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SAN DIEGO, CALIFORNIA

1993 Jessup Moot Court Competition Considers Treatment of Refugees

BY CHRISTIE GRAVES

The USD Moot Court Board recently held the 1993 Jessup International Competition on November 12. Organized by tournament coordinator Vince Brunkow, this year's problem presented issues regarding the jurisdiction of the International Court of Justice and the compelling problem of the legal status of refugees under international law. The problem was prepared by the International Law Student's Association and Brunkow prepared the judge's bench memo. Kirk Donnelly and Eric Prosser won the competition and take free Barbri courses. Donnelly was the winner of this semester's Alumni Tort Competition.

Thirteen teams competed in this year's competition. Eight teams advanced to the semi-finals, and four advanced to the final round, held in Grace Courtroom. Finalists included Mike Murphy and Sean Schwenfeder in second, Shae Kolby and Mike Morehead in third, and Matt Greco and Jeff Lady in fourth. Morehead and Kolby also took Best Brief for the Applicant side. Larissa Kehoe and Breffni Kehoe took Best Brief Respondent, while Prosser won Best Oralist. A four member Jessup National Team was selected out of the top nine competitors after one of the top eight declined to be interviewed for the team. Vince Brunkow will coach the team of Anne-Margaret Barrish, Donnelly, Prosser and Schwenfeder. The teams will compete at the Jessup Regional Competition in February.

The final round was judged by USD alumnus Sheryl King, Professor Maimon Schwartzchild and Richard McCarthy. Specifically, the problem involved Hilary Panhasky, a citizen of the fictitious state of Draconia. Hilary traveled to neighboring Balboa to speak at an international conference, where she delivered a blasting speech about Draconia's policies toward environmental regulation. The problem was prepared by a four member Jessup National Team, selected out of the top nine competitors after one of the top eight declined to be interviewed for the team. Vince Brunkow will coach the team of Anne-Margaret Barrish, Donnelly, Prosser and Schwenfeder. The teams will compete at the Jessup Regional Competition in February.

The panel of five discussed Mexico's expanding regulatory framework for dealing with environmental problems. Although particular emphasis was given to the effect these regulations will have on San Diego, the entire US-Mexico relationship was discussed in light of the then impending approval of NAFTA.

Ron Pettis, an international and business law specialist at Gray, Cary, Ames & Frye, began the evening with a concise history of the evolution of environmental regulation in Mexico. Pettis noted that the most significant elements of Mexico's environmental regime have been in place since 1988. Over this short period, Mexico has developed a set of environmental regulations that compare favorably to the present US framework. Interestingly, Pettis commented that in some areas Mexico's regulations are actually "more stringent than the US."

All of the speakers at the forum acknowledged, however, that Mexico has a poor enforcement record. Where the speakers were in agreement was over the issue of whether Mexico had recently increased the levels of enforcement.

Pettis presented the position that Mexico has begun to enforce its environmental regulations strictly. He used statistics to back his claim. In 1992, Mexican enforcement officials conducted 1,050 inspections, and wrote 942 citations for violations. These violations resulted in the shutting down of 714 businesses. Of the 714 businesses, 105 were shut down permanently.

The most enthusiastic supporter of Mexico's present environmental regulations is Ron Pettis, an international and business law specialist at Gray, Cary, Ames & Frye. Pettis feels it is important to attracting capital investment and ensuring long-term economic growth and stability. Mexico has had a poor enforcement record. Where the speakers were in agreement was over the issue of whether Mexico had recently increased the levels of enforcement.

The night the North American Free Trade Agreement (NAFTA) passed by a surprisingly wide margin, a forum on trans-border environmental problems was held at USD Law. The forum was organized by USD Professor Jorge Vargas and Dorothy Vinski of Vargas' International Environmental Law class. The panel of five discussed Mexico's expanding regulatory framework for dealing with environmental problems. Although particular emphasis was given to the effect these regulations will have on San Diego, the entire US-Mexico relationship was discussed in light of the then impending approval of NAFTA.

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Pettis's book Drafting a Constitution for a Nation or Republic Emerging into Freedom, published by the Locke Institute and the Institute for Humane Studies at George Mason University, has been translated into Spanish, Polish, Ukrainian and Portuguese.

Siegan's approach to writing a constitution includes strong protection of property and economic rights, as he makes clear in his book and in an article published in 1992 in 29 San Diego Law Review 161. Siegan's ideal constitution would include judicial review, separation and limitations of governmental powers and protection of a wide variety of rights—political, intellectual, and material.

