CRUSHING DEBT
Can You Afford To Graduate?
From the Editor

I bet you have been wondering what happened to Motions. It's not JUST that this is a very slow semester as far as news is concerned. (Sorry, even after such a long wait we have no big juicy scandals to report.)

Our real problem has been money. Motions pays for its own printing costs with advertising revenue. With the departure of West Bar Review from the scene a couple years ago, and the loss of Bar/Bri advertising, Motions lost its two main advertisers. This lack of advertising revenue combined with increased production costs caught up with us with a vengeance this Fall.

It took me a while but I finally managed to scrounge up enough money to print an issue. And with a Bar/Bri advertisement appearing in this issue for the first time in over a year, I think we are well on the road to financial stability.

I would like to thank those who continue to support Motions financially. Without the help of Flemings Fundamentals of Law, PMBR, USD Bookstore and ABC Bookstore we could not have printed another issue this year. We still desperately need to attract a couple more advertisers and are hoping to convince Bar/Bri to become a regular supporter.

Other than money troubles, things have been going great! Over 30 students recently volunteered to write articles. Several of those students have written for this issue. If you dropped your name in the Motions box and I haven't called you yet, please feel free to call me with any ideas.

One last thing... The ENTIRE Motions Staff and Board is graduating in May! We will soon be hiring ALL POSITIONS for the 1999-2000 year. That is about 10 positions. Keep your eyes open for notices!

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By Harry Kassakhian

On February 8, 1999, Prof. E. Alan Farnsworth, the famous contracts expert and co-author of the contracts casebook used by many USD first-year law students, gave a lecture for USD law faculty and students.

Prof. Farnsworth addressed a packed Grace courtroom for the very first "Dean's Distinguished Scholar-in-Residence" lecture. Because of the limited seating capacity of the courtroom, Professor Farnsworth's lecture was also transmitted to a nearby classroom where additional students were watched by projection TV.

Prof. Farnsworth, who has taught at Columbia University since 1954, had titled his lecture "Contracts Show and Tell: Yes I Remember it Well."

The lecture consisted of a history of the story of contract law, and was peppered with numerous trivia from the staples of contracts cases. Prof. Farnsworth also wrote the books "An Introduction to the Legal System of the United States" (translated in ten languages), "Contract Law in the USSR and the United States" (with Mozolin), "United States Contract Law, Cases and Materials" (with Young); "Cases and Materials on Commercial Law" (with Honnold, Harris, Mooney & Reitz), and "Cases and Materials on Negotiable Instruments."

Prof. Farnsworth not only delivered a witty and entertaining lecture, but also met with students informally and taught a first-year contract's class.

Dean Rodriguez stated in his introduction to Prof. Farnsworth's lecture that an annual "Dean's Distinguished Academic" and the "Dean's Distinguished Judge" lectures would be a mainstay at USD.

USD Teams Take First and Second Place in ATLA Regional Mock Trial Tournament

During the weekend of March 5-7, 1999, the University of San Diego School of Law's National Mock Trial Team competed in the Association of Trial Lawyers of America's Regional Tournament.

Fourteen teams from eight law schools competed for the Regional Championship and the right to compete in the National Finals to be held in New Orleans March 26-28, 1999.

The law schools which participated included USD, California Western (San Diego), Thomas Jefferson (San Diego), UC Berkeley, Southwestern (Los Angeles), Chapman (Orange County), and two national powerhouses, University of Alabama and Indiana University.

During the various rounds, each team represented the plaintiff and the defendant. Each team consisted of two attorneys and two witnesses. Some schools had the attorneys and witnesses switch roles as they switched sides of the case. USD's strategy, however, was to have the "attorneys" remain attorneys, and the witnesses simply switch characters when switching sides. USD used third-year students as attorneys, and second-year students as the witnesses.

Each team received a letter designation, so that the local attorneys and judges who were judging the competition would not know from which school the competitors came. As with all ATLA tournaments, there were three preliminary rounds, including Friday morning and afternoon, and Saturday morning. Pairings against other schools were random, as were the assignments as plaintiff or defendant. At noon on Saturday, the top eight teams were posted for the semi-final round to proceed that afternoon. The top four teams then advanced to the finals Sunday Morning.

The tournament was sponsored by the local ATLA members, who are practicing attorneys in the San Diego area. Mr. R. Christian Hulbert, a partner at the law firm of Thorsnes, Bartolotta, Maguire, and Padilla, was the Tournament Coordinator. All the participants remarked that Mr. Hulbert and his staff conducted an exceptionally professional and well-orchestrated tournament.

