process by which the name of the paper was originally changed (to the USD Law Reporter) was a poorly publicized attempt to appropriate for such an important decision. In fact, it did not follow the history of such a decision. The last time the name of the paper was changed, students were al- lowed to vote on whether they wanted the name of the paper changed. The SBA resolution provides for such a vote. Thus, the process originally used by law school newspaper editors took away a right that students had in the past. More importantly, the first resolution regarding the name of the law school newspaper, submit- ted by the editors of the law school newspaper, was not read by the SBA. If students had received a voice in the decision-making process. Although this resolution called for a survey of student opinion regarding the name of the law school newspaper, it was not read by the SBA. If students had received a voice in the decision-making process, they might think of changing the name of the newspaper. We, the SBA Councilors, are elected to fight for student interests. We will continue to try to prevent anyone from infringing on the students’ right to name their own newspaper. Divine Intervention

Second, the Dean required that the SBA get involved in the renaming of the law school newspaper because the central- ized government would have otherwise handled the problem her- self. The Dean, acting on behalf of the USD Administration, is the Publisher of the law school newspaper. She appoints faculty advisors, pays the editors of the paper from tuition stipends (they are not volunteers), and has the ability to uti- lize a great deal of authority regarding the nature and contents of the paper. Generally, she chooses not to become involved because, as she told the SBA, she views Motions as the paper of the law students. Because the SBA is the elected body of students, she views the SBA as able to exercise some authority over the paper. This, by itself, would not mean a great deal. However, the most important detail conveyed to the SBA by the Dean was that she might be forced by the faculty to deal with the renaming of the law school newspaper, or that the process might be taken out of the hands of students and the SBA. We felt that this, while in the Dean’s power, was wholly unacceptable to us as elected members of the student body. We wanted to keep the decision within the hands of the students, the SBA in control. The SBA resolution allows for such involvement.

I hope this clears up misconceptions about recent events in Russia. When
Is BAR/BRI Really Enough For The MBE?

✓ FACT: The overwhelming majority of students taking the California Bar Exam last year were enrolled in BAR/BRI.

✓ FACT: The Pass Rate on the California Bar Exam plummeted to 44% last year!

✓ FACT: The reason for the dramatic drop in the California Pass Rate was primarily due to low MBE scores!

✓ FACT: The Mean Raw Score on the 1992 Multistate Bar Exam was only 124 correct.*

*Statistics based on February, 1993 California Bar Exam.

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