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Halloween Bash Draws Capacity Crowd
From the Editor

What a rewarding job this is. Especially when everyone is just starting to realize how quickly finals are approaching and how far behind they are in their studies. These days, whenever I ask somebody if they would mind writing an article for the newspaper they look at me in horror, like I had just asked them if they could spare a kidney.

This doesn’t surprise me at all. I mean, I am the same way. But the unfortunate result is more work for me... at a time when I also have finals to worry about.

Ah, but it’s all worth it, isn’t it? No, not really. It is a pretty much thankless job in the end. My best efforts are consistently met with total apathy. Motions just isn’t a high priority for either students or faculty. I’m not ready to throw in the towel just yet. But if one of you out there is just dying to have my job, see me, maybe we could work something out.

The Dean doesn’t help matters by insulting Motions in this month’s “Dean’s Sidebar”. It doesn’t sound like he even read last month’s issue, the only issue that has come out since he’s been here.

Dean Rodriguez claims that this paper offers relentless advice to have fun, get crazy, and lounge around the beach. He also says that we will “emphasize and emphasize and emphasize” the social aspects of law school life when, in fact, out of 26 total articles in last month’s issue ONLY TWO were related to social issues, and out of those two, ONLY ONE could arguably fit his description.

The Dean, in a parting shot, sarcastically adds, “and all the other tidbits of wisdom which gives this newspaper its reputation as a serious academic publication”

Dean, I am sorry if this newspaper doesn’t live up to your highbrow standards. In my opinion, we have enough serious academic publications gathering dust on this campus already.

Anyway, that’s enough “tidbits of wisdom” from me. I hope you all find this issue to be stimulating and educational, as always.
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HELP AT EVERY TURN

Key Education Resources
Dean's Sidebar
By Dean Daniel Rodriguez

When I began my responsibilities as Dean late this summer, my friends encouraged (consoled?) me with the suggestion: "Remember, this is not a sprint, it is a marathon." While there are times when I think it is neither, but instead, a swim upstream with a tattered paddle, I find the advice nonetheless useful. I want to suggest to you, and especially the 1Ls, that your law school career is also a marathon, not a sprint. You should continue to stay focused on the range of issues and interests which make up your complete life and not think about even this semester, much less the entirety of your law school experience, as a quick dash to the finish line.

Others who write in these pages will emphasize (and emphasize, and emphasize...) the social dimensions of this balanced life, so let me try to highlight the more professional and intellectual parts. What is a dean for, after all, if not to inject some pithy unsolicited advice into your active, sun-drenched lives? First, remember what sort of formative academic experiences brought you to this point. Law school is not intended to be a resume from a well-rounded liberal arts education; it is meant to be an adjunct to that education. So, don't be afraid to pick up a book—and one not about law—once in a while; it won't kill you, and it might even make you a better lawyer! Second, remember that you are part of a learning community. You are not succeeding at the expense of your friends and classmates but you are succeeding by working with them and because of them. A complete and balanced law school life requires, as we say in touchy-feely California, togetherness and community. You are truly in this journey together. Third, and here is where the pompous really starts to kick in, start thinking carefully about what it means for you to become a lawyer. You should be responsible for shaping your own professional identity as you move through the coursework and extramural distractions of law school at USD. Do not let us shape that identity for you. Or, worse yet, do not let yourself move into post-USD life as a newly minted lawyer without having shaped this crucial professional identity.

So this, along with the relentless advice you will get in Motions to have fun, get crazy, lounge around the beach, and all the other tidbits of wisdom which gives this newspaper its reputation as a serious academic publication, is part of our collective counsel to you to stay balanced and focused in your pursuits.

Public Power, Private Gain: The Abuse of Eminent Domain

By: The Institute for Justice

At the invitation of the USD Federalist Society Chapter president Mike Georgino, Clint Bolick will speak at USD on Monday, November 23, 1998. Mr. Bolick is the vice president of the Institute for Justice, which is a public interest group protecting property rights. The following is an article provided by the Institute for Justice describing one of the areas of law that the Institute is currently involved in. Keep your eyes on the bulletin boards for the specific time and place that Mr. Bolick will speak.

The Current Issue

For most of her 36 years in Atlantic City, Vera Coking, an elderly widow, ran a tidy little boarding house just off the Boardwalk. She convinced her husband to buy the property because she loved the house, the beach and Atlantic City. There, long before gambling was legalized and the towering casinos rose up around her, she speaks. She raised three children in the house, and one daughter still lives with her.

Retired now, the house is her only residence and only asset. But if tycoon Donald Trump has his way, a New Jersey government agency will use its power of eminent domain to condemn Vera's property, take it away from her at a bargain-basement price, then transfer the ownership to Trump for a fraction of the market value. Trump then plans to park limousines where Vera's bedroom, kitchen and dining room now stand. In short, New Jersey will take from one private owner and transfer that property to another private owner for his exclusive gain.

Unfortunately, Vera Coking is not alone in this battle. Other private property owners in Atlantic City and nationwide find their property rights under attack from the beach, and all the other tidbits of wisdom which gives this newspaper its reputation as a serious academic publication, is part of our collective counsel to you to stay balanced and focused in your pursuits.

Eminent Domain: How It Works, How It Is Abused

Unlike most developers, Donald Trump doesn't have to negotiate with a private owner when he wants to buy a piece of property because a governmental agency—the Casino Reinvestment Development Authority or CRDA—will get it for him at a fraction of the market value—even if the current owner refuses to sell. Here is how the process works. After a developer identifies the parcels of land he wants to acquire and a city planning board approves a casino project, CRDA attempts to confiscate these properties using a process called "eminent domain," which allows the government to condemn properties "for public use." Increasingly, though, CRDA and other government entities exercise the power of eminent domain to take property from one private person and give it to another. At the same time, governments give less and less consideration to the necessity of taking property and also ignore the personal loss to the individuals being evicted. Most courts have declined to put limits on the exercise of eminent domain. For a local government and state agencies, all the benefits weigh in favor of using eminent domain.

The New Jersey and federal Constitutions state that "private property shall not be taken for public use without just compensation." This constitutional provision imposes two limits on the taking of private property: first, that the use must be public, and second, that just compensation must be paid. If private property could be taken for any use at all, the term "public" would not have been included.

Originally, eminent domain was a power that allowed the government to construct public works, like roads and aqueducts. Government was limited to taking only that property necessary for the public use. Gradually, though, government has come to ignore these limits. Now, local governments will take property and give it to a private person for their economic profit. Anything that a government might be allowed to do at storage, planting flowers—it can condemn property in order to do. And it does not need to show that it actually needs the property in question.

This erosion of the doctrine of eminent domain has led to predictably appalling results. In 1981, Detroit destroyed Poletown, the last racially integrated neighborhood in the city, and gave the property to General Motors to build a plant. The closely-knit, historic community could not be replaced, and the plant did not live up to its promise of bringing economic prosperity to the city. Likewise, when the city of Oakland decided that it didn't want the Raiders football team to move to Los Angeles, it tried to exercise eminent domain, take ownership of the team and force them to stay. Now New Jersey has decided that large casino hotels are the road to prosperity for Atlantic City. Any homes or small businesses that happen to be in the way will be demolished. The Trump project is only one of several such instances. In another, CRDA has begun the process to take a small motel from Joseph and Gilda Ann Rutigliano, who have run it for the last 30 years, and give the property to the Tropicana Hotel across the street for parking. There are already three parking lots, one owned by Tropicana and

Continued Pg. 14
Students, Faculty and Staff Ask for Better Copiers and More Reliable Copy Cards.

The following letter, along with a petition signed by 314 students and X faculty members was recently forwarded to Dean Rodriguez.