Although Siegan's writing on the U.S. Constitution decries many Supreme Court interpretations of the Constitution, he nonetheless feels judicial review is an integral part of any constitution which would protect the rights of citizens. Siegan explains, "Although judicial review makes possible poor decisions by a judiciary, some real check must stand in the way of the legislative branch to prevent violations of individual's rights. With notable exceptions, the U.S. Supreme Court has, on the whole, secured the people's freedom. As long as the court can only do negative things—that is, say no to the legislature—it does not actually control spending and taxing, judicial review is the only mechanism to protect the people against the legislature."
Mutatis Mutandis: It's Motions!

By Robert Little

After a vote of the people, the name of this newspaper will return to—and maintain—Morristown Star Bulletin. The newspaper association sponsored a law school vote which attracted 142 voters: 72 for Morriston, 70 for a change. Of those advocating a change, a second question asked for suggestions. Popular responses included The USD Law Reporter, which was advocated by the newspaper staff at the Morriston Star Bulletin, The San Diego Advocate, and the San Diego Jurist.

The controversy began when the newspaper staff, attempting to attract more interest in the newspaper among the San Diego legal community, changed the name of advertising revenue. The Morriston staff also contended that insufficient time was available before the first issue of the year to take an official meeting of student opinion, but that students were asked for input informally.

Opponents of the change included students upset about the USD Law Reporter name and the process used by the newspaper staff in making the change. Some students objected to the name itself, many felt that a new name should be selected by the SBA as a whole.

In a letter published in the November 8, issue, Fields wrote, "The SBA chose to get involved in the renaming of the paper because we were disappointed by the way it was handled... Quite frankly, we were not impressed, as the authority that the change of the name of the law school newspaper, which are too important to be decided by a few members of a student group."

Professor Robert Fellmeth, in a letter to Morriston and the SBA Council, argued that the USD Law Reporter name closely resembles the California Regulatory Law Reporter, a publication edited by Fellmeth and published by USD's Center for Public Interest Law.

Prior to the vote, nominations were solicited through two fora held at the beginning of November on campus. All suggestions raised at these fora were included on the November ballot.

Border Issues (continued from Page 1)

tion” only five years have been devoted to the environment. His message was clear: enforcement is actually quite good considering the short period of time that enforcement has been a focus of governmental efforts.

Diane Takvorian from the Environment Department noted that the most outspoken NAFTA opponent present at the forum. Takvorian is a well-known San Diego environmentalist who specializes in the issues surrounding toxic waste contamination.

Unlike Petiss and Burguete, Takvorian expressed concern that the recent environmental problems in Mexico would continue for years to come. She noted that the environmental side agreement to NAFTA provides little consolation to many environmentalists. Takvorian said Mexico has “non-existent or non-existent enforcement” of its laws, and will not change after NAFTA.

Takvorian is credited with raising the most important environmental issue of the evening. She said that under the NAFTA side agreement a tri-national commission was established to review private party environmental complaints. Takvorian noted, however, that a party seeking an injunction may prove “a persistent pattern of non-enforcement” of the regulations. Takvorian considered this a particularly onerous standard because proving such requires a high level of access to Mexican governmental records.

Takvorian was also responsible for making the evening more interesting by provoking a heated discussion of the sewage problem. She said that there are “13 million gallons of raw sewage” that flow down the Tijuana River daily, and eventually end up defining Imperial Beach.

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Siegan proposes language which provides stronger protection of property rights than the U.S. Constitution's Fifth Amendment Due Process ("...nor be deprived of life, liberty, or property, without due process of law") and Takings Clauses ("...nor shall private property be taken for public use without just compensation"). He looks to textual methods of avoiding interpretations which undermine the protection necessary to the economic growth and liberty important to new nations. He notes that Twentieth Century interpretations of the Fifth Amendment have not provided the extensive protection to property that they have provided to life and liberty, even though the Constitution does not on its face provide for different levels of protection.

Siegan notes that although countries cannot easily ensure against weak interpretations of property protection clauses, particularly with courts inexperienced with the issue, the threat of an economic taking can be reduced by insurance against confiscation. "Foreign investors entering Eastern European markets who are concerned about governmental takings can purchase insurance against takings." Culture and the Free Market

Siegan feels that constitutional protections can be inserted into any country's charter despite cultural differences. "It is the system that matters, not the culture," Siegan argues. "Look at nations which share a common culture but have dramatically different economic performances. North and South Korea. East and West Germany. Taiwan and Hong Kong versus China. Chile of the 1980s versus Chile today. Argentina before and after Menem. Mexico before and after Salinas. The cultures are the same, but different systems result in dramatic differences in wealth." He reiterates: "What matters is the economic system."