On March 5, the welcoming reception and coaches' meeting was conducted at Mr. Hulbert's elegant offices overlooking downtown San Diego and the harbor.

Like most of the other competing schools, USD entered two teams. One team consisted of attorneys Clay Biddle and Brandy Bryant, with witnesses Dan Link and Mark Skeels. The other team's attorneys were Clinton Crosser and Jessica LaBay, with witnesses Masable Baker and Stacey Brock. The USD coaches, Professor Richard "Corky" Wharton and Lisa Hillan, knew both teams were at their peak performance.

The Biddle-Bryant team competed against Chapman, California Western, and Berkeley during the preliminary rounds. The team won all three rounds, and advanced into the semi-finals in first place among all fourteen teams. The Crosser-LaBay team competed during the preliminary rounds against Berkeley, Alabama, and Southwestern, and advanced in fourth place to the semi-finals, having lost by one vote to Alabama.

The Biddle-Bryant team drew Berkeley in the semi-finals, and the Crosser-LaBay team drew Indiana. Coach Wharton won both coin tosses, and made the strategic decision to have both teams compete on the defense side, trusting that they would advance to the finals and would then be entitled to present the more sympathetic plaintiff case.

The Biddle-Bryant team soundly defeated the opposing Berkeley team 3-0. The Crosser-LaBay team edged the Indiana team in a 2-1 split decision, and prevailed by three points. Indiana was placed fourth in the ATLA National Competition last year, and this was an extremely difficult round. Alabama, consistently ranked in the top ten schools each year, also advanced both of its teams into the final round.

The Biddle-Bryant team defeated their Alabama foe, 2-1, and advanced to the upcoming National Finals in New Orleans. The Crosser-LaBay team distinguished itself, but took second place against their Alabama team. Thus, USD and Alabama will each send a team to the National Finals.

The level of excellence that both USD teams achieved was the result of countless hours of preparation, coaching, and practice. In addition to Coaches Wharton and Hillan, USD trial team alums served as volunteer coaches during various practices and full-trial run throughs: Steve Hawks, Steve Weisenberg, Judy Hartwig, Chris Lindberg, Brian Worthington, Holly Denton, and Jim Drimmer. Their assistance and insights were invaluable.

Congratulations to both USD Finalist teams, and good luck to Clay Biddle, Brandy Bryant, Dan Link, and Mark Skeels, Regional Champions, as they go on to New Orleans.
DO IT ONCE,

DO IT RIGHT,

NEVER DO IT AGAIN

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CALIFORNIA BARBRI
Can You Afford To Graduate?

By Heather Beardsley

Some people say that if you want something bad enough, you will pay any price to get it. How does $66,000 sound to you? That is the average cost of three years at USD for tuition alone. You still need books, a place to live, food, and transportation. How do most of us do it? Loans, and lots of them. According to Financial Aid's 1999-2000 Student Financial Aid Handbook, the average amount students borrow is $20,413 a year. Multiply that by three, and you still miss the tuition mark by almost $5,000.

If you are only borrowing the average, then congratulations, but you also have to be getting money from another source. It could be from scholarships, grants, parents or a job. However, there are many students who take out well beyond the average every year and have a stifling debt by the time they are ready to click heels with the real world.

Jim Lamping, a third-year law student, will have almost $100,000 worth of student loans by the time he graduates this spring. Lamping says he has taken out the maximum loan amount allotted to students each year, (which is currently $35,472 for day division and $28,792 for evening), plus doing work-study and receiving scholarships.

Having this much debt is not uncommon. In fact, according to the National Jurist, law student debt is surpassing starting salaries for recent graduates at an alarming rate. The debt goes hand in hand with less disposable income and a lower standard of living for new graduates than graduates had ten years ago. Law school debt has gone up 425 percent in the last ten years, while starting salaries have gone up only 14 percent.

What does that mean to the average borrower from USD? If you borrow the average amount for three years, get a job in the private sector with an average starting salary; your estimated disposable income students to give back to the community in any way they can, including doing pro bono work.

Carl Eging, Director of Financial Aid and Admissions admits the reason USD has so many of its students entering the private sector is in fact because of increasing debts. Much of that debt however stems from the fact that USD is a private school and therefore has a higher tuition than a public law school. Eging says you would be more likely to see graduates working judicial taking out as many loans.

"People now are more confident in taking out loans than they were ten years ago. It's not real to them. It's like Monopoly money." Szymonik says of new students.

Szymonik's fears about over indebtedness for students is what motivates her to include as much useful information as she can during entrance interviews. More likely than not, students entering their first year have heard how many thousands of dollars their weekly pizza and beer actually costs them in the long run if it is bought with loan money.