Dear Dean Rodriguez

In accordance with your request on Wednesday, October 21, I am writing to review the matter of obtaining reliable copy cards and readers used for copiers, microfiche machines and printers in the LRC. The opportunity for you to help out the students this semester is quickly fading. In a few more weeks, some of us will have graduated and will not be able to take advantage of whatever changes may take place. You can, however, still help the first-year and LLM students, some of whom are starting research for their final Lawyering Skills 1 assignment this week.

The initial premise underlying this initiative to have a reliable system of copy cards stems from the principle of civility. We feel strongly that our request is reasonable and that our expectation that the staff (Parking and Security Services, e.g.) and the Administration respond to concerns promptly, in good faith and with common courtesy, is also reasonable. It is not the severity of the actual problem but the integrity of the principle at stake that provided the initial justification for this movement. American lawyers are often perceived as lacking in civility and sincerity. One place to counter that perception would be here in the law school. By treating the students with sincerity and common courtesy, the law school would be affirming the principle of civility and, as well, at the very least, encouraging the students to behave similarly towards each other once they enter their professional careers.

In addition, we maintain that our other premises are also reasonable. Legal research, writing assignments and job applications are simply impossible without photocopying and printing. Not all students are wealthy enough to afford their own printers and portable photocopiers. Unlike some other schools, (Berkeley, e.g.), the University of San Diego is not surrounded by numerous photocopier establishments that are within easy walking distance and open till midnight. With microfiche documents and some reserve or reference materials, there is no other practical alternative than to print or xerox in the library.

Furthermore, once the alternative of being able to photocopy without having to do so becomes available, that use would be less likely to resort to self-help by hiding the books or tearing out pages of the materials. Providing the opportunity for easy photocopying removes some of the temptation to tear out pages and hide materials and is a much more practical and realistic measure of deterrence than trying to detect and punish the transgressions.

A second related issue is the improvement of the copiers themselves. Although the resolution of this second issue may take longer than the improvement of copy cards and readers, we urge the Administration to consider this issue now, as well. The student body, as a whole, seems dis-appointed in the quality of the copy machines as they now exist. According to the staff at the LRC, the copiers would still not meet our needs. In addition to maintenance, there are several features lacking that are needed by the students. First, all the copiers should be able to print reduced copies. Second, we need smaller copiers, in order to fit many more machines into one copy room. Compare, for example, the copiers currently in the Medical Library at UCSD. It is often very frustrating to find that of the few copiers that do work, all are in use. At least two copiers can be placed on each floor and four or five in the Reading Room. Finally, the current copy machines routinely produce undesirable copies that are too dark, too light or splattered with marks. This can be devastating, if, e.g., a student needs to quickly create a useable copy of writing sample for a potential employer. Additionally, it is currently impossible to create double-sided documents or to feed in a stack of papers in order to create a collated copy.

To be sure, such changes will require funding. However, if a multi-million dollar parking structure could be paid for without large tuition increases, a new system of copiers, copy cards and readers that is equally, if not even more, important to a law student, should also be possible. Immediate improvement of the copiers may cause perhaps a short-term financial loss. However, in the long term, the current student body will remember that the University was willing to address their concerns at a time they needed help.

Everyone loses by dragging this on, leading to an escalation of frustration, if nothing else. You indicated in our last conversation that your own sentiments are along these lines. Please, therefore, act accordingly, using your best judgment and the best of your abilities, to resolve these problems.

Thank you for encouraging us to bring our concerns to you. We appreciate very much your willingness to listen to us. Please do not hesitate to contact me if I can be of further assistance in resolving these problems.

Sincerely,

Michael H. Yuan, 2L

PETITION

To have reliable copy cards, readers and copiers in the Law Library

A number of copy cards from the vending machine and student ID cards that function as copy cards do not work well with the readers on the copy machines in the LRC. The cards often have to be reinserted into the reader several times before they are accepted, and sometimes they do not work at all, even after being reinserted several times. In addition, the current copiers are often unreliable, require frequent maintenance and lack many useful features that we need.

We urge the Administration to resolve these problems by:

1. Providing us with a reliable system of copy cards and readers.
2. Replacing some of the current copiers with new, state-of-the-art copiers that have such features as reduction, automatic feed, stapling, collating, double-sided copying etc.
3. Allowing the student body to vote on the means of funding these changes.*

Note: In retrospect, to answer Prof. Lee's objection, I should have phrased Request 3 as:

1. Taking into consideration input from the student body in forming decisions on the means of funding these changes.
2. Allowing the student body to vote on the means of funding these changes.

The original purpose of Request 3 was to address student concerns that these changes will be entirely funded by tuition and copying cost increases. I still think that a general ballot should be held to determine what students are willing to do without in order to have better copiers, since there can be differences of opinion among the students. The ballot does not have to be binding on the Administration, but at least it will provide information useful in making fiscal decisions. Michael H. Yuan, 2L

The petition was signed by 314 students and the following faculty members: Darrell Bratton, Patty Dikes, Stacey Ferraro, Steven Hartwell and Mary Jo Wiggins. Prof. Cynthia Lee expressed support for the petition in general but disagreed with point number three. Staff members signing the petition include: Ruth Levor (Supports only 1 & 2), Sean Fitting, and Rosemary Getty.

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Chief Judge Judith Keep Speaks to Students

By Harry Kassakhian

Chief Judge Judith Keep had a tough time finding a job. The chief judge for the Southern District of California spoke to students on Tuesday, November 3 at the faculty reading room about her career as a judge in both state and federal court, and the challenges women face in the legal profession.

She said that as a female alumna of USD School of Law in the early '70s she, and other female attorneys, faced great discrimination. Many private law firms were unwilling to hire a female attorney regardless of academic credentials. She said that she was first hired as a criminal defense attorney and that she came to greatly enjoy the dynamics of the courtroom.

Edmund G. "Jerry" Brown appointed her to the San Diego municipal court in 1976 and that she was subsequently appointed by President Jimmy Carter in 1980 to the federal bench. She was the court's first female judge. In 1991 Judge Keep became chief judge of the Southern District of California.

Keep also spoke about the judicial clerkship programs in the state and federal judiciary. Applicants apply to the highly competitive program in the second year of law school in order to work for a judge after graduation from law school.

She said that USD School of Law could improve its attempts to send students to judicial clerkships. She said that in the past USD School of Law had been tardy in sending packets to federal judges.

Most importantly Judge Keep, a native of Nebraska, spoke about the importance of balancing personal relationships and commitment to the legal profession.
The Saint
A Mustang and a Jumbo Jack...
And how one led to the other.

By Ray Estolano

I often hear students at the law school say that they don't feel like lawyers yet. Even after all these years of law school they say that they don't feel like they've learned to do much of anything. Myself, I feel like I've learned to do quite a few things thanks to the toil of Schooley, Montoya and Snyder (for instance I could represent you, halfway, through a trial! Wait until December for the other half!). Still, I don't feel at all like a lawyer for one simple reason: I'm broke.

Welcome to the club, right? There are probably a lot of us that live off of fast food and coffee. There are even more of us that struggle to think about how we're even going to start paying off our student loans. Unless your parents are well off, money is in short supply for most of us. I think I really realized how broke I was when I paid for a bagel at Lucky with my master-card and it was denied!

The funny thing is that many of us present images that are just the opposite of the image of a starving student. The other day, after a job interview, I saw her tip come out of my coin jar!

Somehow, I finally managed to get my Mustang out of the repair shop. It just took cutting down on a few frivolous luxuries, like long distance telephone service, pain medication for my back, and, well! Food. So, if you see me driving a fancy new red Mustang around school, please keep in mind that the Bay's law referred to on the license plate (the plate was a gift from my father) means that I may not have the money to supply my car with gas for much longer.