"Of all the countries, I am most optimistic about the Czech Republic," says Siegan. "Prime Minister Vaclav Klaus is a former economics professor committed to free enterprise. His government relies on freedom to provide for and enhance the public welfare.

Siegan consulted with Klaus and others in Prague through a grant from the University of Pittsburgh. On this his trip to Poland, however, Siegan was unable to contribute to constitution-writing. "My basic reason for going was to consult with the free market parties, which thought they would do well in the election and therefore be able to influence the drafting of Poland's constitution. Their political predictions were way off, they lost, but they invited me anyway to talk about the constraints on government and personal guarantees to include in a constitution."

Faculty, Administration Seeking Graduation Speaker Proposals

By ROBERT LITTLE

Student leaders and faculty members are working with the law school and university administrations to select the level commencement speakers for the 1994 and future graduation ceremonies. While the 1994 speaker is to be selected from a list called for previous nominees, the administration is seeking new names to add to the list for ceremonies starting in 1995.

Because commencement speakers receive an honorary juris doctor degree from the University of San Diego, proposed recipients must be approved by numerous committees before they may be invited. First, students and faculty members make nominations. The list is prepared by the Faculty-Student Relations Committee, which is chaired by Professor Darrell Bronston and includes faculty members Laura Berend, Frank Engfelt, C. Hugh Friedman, Steve Hartwell, Jean Montoya, John Roche and Maimon Schwartschild. The committee also includes student representatives Norby Cisneros and Bob Little. Nominees must then be approved by the law school faculty before being sent to an all-university faculty committee which evaluates the nominees with an eye to their contribution to the legal profession, the traditions embraced by the University and notions of social justice. Finally, the Board of Trustees must approve any speaker.

Once on the approved list, a nominee remains on the list for five years. The Faculty-Student Relations Committee prunes the list and enlists Dean Kristine printed below. The Committee will prepare brief biographies of each proposed nominee.

The form should give sufficient information to identify the candidate and should be returned to the Dean of Students' Office.

YOUR CHANCE TO NOMINATE USD'S 1995 GRADUATION SPEAKER/HONORARY DEGREE RECIPIENT

In the space provided below, write in the name of your nominee to receive an honorary J.D. from USD School of Law and speak at the 1995 Commencement Ceremony. Return to Dean of Student's Office.

Name:

Brief Description of Title or Qualifications:

Why?

CLIP BUT DON'T SAVE
Having Mr. Robert Redford over for a Thanksgiving Feast

Thanksgiving is my favorite holiday to eat. I love all the Turkey, key, moist buttery stuffing, sugary marshmallow sweet potatoes and pumpkin pie. Mmm, pumpkin pie. But best of all, do I hear a drum roll? Twilight Zone marathon! My favorite episode is about the stupid old lady who won't take a long trip to heaven with the young Robert Redford, aka Mr. Death. What is she kidding me? I go anywhere with Robert Redford. Never mind that he's Jewish. Barbara Streisand once dated him. If he's good enough for Barbara, he's good enough for me. But dreams and reality are two different realities. Reality is Thanksgiving with the RELATIVES. It's always at Aunt Sarah and Uncle Norman's house. There's about thirty of my cousins, aunts, uncles, half-siblings and anyone else who just wants to harass me for not having a boyfriend. Now before you start saying how much you love your relatives and how well you get along- slap yourself silly and wake up. I love my family fine. But I'm being truthful here. Loving the relatives and liking them are two different stories.

I always get seated at a table with cousin Robin to my right and great Aunt Edna to my left. Cousin Robin and I are supposed to be best friends because we're a year apart. She's a lot more sassy than I am and I'm not so blonde. She, I suppose, belongs to the Politically Correct Cause Of The Month Club. Worse, she always brings a date to family gatherings. She clucks. Then she asks me if I know sell. "Liz, have you met my boyfriend, Josh Siegelbaum?" He's a resident. She smirks. "Great, I only date Californians, too." Real funny.

"No. He's a doctor. Ear, nose and throat."

"So I guess he'll remove that bump for free."


I can turn almost counterclockwise for a folded Ann Landers column in her wallet. "You're so dashing." She tells me. "I was just saying how fabulous you were you're still single at twenty-five." She clucks her tongue.

"Twenty-five is young Aunt Edna! No one marries at that age anymore! It's not. It's out. It's definitely out. And I'm in law school. I'm going to be a lawyer (yeah right) I'll get married in my thirty's, maybe older (please God, don't listen). And I'm happy. I'm so happy (I'm throwing up with happiness)"

She clucks. Then she asks me if I know how to flirt and unfolds an Ann Landers column. I promise to memorize it and keep under my pillow.