Szymonik strongly encourages the use of a computer diskette provided by the Access Group, in order to plan your law school budget and loan repayments. She feels that if a first year knows in their first year how much the price tag will actually be, then that might curb the amount borrowed. Even Lamping himself admits that he knew in his first year that the cost would be high, but not as high as it actually is now.

The figures can be daunting and very much intimidating. However, the real threat is life after law school if debt continues to rise in disproportion to starting salaries. Nevertheless, the very fact that we are all still here, is proof positive that each of us has more or less figured out a survival strategy. And that at least, is the beginning of the end of the battle with law school debt.
Nathanson Lecture Features Stanford University President Gerhard Casper

By Amy M. An

"Tentative, reflective, contradictory, and incomplete," President Gerhard Casper of Stanford University described his self-dubbed "oral equivalent of an essay."

On March 2, 1999 as part of the Nathaniel L. Nathanson Memorial Lecture Series, University of San Diego invited President Casper to address "The United States at fin de siecle: The Rule of Law or Enlightened Absolutism."

The lecture opened with remarks by Dean Daniel Rodriguez and Distinguished Professor Carl Auerbach. Then President Casper proceeded with his sobering discussion about American politics through a sequence of four reference points.

First, he described the meaning of Independence Day, the state of disappearing hegemony, and increasing constitutional development.

Second, President Casper focuses on the end of the present century, a.k.a. the American Century and how the next century remains obscure.

Third, he takes on the rule of law as criticized by scholars as "discretionary justice." Thomas Paine theorizes that in absolute countries, the king is law. In free countries, the law should be king.

In President Casper's fourth and final point, he conveys the theory of Enlightened Absolutism. Starting off with a description of Frederick II's 17,000 articles codifying public and private lives of his Eighteenth Century citizens.

He compares this with the present state of America and goes on to provide examples of the government and the media invading the everyday lives of people. "We are such a rich country, and we are accustomed to so much waste."

"Can a society that merges the private with the public be free and civilized in the long run?" President Casper answers, "It is the public realm that loses."

For further information on the state of American affairs, President Casper addresses this issue in more detail in his book, Separating Power: Essays on the Founding Period.

Gerhard Casper's Most Recent Book, Separating Power: Essays on the Founding Period

Gerhard Casper's most recent book, 

Separating Power: Essays on the Founding Period, is available at the USD Bookstore. Price $28.00

"Many constitutional scholars believe that if they could only pierce the fog created by the Constitution's wonderful obscurity and our own historical distance, the thoughts of men like Jefferson and Madison could help resolve current political controversies. But in Separating Power, Gerhard Casper advances the unsettling opinion that we must face questions about the separation of powers without the Founding Fathers' help: they cannot guide us because they themselves were hopelessly confused...[The Founding Fathers] sought to cooperate rather than to engage in jealous turf battles. So even if they left us with no cohesive separation-of-powers doctrine, as this fine book makes clear, perhaps the Founding Fathers' spirit of compromise could teach us how we should approach our own political problems."

--Douglas A Sylva, New York Times Book Review

"Mr. Casper reexamines the question of constitutional rigidity. He concludes, and provides powerful historical evidence supporting his point, that there is, in fact, a great deal of flexibility within checks and balances."

--Jason Bertsch, Washington Times

"Originalists taught that constitutional law must return to founding understandings as a guide to current interpretive questions about the meaning and scope of the constitution. What they didn't teach was how little such an inquiry would yield. Casper's beautiful and rich account of founding ideas about separating powers reveals just how little the framers had finally worked out, and how much our modern understanding differs from what they did work out. This book, in its simple and elegant directness, is a compelling account of the struggles and complexity that confronted the founding generation as they erected a constitutional regime of separated powers. It will undermine arguments that imagine that the framers gave us a structure already worked out. If one thought constitutional law should be about returning to the answers the framers left us, this book shows unequivocally that there were few answers, if any, that the framers meant to leave."

--Lawrence Lessig, University of Chicago Law School

1999-2000 Staff will be selected soon!

Hiring for all positions

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Watch for announcements!
Inside the Honor Court: Academic Dishonesty Taken Seriously

By Mei Mei Cheng

The School of Law Honor Code establishes the rules of conduct relating to academic matters by which the students of the University of San Diego School of Law are to abide by. It is published in the Student Handbook which is distributed to the students on a yearly basis. It is each student’s responsibility to be familiar with the provisions set forth in the code. Although it plays an important part in preserving the academic integrity of the school, many students are unaware of the code, how seriously it is taken and how it’s provisions are enforced. In fact, honor code violations have serious consequences including, but not limited to warning, censure, disciplinary probation, restitution, suspension and expulsion. A violation of the honor code must be also reported on the Application For Determination of Moral Character.