Yes, we may be close to being lawyers. Some of us may even be rich one of these days, but for now, I'll be more than happy to share my coin jar with you anytime you're up for a Jumbo Jack.

Gentle reader,

Testy, testy. Lighten up a bit. Try to get in touch with your inner prepucescent and/or your inner drunk occasionally. After all, it's law school, not life, we're dealing with here. I must confess that I had to look up several of the big words you used, just to see how badly I was being insulted. Prepucescent, I agree with. Asshole, I am. Phallocentric, I could not find, but I think it means penis. And as for you making fun of my tiny, shriveled testes, how dare you dis my manhood like that? That one stung a bit. But your letter was extremely thought provoking otherwise. You are right. I shall change, grow up, and be like you. I shall start attending classes religiously and stop drinking during the day. I will henceforth get hypersensitive and aggravated and write pompous letters full of large multi-syllabic words in response to a ridiculous column that attempts to poke fun at the stressful, ritualistic, overhyped law school dances. In fact, if my nuts weren't already shriveled up and worthless, I'd offer to let you cut them off in penance for transgressing your sanctimonious rules.
The Sinner

Resume Drop Dead:
A Convoluted Tale of Wolf Dens, Murphy Beds, Cigars, and Perky Breasts

I wish I were a snotty chick. 'Cause they're the only ones who seem to get jobs through Career Services. I'm sure it's a coincidence, though, that the seventeen women who work at Career Services only get snotty chicks jobs. Me, I've been shut out from the whole job search process for three years, and I'm becoming more and more convinced that it's not because snotty chicks present a more complete package. It's because I have a package. Okay, fine, I'm a little bitter, because I'm unemployed, maybe forever, mostly because I depended on the folks at Career Services to get me a job. Instead, by consistently rejecting my best efforts, they have now shattered my confidence in my ability to write even a simple resume or a cover letter. Interviews? Forget it. I've never actually seen the inside of those interview rooms. One of these days, I'm gonna' lose it, push my way through the heavily-decorated, neatly-coiffed suits lined up in the hallways, and sneak a peek inside one of those rooms. My guess is that the interview rooms are empty, except for a Murphy bed which drops from the wall, and an ashtray, for smoking cigars while basking in the afterglow of the interview. Hell, some of the interviews are so quick, you'd think they were getting back into the den-office. The Career Services Women come loping out of the warren of offices, their cruel eyes fixated on me. They stop together, and ease forward, and I swear this, their lips start to curl. I ease back, using my resume as a shield, making sure I hold their eyes, feeling desperately in my pocket for my lighter. Fire holds them back, I once heard on some television nature show. In moments of panic, such as this very moment, the human mind thinks of strange things. Not me. It's clutch time -- one second to go and the ball at half court -- and my mind is crystal clear. As I tumble around in my pocket, I just wonder what happens back there in the den-office. I mean, they wouldn't have offices if productive, helping-me-get-a-job work wasn't going on back there, would they? I've never been able to get past the front desk, but I have occasionally caught glimpses of women loping past, stopping briefly to bare their teeth at nearby males, before disappearing back into the den-office. I admit that they look like they're working on something important -- probably raising young back there, or preening a new generation of snotty chicks to take my job.

Luckily my mind clears in time, and I quickly crouch, drop my shoulders into my most submissive posture, properly supplicant. It is obvious that I'm no harm. I hold out my resume in both hands, no longer using it as a shield but as a sacrifice. The women glare down at me, offensive male interloper in the domain of the Career goddesses. "It's not on the right paper," they chant in unison, almost as if they had practiced the lines many times, "It's in the wrong font." Then from the den mother, "Who would hire you? Where are your breasts? Where is your cute, upturned nose? Your snotty attitude?"

If they expected me to sink away, my tail between my legs, they were wrong this time. I was desperate. So I did the one thing they least expected. I asserted my maleness and screamed, spittle bouncing off the stacks of resumes on approved paper that surrounded the now appropriately cowed women. "This is the fourth friggin' time I tried to do this, and you'll take my resume and you'll like it, and you will get me a job. I've paid this school over sixty-thousand dollars for no reason, and one reason only. To get a job. I didn't learn anything, I don't want to learn anything. I just want a job. So get me a job. Now. Job." Actually, that was just a fantasy. Instead, I shuffled my feet, stammered platitudes, did more of the requisite groveling and pleading, licked their faces in a gesture of ultimate submissiveness (I saw this on the Discovery Channel while flipping around during halftime of a Lakers game -- I don't actually watch the Discovery Channel) and eventually got of Arkansas. Hmmm. Alabama Poor People's Clinic. Okay. Well, it's not Career Services' fault that all the shitty jobs are in front.

So keep going. Defenders of Desert Dweller Indians of Utah, Feminist Legal Society of Mission Bay or La Jolla whichever you prefer in San Diego, California. I keep flipping, a little worried now, the phone book from Portland, ME. Volunteer Male Ditch Diggers and Unemployed Male Lawyers of Casper, WY. I'm speeding through pages now, my eyes starting to glint with tears. Women's League of Highly Compensated Women Lawyers deciding Women's Only Issues, San Diego, CA. Zoological Volunteer Male Lawyer Society of Kobe, JP. I flip frantically, not realizing I'm done, finished, through, jobless, unemployed, washed-up before I've begun. I weep quietly, while 1Ls, who will work anything, anywhere, sneeze peaks at my lists, and snotty chicks with good jobs and perky breasts stride confidently through the UMTs, pointing at me and whispering and giggling.

Where the hell do they find these jobs anyway? Work for free on an Indian Reservation. And not a cool Indian Reservation like Barona or Viejas or Sycuan, where you can gamble and drink with the Indians, but some hot, lonely spot in the Utah desert, where alcohol, gambling, and probably masturbation are prohibited. Okay, okay. Like, what am I supposed to do with my $118,000.00 in loans, my drinking problem, and my libido for the rest of my legal career? I tried to console myself with the fact that, failing to get an on-campus interview (and I failed), I could always

"I wish I were a snotty chick. 'Cause they're the only ones who seem to get jobs through Career Services."

"write directly" to the long lists of public interest firms in Kansas, South Dakota, Portland, ME, or even Kobe, Japan -- I swear this is true, there was a job listing for Kobe, which, in case Career Services forgot, is a city that was totally, completely, and utterly destroyed in an earthquake a couple of years ago. Good luck finding your office building. And how exactly does Career Services secure these great "write directly" listings? I could use the friggin' yellow pages and write directly, and pay myself a handsome salary to boot. Hell, I'll copy out the phone book from Portland, ME, and Kobe (oughta' be a really short list) and sell it the 1Ls next year and save everybody the hassle of resume drop. "Write directly" to me for more information.

Weary, I flip through the list again, the names of the firms wet with my tears, running together, meaningless, worthless. I just don't get it.

Continued Pg 11
Halloween Bash is a Dirty Sweaty Smelly Good Time

By Curtis Crews and Mei Mei Cheng

The SBA annual Halloween Party, held at the Seaside Room in the Marina Village was a raging success this year. Pre-party ticket sales, expected to number about 100, greatly exceeded expectations with pre-party ticket sales reaching 600. About 600 more tickets were sold at the door. The maximum occupancy of the Seaside room was pushed to the limit at 1200 attendees, forcing the doors to be closed and potential partygoers being turned away.

Although the SBA did not disclose how much money was brought in by the event, with ticket prices of $10 in advance and $15 at the door, you do the math. They brought in a lot of money.