Who else can I talk to? I hate my table. The other table is way better. They're laughing at the table. I always get seated at the odd man out of the dummy table. I could talk to cousin Debbie and Robin. Please turn to Page 7, Column 3.
Kathy Only Studies When Alex Sleeps: First Year Law Students Who Are Full Time Mothers

Manchester Child Development Center Plays Important Role in the Lives of Mothers and Children

By Belinda Ettedag Rahaman

All law students are faced with the overwhelming task of keeping up with the reading, doing outlines and practice tests and trying to figure out what it all means. A few of us have relationships, guilty pets that need attention. A very few have children whose needs must be met even when open mimosas are due. Most of the folks with children have the added benefit of a spouse who will take up the slack while we are studying third party beneficiaries. Then there are the single mothers who are doing all it themselves.

There are three single mothers in C Section. (What an apropos name.) Each woman balances the strains of motherhood and law school in a different way. Without the support of the respective fathers the ladies have managed to survive the pressures of parenthood and stay on top or at least survive the rigors of USD Law School. While the rest of us are trying to squeeze in time for 90210 or Bar Review between property and civ pro there are a few of our compatriots who are taking valuable time to listen to a guy read or take their children to the park.

"While the rest of us are trying to squeeze in time for 90210 or Bar Review between property and civ pro there are a few of our compatriots who are taking valuable time to listen to a child read or take their children to the park."

Kathy, 27, attends USD law school and her husband went along with her plan. After she was accepted at USD Kay and her husband decided Kay would go to school and live in San Diego for a while and the family would relocate later. The plan was for Kay to come to up to Los Angeles to be with the family on weekends and then if everything worked out they would all live together in San Diego eventually. The day before Kay was to start school hubby said he wanted to move to Arizona and live with his family so the children could get more attention. It would mean seeing the children less often, but after her initial response to leave school had passed, Kay saw the reason in it. Three weeks later she got a call from hubby saying that he was divorced. Suddenly Kay had to decide whether to stay in school while fighting for custody or quit and go get the kids. Hubby never did move to Arizona and it was decided that Kay’s youngest child, Anthony, would live with her in San Diego and her daughter would remain in her school and live with dad up in L.A. Every Friday afternoon Kay drives up to Ariana and picks up her daughter from her Gram’s before they Makeup for dinner and play. Kay’s oldest child, Ariana, is 6.

Kay’s youngest child, Anthony, is 3 and her darling daughter Ariana is 6. Last year she decided to finally go to law school and could have finished and been practicing by now except she was derailed when she got married and had her lovely children. Hubby is a thoughtful son Anthony is 3 and her darling daughter Ariana is 6. Kay Randall’s life has been the stuff of soap operas since the first day of school. The fact that she is still among us is cause for rejoicing for the force of life that keeps us all going. Kay has wanted to go to law school for many years.

She was accepted to law school and could have finished and been practicing by now except she was derailed when she got married and had her lovely children. Hubby is a thoughtful son Anthony is 3 and her darling daughter Ariana is 6. Kay Randall’s life has been the stuff of soap operas since the first day of school. The fact that she is still among us is cause for rejoicing for the force of life that keeps us all going. Kay has wanted to go to law school for many years.

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Kay feels that it may sound like her children are getting short changed regarding her time and attention while she is in school. But the fact is that the time she does spend is 100% quality time whether it is five minutes or a whole afternoon. Kay told me that she can honestly say that during the five years she was a stay at home mom, giving the children all her attention, the time she spent with them was not as consistently meaningful as it is now. Every moment she is with the children is precious now and they all appreciate each other that much more.

After teaching in the New York City for a few years and seeing all the single welfare mothers sitting at home watching their "stories" and playing the numbers all day I know what a powerful negative or positive impact a parent’s example can be to a child. The amount of time you spend with your child is not as important as being a positive role model and being responsible, stable and loving. So to all the single moms who are getting it out alone and doing their best to get all their school work and be there for their kids, we salute you!!

Both these women are making Herculean efforts to be good parents and better their lives by going to law school. They are excellent examples for their children to follow, showing them that nothing worthwhile comes easily and education is the best way to improve your lot in life.
Strange. Going on at the Bar Review:
My Side of the Story

“There’s no limit to how complicated things can get, on account of one thing always leading to another.” —E.B. White

By S.P. Jones

I never really saw the first punch, but there was no mistaking the pain it had brought to my kidney. Good Lord these Girl Scouts meant to kill me. But before I go into the details, I must digress and explain how I, a simple man with simple needs, found myself in such an evil and misguided experience.

Conspicuously, really the best word for what occurred. Thursday was approaching, and if I had only listened to the wind, I would have heard its laughter. But I hadn’t listened, in fact for a few days prior I hadn’t even been able to see due to the blinding effects of some greasy concoction the locals call “El Diablo.” On Wednesday I had come out of my drunken paralysis when I was approached by a so-called friend and informed of a bar review that was building into mythic proportions. To his question, “Where would I begin going”, I simply replied, “When and where?”

He told me to get a pen and write down the information. I said, “No need, good sir, I have the memory of an elephant, no way I’ll forget. Just get on with the information.” He told me to write down the address, and if it hadn’t been for the jarring effects of the nightstick of a local mongrel, I would have remembered the address as if it were my own. But as fate would have it, my recall had been rendered incomplete.

Of course I had no idea that what I thought was the correct address, was wrong. Such being the downside of a thorough beating. I can recall a time when I had been beaten within an inch of my life and for a few weeks later I would swear up and down that David Haselhoff and I were to be married come spring; I even went so far as to prepare invitations. Needless to say, my engagement was short-lived, it ended shortly after I caught up with David to discuss Circle patterns. But, something I said really must have disturbed him because in all my life I’ve never had the lights turned out on me so fast. When I awoke, the wedding dress I had worn to show him was torn and all my dreams were turned out on me so fast. When I awoke, I quickly put on a record, threw off my clothes and began my charge into the next room. I reached the room where all the partygoers were just as the song began. It was a perfect moment, caught in time, the partygoers were just as the song began. It was overrated. At least this night I’ll get my money’s worth.

At least it’s cooked. One year my aunt had to do was turn on the oven... so we needn’t worry. Turkey’s not too dry, is it? Just get on with the information. I said, “So, Debbie, what do you do for a living?” She snarled, “Great, great. Anything else?” Please! “I’m eating, give me break.” Back to my food. Turkey’s not too dry.

The worst thing about Monday

At least it’s cooked. One year my aunt had to do was turn on the oven... so who needs turkey on Thanksgiving anyway? It’s overrated. At least this night I’ll get my dessert. Pumpkin pie! Cousin Robin reads my mind. “This year we’re not having that disgusting pumpkin pie. I brought rainforest-crunch-aids-awareness-apple-pie.”

The picture fades. Rod Serling stands in the corner and says if this could only happen in the Twilight Zone. My answer? I’ll call this the twilight zone if you get me a young Robert Redford.

MOTIONS, THURSDAY, DECEMBER 2, 1993 7
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The Sad Saga of a Wife's Attempt to Free Willy

BY KEVIN KIMPER

This is an ugly tale. By now you've heard of either a joke, a horror story, or a landmark in the "war" between men and women. I'm talking, of course, about that suburban Virginia man who was, shall we say, dismembered, by his wife, and then was remembered, so to speak, at the hospital.

Now, without being at all prurient - this is, after all, a religious school - I'd like to briefly revisit the original story. It is the story of a woman, calling from a payphone, informing police that her husband had sexually assaulted her, and later, when he was asleep, she took a 12-inch fillet knife, cut off [Mr. Belvedere] and threw it out of her car window. She told police where it might be found. They located a [trouser] track answering that description, wrapped it in ice, and a team of doctors reattached it.

This is, after all, the story that goes after the woman made this unkind cut, she "unknowingly" took [John Thomas] with her in the car, and continued to drive. Personally, I'm a guy who notices things. And I think you'd notice something like this in your hand as you drove - if only when it became time to shift.

I hope the reattachment surgery goes well. I mean, you wouldn't expect a lot of surgeons to specialize in that particular procedure. In fact, the surgeons who reattached the world's most famous free-range penis has become famous in his own right. From reports I've seen, the first such reattachment was performed in the mid-1970s in Japan, home of the Ginzu knife. I shudder to think how that guy wound up on the table. (A terrible accident at Benihana, perhaps?)

These reports attribute the incident to "domestic difficulties." Excuse me? Calling this "domestic difficulty" is like saying Jeffrey Dahmer had an eating disorder. The couple has already filed for divorce, which raises the question of whether the husband, in addition to alimony, is entitled to severance pay.

Humor aside, the difference in the actions between men and women to this story is instructive. I'm sure every male who heard about this had the same reaction I did - a visceral, gut-wrenching shudder. Among militant feminists, however, the wife has become a celebrity, and some have even gone so far as to claim that the incident is "a critical event in the history of women." A number have even adopted a victory sign with a snipping, scissors motion as, well, a victory sign. As a white male in the late 20th century, I understand that there is no appropriate response to my own existence except chagrin. Nonetheless, I find the exaltation of the wife as a paragon of conflict a little tough to absorb.