The Seaside Room was packed. The place was hot, dirty and stinky. The floor was totally disgusting and the stench emanating from the bathrooms was overpowering. Both bathrooms had long lines. Those on the dance floor, with no room to bust a move, were limited to just huffing up and down. But unlimited beer more than made up for the poor logistics and most seemed to be having a great time.

An informal poll was taken by SBA officers in order to determine what type of music people wanted played at the party. Eventually, the '80s won out which resulted in the selection of local band 80something to provide the entertainment

Sailed up in ridiculous 80's gear the band was a perfect fit for the costumed crowd.

The costume contest enjoyed fierce competition this year. There were categories judged; best female costume, best male costume and best group costume. The best costume category was won by Brittny Gates, SL, who made a wonderful Wonder Woman complete with magic lasso and invisible plane. Nobody could see the plane because it was invisible but I'm sure it was there.

The best male costume category was won by some guy (who nobody can seem to identify) who was wearing a lamplight on his head and carrying a tabletop around his hips and calling himself "One Night Stand". See the picture I can't explain it. I don't know how he went to the bathroom.

The best group costume category was won by Dan Link and Stellios Christofanopolous, both 2h, who were dressed up as Pooch and John from "Chairs." The winners were awarded whopping $25 gift certificates to the USD Bookstore.

That's about enough to buy a Gilbert's Outline. The party was a well-attended event, with 600 who were dressed up. Those who were not were线路 by the doors. By the way, the Beastie Boys should have won the group contest.

International Law Journal Approved

By Jennifer Guenther

The Student Bar Association (SBA) has overwhelmingly approved the creation of a student-run journal. The journal will be a student-run project and publish an annual edition of both student and scholarly writing on international law and comparative law. However, implementation of the journal is contingent on the approval of the Faculty Senate.

First, the University of San Diego must approve the budget request of approximately $10,000. This figure includes start-up costs as well as publishing, editing and advertising expenses. Second, a faculty advisor must be appointed and five law students must be approved by the Faculty Senate to serve as editors.

There was some concern among the faculty that the law student body would not be able to produce enough material of high caliber to support two student journals. So we asked for a mid-term period in which to prove that students at USD can produce good quality work.

One member of the approximately 15 member student journal committee. The project was originally started and sponsored by the International Law Society in September of 1997. After spending the fall semester interviewing various faculty members, an informal student committee, headed by Robert Poole, created a proposal and presentation for the Faculty. The presentation took place in April and resulted in the creation of a formal student-faculty committee which met over the summer. The faculty members involved were professors Mike Kelly, Jorge Vergas, Mike Ramsey, and Paul... Wellman.

Enthusiasm has been high for the journal. Four times as many students registered to write independent study papers. The average number of students per semester is six to seven, however this fall nearly 50 students signed up. The student-faculty committee was successful in recruiting several students to take on the task of editing and publishing the journal.

In addition, there are large number of students writing papers for classes that have chosen international topics. The deadline to submit a paper for consideration in the journal is January 25, 1999. There is no minimum page requirement, and students are asked to be creative in choosing a topic. Because of the free paper minimum, all students, with the exception of J.D.s, are invited to write or submit a research paper that is relevant to an international topic. Once the journal has met the free paper minimum, every student who has submitted a paper will be eligible for membership so long as they complete the required editorial or editing duties. This is a great opportunity for students to publish and as a resume builder.

Any interested in more information should contact one of the following students: Pete Lucson, Jennifer Guenther, Loll Montgomery, or Kristi Larson.
The Forgotten Legacy of Bilingual Education

By Danny Moreno
Hispanic National Bar Association
Regional President, Law Student Division

In its time we learn the true nature of cultural and linguistic conservatism; the creation of an intolerant, insensitive society. Although proponents of "English-only" claim to be acting for the good of the people, there is absolutely no benefit to becoming a mono-linguistic society. The elimination of bilingual education in California has sent the wrong message; that we care more about saving money than about preserving our multiracial traditions and linguistic diversity. If we are to survive into the 21st century as a progressive, pluralistic society we must denounce this growing trend of insensitivity and intolerance.

Historical Background

The history of bilingual education in the U.S. dates back to the 17th century, a time when bilingualism was common among both the working class and the educated elite. Bilingual education played a crucial role in maintaining the cultural traditions of the early settlers and it was not uncommon to hear German, Dutch, French, Swedish, and Polish throughout the thirteen colonies.

The anti-British sentiment in the colonies soon gave rise to a sense of nationalism and the idea that cultural and linguistic assimilation became an essential to the survival of the fledgling nation. In 1790, John Adams proposed to establish an American language academy in order to "refine, correct, improve, and ascertain" the English tongue. Another early proponent of "English-only" was Noah Webster (Webster's Dictionary), who supported Adams' view and fought to establish a "Federal English" standard.

Expansion Fosters Period of Tolerance

With the westward expansion and influx of new immigrants in the mid-1800s, bilingual education was authorized by statute in the new territories and became accepted once again. Bilingual schools were set up in such places as Baltimore, Cincinnati, Cleveland, Indianapolis (German); Louisiana (French); Kentucky, Illinois, Iowa, Minnesota, Missouri, Oregon (other non-English languages); and the Southwest (Spanish). This brief period of acceptance and tolerance was short-lived, however, and soon gave rise to another "English-only" movement, this time led by the American Protective Association.

As new groups of immigrants streamed into the U.S., more laws were passed to ensure that these groups would quickly assimilate into the American mainstream. In 1915, the National Americanization Committee was created in Detroit in order to assimilate the new arrivals as quickly as possible. With the cooperation of large employers like Henry Ford, who pushed for mandatory attendance at Americanization classes, this notion of forced, peaceful assimilation became a reality. Well into the 20th century, it was Theodore Roosevelt who said "We have room for but one language in this country and that is the English language..."

Where Have We Gone?

The "Melting Pot" theory, perpetuated by members of the dominant culture since the 1800s, stressed conformity over diversity on the premise that language is a predominant unifying force. This is too simplistic an approach because bilingualism is not just about language; it is about "family traditions, customs, moral beliefs, aspirations, and national memories." The cultural cleansing only created more problems for the language-minority groups. The cost of "assimilating" meant not only the loss of their language, but of their cultural awareness. These language-minority groups, especially the Chinese, Filipino, Native-American, and Mexican children, did not adapt well in an English-only society; they could not truly shed their cultural heritage because of constant reminders that their's was a "second class" culture.

This second-class status led to low self-esteem and high dropout rates among the minority groups. To reverse the rising dropout rates of language-minority children, Congress passed the Bilingual Education Act in 1968. The idea was that children would have a more clear understanding of the subject matter if they were taught in their native language. Bilingual education made perfect sense.

Then along came Senator S.I. Hayakawa of California, founder of "U.S. English" and an ardent supporter of the November 1986 referendum known as Proposition 63. U.S. English exploited racism to advance its hidden agenda. Proposition 63 sought to curb bilingual education and to ensure that English would become the sole official language of the State of California. Hidden from the surface was the Senator's real intention, which was to practice selective discrimination and to enforce tighter restrictions on immigration. The chairman of U.S. English warned of "an Hispanic politico takeover in the United States. Does the Taco Bell media blitz remind you of the Frito Bandito commercials of the 70's? He was a staler of goods, not unlike the "Tricks are for Kids' rabbit, only he was not so cute. The Frito thief was a pot-bellied, scruffy-looking bandit who wore a devilish grin and spoke with an exaggerated Spanish accent; not an image to be proud of. At least the Chihuahua dog is clean and well-groomed, only I don't think that attaining 'dog' status is a step in the right direction. Even Rodney Dangerfield gets more respect.

Where Do We Stand Today?