In a New York Times editorial dated November 5, Annie Gottlieb complained that Hugh Downs and Tom Jarrett of ABC's "20/20" used the words " shocking," "abhorrent," "unthinkable," and "degenerate" to report on the story, the were " not referring to the battering of 3 million to 4 million American women a year, but to the suerdoing of a single penis. This skewed

Please turn to Page 11, Column 2

The Other Side of Native Tribal Gambling: Jurisdictional Issues Put Safety At Risk

Reduced Tort Rights

BY DANIEL H. CLIFFORD

I have read with interest your article in the November 8, 1993 issue of "Motions" regarding Native-American Gambling. While the points you raised and discussed are timely and interesting, there is another, more troubling issue which was not addressed. This issue is the jurisdictional barricade which must be breached before anyone can bring suit against the gaming tribes for any harm which arises out of the gaming operation.

The plight of the Native-Americans recently has been the subject of much public notice thanks to the efforts of many individuals, not the least of which is Mr. Kevin Costner in his fine movie Dancing With Wolves. There is a significant body of literature which documents the fact that Native-Americans, in greater proportions than other ethnic groups, suffer from alcoholism, infant-mortality, and unemployment, and while over the years Congress and the Bureau of Indian Affairs have acted in accord to relieve these problems, the still exist and largely go unaddressed.

There, however, is another side of this coin, and that is, what many experts believe to be the largest growing industry in America, Native-American Gaming.

Some tribes with reservations located close to large urban areas have been able to convert their legal status of sovereign entities into gambling businesses where individual tribal members share in immense profits. For instance, it has been reported that in 1992 Native-American gambling gross revenues ranged up to $1.3 billion. In addition, there is a Servando Francisco Cruz, 50, of Spring Valley, a Sycuan Gaming Center patron who was beaten by the Sycuan's security forces when he and his wife were leaving the casino shortly before midnight on August 27, 1993. The San Diego Sheriff's report on this incident indicates that the security forces intervened in what they believed to have a domestic dispute. Mr. Cruz, who is just 5 feet 6 inches tall and weighs 162 pounds, was taken to the ground and beaten by Arthur Diaz of the Sycuan Tribal Police. Mr. Diaz is 6 feet tall and weighs 210 pounds.

The San Diego Sheriff investigators have requested the District Attorney's Office to press criminal charges against the four Sycuan tribal officers who battered Mr. Cruz. Sheriff's Deputy Terry Lawson, a member of the special Sheriff's detail covering the Sycuan reservation has been quoted as saying, "Indians reservation or not, state laws apply, and you can't go dragging people into your security office for no reason."

Deputy Lawson also has been quoted as saying that the Sycuan casino management and security are completely out of hand. Unfortunately, the Sheriff's Indian Reservation Enforcement Detail recently has been disbanded for lack of funds.

There, also, is the report of a patron of the Viejas Reservation of the Capitan Grande Band of Diegueno Mission Indians who was subjected to a beating by one of the dealers at their gaming center. The dealer had a black belt in karate and was convicted of assault with a deadly weapon.

In each of these instances, and more, the victims have made claims against the tribal authorities but have been subjected to a stone wall. The Tribal Council's first line of defense has been that their investigation of the incidents "revealed" facts different than those reported by the victims. Their second defense has been to trot out the doctrine of sovereign immunity and hide behind it. In other words, their defense is "we didn't do it, but if we did, you can't sue us."

The doctrine of sovereign immunity has grown out of the special relationship between the Native-American tribes and the United States government. Before European migration, these tribes owned all of the land and it was only through various circumstances, including negotiation, war, and coercion that the land was taken from the Native-Americans. Because of this role in history, the Native-American tribes have always been considered separate nations with the right to self government.

This right to self government is not without limitation. The Native-American tribes are subservient to Congress. In other words, the sovereignty retained by the Native-American tribes exists only at the sufferance of Congress and is subject to complete defeasance.

For the majority of our Nation's history, what there was of Congressional policy for the Native-Americans was directed towards assimilated into the general population.

Please turn to Page 10, Column 2
Three Strikes & You're Out!

By CHRISTOPHER SCOTT TRINIDAD

None of you is too deeply embedded in the social welfare system to have noticed that Thanksgiving weekend was a weekend of labor troubles. Over at American Airlines, the 28,000 pilots, stewardesses and flight attendants decided to show America and America that they can ruin the nation's holiday with the least effort. Although American Airlines' mechanics decided to slow their work and continually the travel plans of millions, while in L.A. the enemidLDAP decided to have the other 50,000 workers sit on the beach. Such paralysing purveyor of perjury will write in proclaiming that I lack sensitivity, caring or tact, I nevertheless com- pelled to address these issues. Although the labor movement in the United States is a powerful one and a long legacy of militancy, I am called to the US for what it has been the call to the work to strike should be curtailed. However, I was impelled to see, on the eve of the LDAP sick out, Bill Priestley, the spokesman for the National Democratic Party, state in an editorial on KTLA- TV that police officers had every right to walk the streets to protect themselves from other big shots' gangs of thugs and various free lancers but the common man, business and labor. I quote. One question Mr. Priestley, who are you going to call when you go home and find out that a definition of "reasonable" is when the direct threat to the employee has not been made because of some "do-gooder" and he is threatened with an illegal strike. Striking is when the direc threat to the employer has not been made because of some "do-gooder" and he is threatened with an illegal strike. Striking is to be used when the employer has been the backbone of virtually every Civil Right Act since its inception. It provides, in particular, that an employer can discriminate against anyone, citizen or not, based on race, color, nat- ional origin, religion or sex and it has been held that race, color, nat- ional origin, religion or sex have no force on the reservation. Take for example Title VII of the Civil Rights Act of 1964. This legislation legislation has been the backbone of virtually every Civil Right Act since its inception. It provides, in particular, that an employer can discriminate against anyone, citizen or not, based on race, color, na- tional origin, religion or sex and it has been held that race, color, nat- ional origin, religion or sex have no force on the reservation. Take for example Title VII of the Civil Rights Act of 1964. This legislation has been the backbone of virtually every Civil Right Act since its inception. 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Count Your Blessings Before Hurling Condemnations

To: Motions and USD Law Students

I have spent considerable time this semester reading and trying to appreciate the litany of complaints that all of us consider to be on this small campus. I have read opinions to the right and left, on the very newfound items as well as the familiar. One complaint would be wise to express the feelings I have developed these past three months and which I expect before the dreaded finals come upon us.

While it is unquestionably a right of all "students" to write about whatever they feel is appropriate, it is also a clear cut right of any of who we pay the bill for that right of "freedom of speech." Complaints and revulsions about the time and energies expended by those who profess to be the former. The vain writings and borning rambling about such "newsworthy" subjects as refrigerators, parking which lies at a distance greater than 100 yards, or the inherent right of anyone to sue anyone else because they feel the smallest slight or inconvenience, really tend to blur the message I hope to truly convey to each of you.

Let us all, for the space of whatever time may be allotted us, try to stop finding fault and try to see the demand for perfection of every person and institution with which you may have dealings or even a passing interest. Forgive the desire to "cap" on your teachers or other students. Don't make value judgments about people or situations about which you know little and have not bothered to inquire about in a thoughtful way. Now, if you have made some realizations in the known and self and your environment, let us move on to the next step.

As you wake up and pursue another dread-filled day at law school, stop and consider the philosophical implications of the final thoughts you have. It will be the best course you will ever embark upon. And if I am wrong, you can always sue me.

A STUDENT OF CONSCIENCE

Response to Susan Kang's Motions Article

We would like to respond to the article written by Susan Kang, "A Tale From a Different Court: Criminal Courts." Susan, first of all, we would like to congratulate you and all other students who have had the opportunity to read and appreciate the thought that you have put into this article. However, as you believe that you have written a thoughtful and considered piece, we must respectfully submit to you that the nature of your article is. It should have been obvious by the "tongue-in-cheek" title as well as the location of the article within - the feature section of Motions, that the article was a humorous, stream of consciousness, personal account of what I experienced while conducting a trial, with some fun of my own shortcomings and baring the "good, the bad and the ugly." Further, because the article never purported to be a "how to" or a representation of the criminal justice system and prosecutors.

Susan H. Kang

Free Willy (Continued From Page 9)

expression of outrage makes women feel bitterly undervalued.

Has it not occurred to Ms. Gottlieb that it is possible to view the behavior of a single person as shocking, aberrant, unethical and deplorable, and at the same time find spousal abuse equally repulsive? Are the tough thresholds that fall down in a com- mercial elevator shaft unworthy of our pity, after all, because more babies die of crib deaths and other negligence? Now that housing has been the subject of spousal rape by a jury of nine students, it is time we realized that these expected to rise. Now don't get me wrong. I frankly don't think that this man is a miserable excuse for a husband. Even his lawyer admitted as much when he said "he may not be the most sensitive lover in the world. He may not understand foreplay." Which brings me to why I have not heard of any men cheering the husband because he got laid that night.