We have seen how each new generation is affected by a new strain of xenophobia. In recent years, new-age proponents of "English-only" have managed to convince members of the language-minority class that bilingual education is bad because their children are not learning English fast enough or proficiently enough to succeed in this ever-increasing competitive world. This belief that bilingual education does not work is false. Bilingual education was working, but it was sabotaged at all levels; from principals who would not enforce educational requirements to "old-school" teachers who would scorn and shame the limited-English proficient (LEP) students through public humiliation. Also, there was the problem of never having enough Spanish-language books and classes with too many students, sometimes as many as 42.

Media Representation is Not So Flattering

Indeed, modern society has shrugged off its responsibilities by reducing the presence of minority groups to convenient "sound bites" and "images." Take for example the new Taco Bell commercial featuring the now famous Chihuahua dog. The voice we hear is one of a street smart Hispanic male giving in to an instinctive internal drive; hunger. Everybody knows what a "Taco Bell" taco is, but we are forced instead to focus on a stereotypical image of a "pachuco," "cholo," or "gang member." Is this what it means to become mainstream?

Once again, minorities are subjected to stereotypical attitudes and constant reminders that, although more subtle now, are still degrading. Does the Taco Bell media blitz remind you of the Frito Bandito commercials of the 70's? He was a staler of goods, not unlike the "Tricks are for Kids' rabbit, only he was not so cute. The Frito thief was a pot-bellied, scruffy-looking bandit who wore a devilish grin and spoke with an exaggerated Spanish accent; not an image to be proud of. At least the Chihuahua dog is clean and well-groomed, only I don't think that attaining "dog" status is a step in the right direction. Even Rodney Dangerfield gets more respect.

In conclusion, so long as there are language-minority children with unequal access to educational services, there will be a need for bilingual education. Although it has now been 30 years since the passage of the Bilingual Education Act, the struggle for equality in education continues, now more than ever. If we are to survive into the 21st century, we as a nation and as members of a multicultural society, must ensure that the education of our children becomes a priority.
The Sinner
Cont. from page 5
Out of the 270 jobs listed, there are a total of four jobs in Southern California, only two of which are in San Diego, and then only if you happen to be a 2L, with an LL.M and an undergraduate degree in electrical engineering, or if you have no objections to acting as a combination cigar holder/humidor for the senior partner for a couple of years. For some reason, if you believe the Career Services job listings, California firms in general, and San Diego firms in particular, seem to frown upon students from USD, instead preferring the students of other local schools, particularly the unaccredited ones. On the other hand, all the firms in Fairbanks, AK (it is Alaska or Alabama or Arkansas or Arizona, I always get those confused) and Portland, ME, have an uncontrollable hankering for students from the west coast center of legal academic brilliance. USD. It's gotta be the awesome national reputation of our professors working in tandem with the incredible global reach of our Career Services office. Slow down guys, middle. I wanna' stay here.

Anyway, I dropped. Strategically. My first plan, limit competition through attrition, failed when a sharp-eyed Career Services woman saw me stuffing my book bag with resumes stolen from the overflowing envelopes. I used the flame from my lighter to hold myself at a safe distance from her snapping jaws while I implemented Plan 2. I flipped through each envelope until I found a couple of resumes which had masculine names and looked worse than mine, which, considering my resume, turned out to be a task much more difficult than you might imagine, and then I sandwiched mine between them. Now my resume is sure to stand out, and I will get lots of interviews.

I wait for my interviews, confident that Career Services will come through for me. I'm waiting. I've got my fingers crossed. And I'm waiting. Just in case, while I wait, I'm gonna' develop a snotty attitude. I'm also going to try to grow some breasts, nice perky ones. I still won't have a job, but at least I'll have something new to play with while I sit at home watching the Discovery Channel. ESPN . . . I mean, ESPN.

A special note to the Women's Law Caucus, Career Services, and Dean Carrie Wilson: It's a joke. I don't really think the folks at Career Services hate me because I am male, or that only women get jobs. After years of reading columns about the "glass ceiling," I thought it might be amusing to look at the "astroturf ceiling" that men face. I don't mean any of it, except the part about wanting my own breasts, and, having gained those, desiring to touch my feminine side. And the part about wanting a job, preferably one related to the legal profession in some way. I mean that part. God, how I mean that part.

Meet Your Pusherman...
By Harry Kassakian

He's every law professor's worst nightmare. Ken Packer, the owner of ABC Bookstore, is a commercial outline dealer.

ABC Bookstore, located on Front Street in downtown San Diego specializes in law textbooks, legal practice guides, and commercial legal study aids.

"Law students go to the law school orientation meeting, they get the typical 'Party line' -- no commercial outlines," said Packer, who has owned and operates the ABC Bookstore, "and in September we get the second wave of students." Packer said that every year a new crop of law students arrive at his bookstore searching for materials that will help them understand their classes.

But lawyers also shop at the bookstore for the practice manuals, step-by-step guidebooks for practice in a certain area of law, Packer said. "Luce, Forward, Latham and Watkins and Gray Cary have accounts with us," said Packer about renowned law firms that are consistent customers at his bookstore. He said that the Rutter Groups practice guides are especially popular with practitioners. "It's the nuts and bolts--this is how you do it," Packer said. He said that the use of practice guides.

He said that his hope is that law students who found commercial outlines helpful in their academic success will then purchase expensive practice guides. A Rutter Group practice guide costs about $250.

Packer has worked in bookstores for over two decades. A former USD Bookstore employee, Packer had worked for Law-Distributors, a company that sold legal educational materials. He is not a lawyer, although he did take the LSAT. A biologist by training, and a UCSD graduate, he said he enjoys his immersion on the world of legal education.

Although law is a "conflict-orientated profession," he said "not all of them [law students and lawyers] are hard to deal with."

Packer said that he is too busy to attend law school, although he does not rule out the possibility.

How Do Most Students/Grads Get Jobs? 
Source of Initial Employer Contact 
(Nationwide-All employer types-17,400 graduates-class of 1997 reporting)

Percentage of jobs obtained from each source:

<table>
<thead>
<tr>
<th>Source of Initial Employer Contact</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interviewed during Fall on-campus interviews</td>
<td>17.4%</td>
</tr>
<tr>
<td>Interviewed during Spring on-campus interviews</td>
<td>1.1%</td>
</tr>
<tr>
<td>Interviewed with pre-law school employer</td>
<td>8.3%</td>
</tr>
<tr>
<td>Interviewed at job fair or consortia</td>
<td>1.0%</td>
</tr>
<tr>
<td>Interviewed at job listing in career services office*</td>
<td>12.1%</td>
</tr>
<tr>
<td>Interviewed at self-initiated contact with employer*</td>
<td>29.3%</td>
</tr>
<tr>
<td>Interviewed at referral by colleague, friend or other*</td>
<td>13.4%</td>
</tr>
<tr>
<td>Interviewed at employment with colleague, friend, or other*</td>
<td>3.2%</td>
</tr>
<tr>
<td>Interviewed at response to classified ad*</td>
<td>2.1%</td>
</tr>
<tr>
<td>Interviewed at used temporary placement agency</td>
<td>0.7%</td>
</tr>
<tr>
<td>Interviewed at used legal search consultant or head-hunter</td>
<td>0.2%</td>
</tr>
<tr>
<td>Interviewed at started own practice or business</td>
<td>3.5%</td>
</tr>
<tr>
<td>Interviewed at other</td>
<td>7.7%</td>
</tr>
</tbody>
</table>

*This category also includes joblines, binders, direct contact listings and resume referral services.
October 1st
Brick By Brick
1130 Buenos Avenue

Brick By Brick remains the enigma: plenty of potential but always a slight disappointment. Just like a blind date. The interior of this very local San Diego landmark has the feel of that basement party you had while the folks are away, complete with cheesy neon beer advertisements in a long windowless cavern. The entire place smells a bit subterranean and seems to ooze nicotine stored up from the good old days before pouting was a crime. Its saving grace for ambiance are the two huge red genuine vinyl banquettes at the end of the room opposite from the stage, but with commanding views of the four pool tables. A few random pinball and video machines line the northern wall and seemed to get more attention than the hands.