Making the wife a hero is a part of a growing justification for violence by those who claim that they cannot receive justice from the legal system. The widespread support she is receiving will only drive men to encourage others to take the law into their own hands, so to speak. It is one thing for a woman to belong with children who cannot leave without considerable risk to strike a preemptive blow against her assailant. It is another thing for a younger woman to consider for her. When she did report the rape, her husband was immedi-ately charged and brought to trial, proving that she did, in fact, have a lawful alternative.

I'm not sure, by the way, what my cause is, but I am against most kinds of violence, and I have no patience for men who abuse the older or cruder races. I am in profound disagreement with the idea that the act of castration ought to become a glib symbol for the future of domestic relations and experiences, I think which should not be politicized and which do not belong to those who would use them for their own political ends. It is the modern feminism, let's all get out of here. Fast.

The ladies out making the sign of the anarchy N, after all, are men-haters, most of whom are out declaring a war that they themselves will not have to fight.
In 1970 I saw my first Fellini film. I couldn't imagine how it happened but somehow I got a hold of a 16 millimeter copy of *Juliet of the Spirits* and showed it one night at my high school. Even after several years of psychedelics and living out strange scenes, I wasn't prepared for the onslaught of bizarre images that splashed across the screen. If you have never seen one of his films, then you owe it to yourself to be exposed to the work of one of the most creative artists to have lived.

After seeing the colorful, exaggerated and flamboyant world of Fellini, I was hooked. The next year he released *The Clowns*. He had been obsessed by images of clowns from when he was a child and made a documentary about them. My eleventh grade boyfriend and I ditched school and figured out how to take the bus to Hollywood so we could go to the opening. (I didn't want to register with the government so I didn't get a drivers license for a long time and it was too hard to hitch hike with a guy.)

I had heard of *Satyricon* because it was so notorious but didn't see it until I was older. Set in Nero's Rome, it is about the adventures of two young men and the boy they both love. This lush depiction of pagan depravity and weirdness was so visually stunning it inspired some of us to buy crates of fruit and delve into decadence in a big way.

Fellini's next two films were two of his best, *Roma* and *Amarcord*. Roma has a Papal fashion show of the latest ecclesiastical garments that could compete with any in Paris for flash and drama. The film doesn't have a linear plot but flows from the late 30s to the early 70s showing a surrealistic tableau of different aspects of Roman life over 30 years. Even with all its excess and exaggeration it is easy to see the truth within the fantasy. *Amarcord*, which means "I Remember," is the first Fellini film you should see. It is the most accessible in terms of plot and character and the least bizarre, yet very Fellini. The story of a year in a small Italian town in the late 30s with a gallery of picturesque characters, most of the action is seen through the eyes of a group of rebellious high school boys. Fellini always cast the most extreme physical types in his movies and I always wondered where he got all the unusual-looking people.

I have seen every Fellini film from his first in 1950 through *Fred and Ginger* a few years ago. He stopped and kissed my hand after I whispered "I love you," to him in Italian one night at a party in his honor (at what was the coolest club in New York at the time, Area). My other favorite director, John Waters, was there and when he saw Fellini kiss my hand he kissed the other so I could have a matched set, sweating all the while that he wasn't worthy to be compared to the giant we both worshiped. That night a *paparazzi* friend of mine took a lot of pictures of all the celebrities and gave me the framed pictures that are still on my dresser of both my heroes. I went to NYU Film School because Fellini inspired my love of films, and more than a few times I sworn I would crawl across a room of broken glass to be able to work with him.

When he died a few weeks ago the largest cathedral in Rome wasn't big enough to hold the tens of thousands of people who filled the streets to watch his casket go by. He created more colorful characters, fabulous and extreme situations and visual stimulation than any film maker who has ever lived. Sophisticated and educated people all over the world have worshiped him for decades and you need to see what it was all about. I would be happy to arrange a showing of any of his films if some of you want to experience this alternate reality for yourself. He was a God who could create new worlds in celluloid. "The visionary is the only true realist." — Federico Fellini

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**Belinda Eiezad Rachman Says**

**Federico Fellini was the God of Cinema**

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**Motions Top Ten List: Top Ten Proposed Classes For Next Semester:**

10. Prosecution Without Evidence: Lessons from the Akiki Trial
8. Avoidance of the Foreign Corrupt Practices Act: How to Bribe a Customs agent and get away with it!
7. UnCivil Procedure: Criminal Sentencing
6. Ethical Issues in Child Custody Law (Meets for one week only)
5. The First Amendment: Phyllis Schlafly Meets Beavis & Butthead
4. Professional Reprehensibility: A clinical course in Rambo Lawyering
3. Chances Are: A Survey of Gambling Control Law (With field trips)
2. Alcohol and the Law: The Lawyer's Best Friend In Perspective
1. Toast-R-Ovens: Toaster...or Oven?

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