THE BANDS. Daddy was promised a night of swing with certain unnamed bands who, by all assurances, were to rock. Unfortunately, on the eve of the soiree, Daddy was informed that local unknowns Zollo, The Frequency Organization, and Cry Wolf would be tickling the eardrums. More like battery. Most in attendance could only endure one of the three; which was of no consequence as they were reported to be indiscernible from each other. Nursing bruised eardrums, Daddy proceeded to friendlier climes in P.B. with some impressive first years in tow.

October 8
Sunset Bowl
3093 Clairemont Drive

On the kind recommendation of third-year bar review fans, Daddy took the gang bowling on the hill in Clairemont. Unchartered territory to some, many others arrived at the crack of nine so as to secure the ten lanes secured just for USD and friends. Sunset Bowl is another curious vestige of a long gone era which has been enjoying uninterrupted vitality despite the recommendations in electronic entertainment. Maybe its just the only place you could get away with those funky shoes. In any event, bowling occupies some nether region between actual sport (think physical exertion) and hobby (think technical precision). Its akin to playing pool in that you wish you could do it well, you envy those who have the moves, but there is just not enough time to actually develop your skills. It’s also like pool in that your game may actually be in direct proportion to your buzz.

Sunset Bowl enjoys remarkable popularity with 52 lanes rolling until midnight weekdays and ‘til 1 a.m. Fridays and Saturdays, each night after 10 p.m. offers "extreme" bowling with alterno rock and disco lights. Sounds more like extreme nightmare, but the management promises it’s a lot of fun and makes the game just that much more challenging. In the lounge area, Sunset Bowl has 15 regulation size pool tables, each with about an extra two square yards of green to confound you. Supposedly, Sunset Bowl offers a tasty array of snacks and other edibles to satisfy the monster hunger you’ll work up hurling huge heavy balls of lucite at suggestively curvy pins. But, if you are dining at a bowling alley you are beyond Daddy’s guidance.

Best value of the month award for Sunset’s obscenely cheap beers; from $1.25 for Red Dog to $2.25 for premium drafts. Buzz kill award that the beers were served in lame opaque plastic cups which may only replace the broken danger with frequent spilled suds hazard. Complaints for Sunset Bowl were few. Those accus-

tomed to dropping in at Bar Review at their leisure found all lanes occupied and not much chance to enjoy, but the management at Brick By Brick professes to adore the USD gang and was deeply hurt by the low turnout and fickle feelings. They have offered more about anything this side of legal to lure us back. The first concession is no more white noise, paint peelin’, aural assaults. The next Brick bar review will definitely be a Dy’d affair.

Class of 2000 - Time to Consider Judicial Clerkships

By Susan Benson, Career Services Director

What is a judicial clerkship and why should I be interested?
Each fall, second-year students at law schools nationwide are urged by faculty, career services staff, deans, and classmates to consider applying for judicial clerkships. (The application process begins in January.) Judicial clerkships carry a tremendous amount of prestige and provide an excellent opportunity for law school graduates to work closely with a judge, view the legal process from behind the bench, and sharpen legal research and writing skills. Additionally, judicial clerkships are held in the highest regard by employers and therefore permanently enhance your resume!

Which courts offer judicial clerkships?
Most state trial, appellate (but not circuit, district, and bankruptcy court judges, and federal magistrates. Most clerks last one to two years, although in the past couple of years, judges have been making exceptions to this one or two year limit and have offered career positions to their clerks (i.e. stay for as long as you wish, or stay until I retire in a few years, etc.)

What hiring criteria do judges use?
Each judge determines his or her own hiring criteria and application deadline, but some standard procedures apply. Typically, judges are looking for outstanding academic achievement, excellent research and writing skills, strong analytic skills, ability to work independently and under pressure, and good judgement. The most prestigious clerkships in the most competitive areas of the country (e.g. New York, Boston, Chicago, Washington, DC, San Francisco) go to students at the top of the class. Many judges at state and federal courts in less competitive areas of the country apply more flexible hiring criteria.

When do I apply?
The application process begins in January 1999.
Class of 2000 graduates should prepare their federal court application packets during late December 1998/January 1999. State court judges have much broader application deadlines, some as late as third year.

Interviews for federal judicial clerkships begin March 1999.

What do I include in my application packet?
The application packet typically includes resume, cover letter, 1-2 writing samples, 2-3 letters of recommendation from faculty, and a transcript.

Where can I find additional information?
In mid-November 1998 a judicial clerkship panel and an application workshop will be presented by the judicial clerkship faculty advisors and career services. Watch for announcements of these meetings on the career services bulletin board and your mailboxes.

Schooners in Pacific Beach is a perennial Bar Review favorite because they just try so damn hard and really love the business. Two dollar U-Calls. Its means anything goes at the bar and no complicated math! And they really will give you anything in their bar for two dollars. Other joints in town are famous for the old bait-and-switch where your mating calls are limited to flat American drafts and whatever scary Price Clubs marques dwell in the well. Major gags of approval when one of Daddy’s confidantes sampled Schooner’s version of the Long Island Ice Tea and declared that there was no mixer to be detected.

These guys seem to just love what they do and take pride in providing entertainment - or else they’re just boozin’ behind the plank. Rusty (the red-head) and compadre dazzled the crowd with endless displays of bottle and glass tossing, oblivious to fact that Cocktail the man is no longer even kitsch. Although, after the revival of Grease, it can’t be far behind. Harbinger that the end is near. Best comedy of the night - when Rusty and friend performed the death-defying 151 gangle followed by flamin’ lugey with a half twist of the head. Apparently, Rusty didn’t quite nail the half twist and some flaming rum scorched his nasal passages on its return to terra firma. Kids, don’t try this at home or with hair spray applied.

October 22th
DAY OF MOURNING
Black Thursday passed without a Bar Review because Daddy had the most enviable World Series tickets and a trunk of funkin’ tail gate party ready to go for game five. Unfortunately, it was not to be as the home boys dropped four thrillers in a row, a feat unmatched in something like 15 years.
Caught NOVEME>ER

The bite, which was described by the cameraman’s doctor as minor, required no medical treatment beyond the topical antibiotics and a few days of rest.

Although other states have banned ferret ownership, California authorities may become a martyr for the ferret legalization cause. During the San Diego Ferret Freedom Day celebration held on New Years Day, Rocky momentarily latched onto the thumb of a cameraman who was covering the event.

The bite, which was described by the cameraman’s doctor as minor, required no medical treatment beyond the topical antibiotics and a Band-Aid.

Although Rocky had a current rabies vaccine, on January 3rd Animal Control authorities placed Rocky under quarantine for rabies with the understanding that he would not be euthanized. Five days later, only hours after authorities learned that Rocky was owned by Pat Wright, founder of Ferrets Anonymous, it is believed that the Department of Fish and Game ordered Rocky seized from quarantine and killed.

As a result of the killing of Rocky, a lawsuit has been filed in the United States District Court for the Southern District of California which will challenge the constitutionality of Fish and Game Code Section 2116, which bans ferrets as wild animals. The lawsuit will argue that since ferrets are not wild animals, the law is over-broad and thus unconstitutional. As domestic animals which pose no environmental or health risk, pet ferrets are private property, under Civil Code Sections 654 and 655, which cannot be seized without due process of law.

Why does the state refuse to legalize ferrets? The main opposition comes from the Department of Fish and Game. The department’s misguided opposition was well described in an article by California Assemblyman Jan Goldsmith (R-Poway) who wrote, “Key Department administrators have made a career of battling ferrets, going so far as to circulate a report nationwide in 1988 claiming they are wild animals and calling on other states to ban them. The 1988 report was discredited as nonsense and its only effect was to prompt other states where they were banned to legalize ferrets! After analyzing the report, the Pacific Research Institute concluded that it was full of exaggeration, hyperbole, and inaccuracies. There is nothing more repugnant in a democracy than public officials who use public money to mislead the public.”

Today, many of those key administrators remain at the Department of Fish and Game supervising enforcement. They spend considerable time on a crusade to fight legalization, claiming ferrets are ferocious animals that attack children, livestock and endangered species. These, and other misrepresentations, have long been discredited by leading authorities and experiences in other states which report no serious problem.

Admittedly, a ferret does look like a wild animal. Laymen may not realize, solely by their appearance, that they are domesticated, but professionals should, and most do, know the difference. The Humane Society of the United States, the U.S. Public Health Service, The United States Department of Agriculture, The Smithsonian Institution, the American Veterinarian Medical Association and the American Museum of Natural History all agree that the ferret is a domesticated animal. Even the Sierra Club and the Audubon Society, which oppose ferret legalization for reasons discussed below, recognize that ferrets are domesticated animals. Only the California Department of Fish and Game still insists ferrets are wild Protection. The Department of Fish and Game’s faulty classification of ferrets as wild animals is vital to their continued regulatory jurisdiction over ferrets since the Department has no authority over domesticated animals.

The Sierra Club and the Audubon Society oppose ferret legalization for a different, but equally disturbing reason. The groups, without any substantial supporting documentation for their position and despite a mountain of evidence indicating otherwise, express a fear that escaped pet ferrets will form feral colonies (a feral colony is group of domesticated animals who establish a continuing and self-supporting population in the wild) and damage California’s ecosystems.

Any ferret owner will tell you that a feral ferret population is a fantasy. Most ferrets are strictly indoor pets and are normally kept in a cage whenever they are not being held or played with by their owner. The only danger posed by an escaped ferret is to the ferret itself. Ferrets are playful and inquisitive by nature but seem to lack any homing instinct or sense of danger from people, other animals, or other hazards such as automobiles. An escaped ferret will likely fall prey to the first animal or car it encounters.

Independent authorities bear this out. According to the State of New Jersey Department of Environmental Protection, “Lost ferrets are rarely found and usually die soon after escape.”

Kenneth W. Umlach, PhD, in a report of the California Research Bureau, a body which submits independent studies for use by lawmakers, states that, “ferrets have not been demonstrated to pose an unusual risk of bites, but like all domestic animals they are capable of inflicting injury.” He also states that, “Dogs are at least 200 times more likely to bite than are ferrets.” Dr. Umlach goes on to point out that, “it appears improbable that domestic ferrets could establish feral colonies in California, given the risks of ferrets themselves becoming prey.”

The Encyclopedia Britannica states, “domesticated ferrets have become so dependent upon humans that they cannot survive without care if lost and often die within a few days.”

According to the national Center for Disease Control, “stray ferrets do not appear capable...of establishing themselves in the wild...” The United States Public Health Service says that, “…domestic ferrets...can survive only in captivity.”

In the other states which allow ferret ownership, no feral colonies have formed. In fact, all fifty states report that there are no feral populations of ferrets, and no adverse effects on wildlife or agriculture. This includes California, which by the Department of Fish and Game’s own estimate may be home to as many as 500,000 pet ferrets.

Still, according to the Sierra Club, Continued on Pg. 15
Continued From Pg. 4
two owned by the Rutiglianos, but CRDA doesn't have to consider that no additional parking is needed.

Another proposed project will remove an historic block of houses, owned and occupied by African-Americans, and build a tunnel from one street up to a new casino.

In essence, Trump and other casino developers in Atlantic City shop for properties they want and CRDA does the buying for the developer. A particularly interesting fact about the Trump development is that, although he claims he wants the land for a park-a so-called "public use"—nothing would stop him from removing the park and constructing another casino. If the proposed "public use" exists for a single day, the developer has satisfied his end of the agreement and the land is his to do with as he pleases without further consideration of the "public's" use.

Coveting Thy Neighbor's Goods

The prime location of Vera Coking's three-story house has attracted unwelcome interest before. In 1983, Bob Guccione tried to purchase the property for $1 million to construct a casino. Vera didn't sell, so Guccione built a steel and concrete structure all around (even over) her home. When Guccione's project failed, the land and its structural skeleton was purchased by Trump and razed. In the process of removing the frame, demolition crews started a fire on her rooftop, broke windows, removed her fire escape, and nearly destroyed the entire third story of her home by dropping concrete blocks through the roof. Now dwarfed by the giant 22-story Trump Plaza, Vera's little home certainly stands in disrepair, but through no fault of her own. (Coking has since filed a lawsuit against the demolition company seeking compensation so she can restore the damage.)

On May 6, 1994, Vera Coking received a letter from CRDA stating that her property had been "appraised" at only $251,250 (nearly $750,000 less than her earlier offer). CRDA offered her $174,000 for the property and notified her that she would have 30 days to accept or CRDA would institute suit in the Superior Court "to acquire your property through CRDA's power of eminent domain." In a May 24, 1994 letter, CRDA Executive Director Nicholas Amato stated in capital letters, "You may be required to move within 90 days after you receive this notice. If you remain in possession of the property after that time, CRDA may be able to have you and your belongings removed by the sheriff." On July 28, 1994, Susan Ney, Director of Housing Development for CRDA "instructed CRDA's counsel to commence condemnation proceedings in the Superior Court of New Jersey." Vera Coking opposed the condemnation in court, and while the case was pending, Trump continued with construction. The Trump Plaza Hotel and Casino was completed; grass was put down on one side of Vera's property and parking lots operate on the other sides. The only part of the project left is razing Vera's house and two other buildings on the block. The final project included a new casino (even though Trump's original plan did not.) In March 1995, the Atlantic County Superior Court ruled that CRDA could not fund projects with new casino space and, because CRDA couldn't fund the project, it also couldn't condemn Coking's and her neighbors' properties. On November 13, 1996, however, the Appellate Division reversed this decision and stated that the project should go forward.

Vera Coking and her neighbors, who have been similarly mistreated, cannot believe the government can force them out of their homes and businesses in order to give the property to Trump. Vera Coking explains, "This is my home. This is my castle." Vincent Sabatini lives on the same block as Vera. He and his wife own and operate Sabatini's Italian Restaurant, a family business that put four kids through school. When asked about CRDA's offer of $700,000 for their property—a figure that wouldn't even cover the cost of legal fees and starting up a new restaurant—he exclaimed, "I've been here for 32 years, and they want to give it to Trump. I don't want their money. If they left me alone, I'd be happy and sell a few spaghetti." Peter Banin and his brother own the third building on Vera's block. A few months after they paid $500,000 to purchase the building for a gold shop, CRDA offered them $174,000 and told them to take the money and leave the property. A Russian immigrant, Banin says, "I don't think they could do this in Russia, but not here. I would understand if they needed it for an airport runway, but for a casino?"

Litigation Strategy

The Institute for Justice is committed to a program of litigation that will help restore judicial protection of private property rights-the basic rights of every American to responsibly use and enjoy their property. As the Supreme Court recently stated, "Individual freedom finds tangible expression in property rights. The choices a person makes concerning her home or business are among the most personal and important decisions she will ever make. Under the Constitution, the government may not take property for public use unless the taking is 'for a public purpose.' The Act gives no indication that the taking in this case is 'for a public purpose.'" The Institute for Justice is currently representing several property owners who have been similarly mistreated.

CRDA's attempts to take these properties violate the New Jersey and U.S. Constitutions. First, taking properties, there is no public use, is not a "public" purpose.

"The necessity that the use shall be public excludes the idea that the property may be taken and ultimately conveyed and appropriated to a private use." Atlantic City won't own the limousine lot or grassy area; Trump will, and he can convert them into whatever he wants once this project is completed. Nothing can stop Trump from turning around the day after the park is constructed and tearing it up and build another casino.

Second, condemning these properties is totally unnecessary. Under New Jersey law, government may not take more property than it needs for the public use. Even the CRDA enabling statute states that it can exercise eminent domain only when property is "necessary" for project completion and "required" for a public purpose.

Third, New Jersey has unconstitutionally delegated its condemnation power to private parties. The New Jersey legislature delegated the power to CRDA. CRDA then defers to casinos that apply for funding to determine which private homes and businesses will be torn down. It must get approval from the casino before issuing a notice of condemnation. If the casino decides it doesn't want that property, CRDA won't condemn it.

Finally, these condemnations are an unreasonable and abusive use of government power. Over the last ten years, New Jersey courts have begun to recognize that local governments can and do misuse their power over people's property. Atlantic City wants to take Vera Coking's home of 36 years, the Sabatinis' 32-year-old business, and the Banins' thriving jewelry and gold business and give them to Trump to install a place for limousines to wait for high-rolling patrons at the casino and a large lawn that few will ever use. It's hard to come up with a more frivolous use of the power of eminent domain.

The U.S. Supreme Court also has begun to notice some of the abuses of local governments. In a series of cases, the Court has challenged the actions of local governments constituting takings. In each of the cases, the local government argued that it had not "taken" the property and so did not owe compensation. Before these cases, courts strayed from the text and read the Constitution in a way that maximized government power. The Court has not considered a major eminent domain case since its infamous decision in Hawaii Housing Authority v. Midkiff, in which it approved a large-scale transfer of land by Hawaii from property owners to property lessors. However, "Midkiff embodies the lavish deference to governmental regulation of property rights from which the Court has retreated" in the last ten years.

This case asks the New Jersey Superior Court to read three important words of its Constitution-the requirement that a taking be "for public use"-and force local governments to comply. Until then, CRDA's attempts to take these properties manifestly are not necessary. In each of these cases, courts strayed from the text and read the Constitution in a way that maximized government power. The Court has not considered a major eminent domain case since its infamous decision in Hawaii Housing Authority v. Midkiff, in which it approved a large-scale transfer of land by Hawaii from property owners to property lessors. However, "Midkiff embodies the lavish deference to governmental regulation of property rights from which the Court has retreated" in the last ten years.

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USD Attracts Fulbright Scholar From Austria

By Mei Mei Cheng

While USD School of Law attracts many diverse and talented students from around the world, this year, USD was fortunate enough to attract 1997 Fulbright Scholar, Gerhard O. Rettenbacher of Vienna, Austria. Rettenbacher has joined the USD community for a year in order to pursue an LLM in Taxation. Established in 1946, the Fulbright program is an international exchange program sponsored by the U.S. Government designed to "increase mutual understanding between the people of the United States and other countries." The selection criteria for Fulbright Scholars include certain academic or professional qualifications and potential, as well as "the ability and willingness to share ideas and experiences with people of diverse cultures."

Rettenbacher was born and raised in Vienna, and calls the inner city "one of the most beautiful in Europe." Up until now, all of his education also took place in Vienna, where he earned a law degree from the Vienna Law School, a degree in business administration from the University of Vienna School of Economics and Business Administration, and a graduate degree in Tax Law also earned from the University of Vienna.

Before coming to US, he practiced tax and corporate law at a large law firm in Vienna called Wolf, Theiss and Partners. After working there for 3 years, he decided that he wanted to come abroad, but found that it was very difficult to find a job in the US. Rettenbacher decided that the only way to find a job in the US was to "come and study, which I thought would be an interesting alternative anyway."

When asked whether studying the laws of another country was a difficult adjustment to make, Rettenbacher responded "Although the system is generally quite different, common law here and civil law in Austria, the tax laws are quite similar... the basic concepts are the same and quite often the details are the same." One difference between school in Austria and USD Rettenbacher did note however, is that USD makes students prepare for classes.

He observed "Here you always have to prepare for classes. If you choose not to read for two, three weeks that would be a problem here, but it would not be a problem in Vienna because there all you have to do is pass the exam. If you knew everything or just enough to pass the exam it was fine, you did not have to be present in class or write papers. To some extent this maybe a disadvantage, but on the other hand it certainly helps you if you prepare, it helps you understand the discussion in class much more and with the exam."

One thing Rettenbacher noted that could be improved about USD is the timeliness of information provided by the administration. He explained that as a foreign student "when I arrived here I didn't know anything... how to get a California Driver's License, how to find an apartment, the school gave me the information when I got here but not when I was at home so I could have given me the information much earlier in order to prepare."

When asked what attracted him to California, Rettenbacher explained that "I was here on holiday twice before and I loved it." The first time he came to the US was two years ago with his wife, Hella who works at a bank in Vienna. Rettenbacher has traveled extensively around California and other parts of the US. The first time was a two and a half-week road trip in which he and his wife ventured to San Francisco, Napa Valley, Los Angeles, Palm Springs, San Diego, the Grand Canyon and Yosemite among other places. Rettenbacher enjoys San Diego because of his fondness for outdoor activities; he especially enjoys the beaches, running and rollerblading.

As for his future plans, Rettenbacher says that while he is not exactly sure where he wants to settle permanently, he would like to stay and work in California for about 6 months to a year after obtaining his LLM and then return to Austria to work for his former employer Wolf, Theiss and Partners.

PILF Provides Opportunities to Make a Difference

By Harry Kassakhian

Public Interest Law Foundation (PILF) members seek to serve the largest client, the American public. PILF was founded 10 years ago and is devoted to the promotion of legal careers that directly benefit the public. PILF is the USD School of Law's chapter of the National Association for Public Interest Law. PILF has no membership fee requirement but request that persons who wish to become full-fledged members volunteer for PILF activities.

"Public interest law covers a wide range of practice areas such as civil rights, tax, environmental, housing and labor law," said Sarah Hardy, the President of PILF. PILF has over 50 members.

Although Congress has created many civil causes of action to protect the public, many poor individuals are unable to benefit from the laws that protect them because of lack of legal representation, Hardy said.

PILF provided several grants (two for $2000 and one for $1000) to students who spend the summer working at a public interest law organization. Hardy worked at San Diego Legal Aid Society in the area of housing law. Other PILF members have worked with rape and spousal abuse victims, the homeless, and with consumer activists.

The PILF president said that her ideal for a law school's support of public interest law is New York University School of Law's motto, "a private school in the public interest."

She said that many students are overwhelmed by the large debt load upon graduation, and that they may be unaware of USD's loan forgiveness program. The program allows loan forgiveness in return for a recent graduate's commitment to public interest law. Although the program is separate from PILF, PILF assisted in the establishment of the program that is primarily funded via voluntary $20 contributions from law students.

PILF members promote public interest legal careers in an era of cuts in government support for public interest legal organizations, Hardy said.

Hardy said that a lawyer or law student does not have to directly work in public interest law in order to support public interest law. Students and lawyers can support public interest law via donations to public interest law organizations, Hardy said.

"You need people who are making money and contributing and you need people who are there being advocates," Hardy said.

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