Chapter Three of the code describes what is considered "dishonest conduct." According to the code this includes plagiarism, mutilating property in the library and cheating on an exam. However, the code also has a general provision which prohibits students from engaging in dishonest or fraudulent conduct that gives a student an unfair academic advantage over another.

The Honor Court is made up of appointed professors and elected students. There are two preliminary examiners, one Honor Court counsel (i.e. school prosecutor) and six justices.

The preliminary examiners are Marcus Cohen and Professor Mike Kelly. It is their duty to assess the initial complaints to decide whether or not it true, the alleged charges would constitute a honor code violation. This assessment must be completed within 10 school days of receipt of the complaint.

The Honor Court counsel is Tom Slattery. It is his duty to interview witnesses, gather evidence and to prosecute the accused at the hearing.

Five complaints have been made to the Honor Court this academic year... including dishonesty during moot court, plagiarism and starting early on an examination

According to Honor Court Chief Justice Meg Gabor, five complaints have been made to the Honor Court this academic year. These complaints alleged behavior including dishonesty during moot court, plagiarism and starting early on an examination. As for the results of these cases, one complaint was dismissed for lack of evidence, two complaints alleging plagiarism resulted in the suspension of two students and two complaints are still pending hearing.

When asked to comment about the Honor Court, Chief Justice Meg Gabor stated "I think it's really important for students to be aware of the honor code. If someone knows of others cheating or being dishonest, he or she has the obligation to file a complaint. The Honor Code can only be enforced if the students and professors enforce it. If there aren't ramifications for dishonesty in law school, these people are going to go out into the real world and do it there too."

Sample Honor Court Opinion

In the matter of the Students of the University of San Diego School of Law v. (Student X)

PER CURIAM

On June 5, 1998, the Preliminary Examiners of the Honor Court received a memorandum from (Professor Y) alleging that (Student X) had submitted a paper for independent study credit for the Spring 1998 semester that was the work of another. The specific allegation was that a law review article and a treatise had been copied verbatim and turned in as the original work product of (Student X). After examining the evidence and speaking with (Professor Y), the Preliminary Examiners found that (Professor Y)'s complaint, if found to be true, set forth a violation of Section 3.01(b) of the Honor Code. The Preliminary Examiners filed a report with the Honor Court on June 5, 1998.

I.

The Honor Court began hearing this matter on September 29, 1998. The following justices sat for this matter: Margaret Gabor, presiding as Chief Justice, Mai Petersen, Robert Mueller, Professor Walter Heiser, Professor Allen Snyder, and Professor William Lawrence, who was sitting in Professor Ramsey's place. The accused was represented by (deleted) and was present when the matter was heard. The accused requested that the hearing be closed. The prosecution was handled by (deleted). The hearing on this matter was concluded on October 1, 1998.

The evidence against the accused consisted of a paper that (Student X) handed in to (Professor Y). The cover page of the paper had the accused's name, (Professor Y)'s name, the
Phi Alpha Delta Initiates Dean Rodriguez as Honorary Member

By Sanjeev Dave

Dean Rodriguez displays his membership certificate surrounded by PAD members

On Tuesday, February 9, 1999, the McCormick Chapter of Phi Alpha Delta proudly initiated Daniel B. Rodriguez, Dean of USD School of Law, as an honorary member. The event took place at the elegant “Top of the Hyatt” in downtown San Diego. Guests included current members of the Chapter, including the executive board.

The official ceremony began around 8:00 p.m., when Sheila Peyrebrune, Justice of the Chapter, extended a cordial welcome and formally introduced Dean Rodriguez to all guests. Peyrebrune then explained the principles and ideals of PAD, including the symbolic meaning of the “Coat of Arms,” and responsibilities vested in membership. Dean Rodriguez signified his assent when asked if he would subscribe to these principles and regard himself as a member in PAD. He then raised his right hand and took the Oath of Membership as administered by Justice Sheila Peyrebrune. The official ceremony concluded when Dean Rodriguez signed the Official Roll of the Chapter and accepted the Membership Certificate and Honorary Key.

For the remainder of the evening, guests socialized and enjoyed complimentary cocktails and hors d’oeuvres.

“I am honored by the decision of the group to induct me into Phi Alpha Delta,” said Dean Rodriguez, “an organization like PAD fills an important niche in making connections and providing guidance on how to connect and collaborate with lawyers.” He was particularly impressed with the deep involvement and commitment of the current members.

Phi Alpha Delta is a professional law fraternity composed of law students, attorneys, judges, and educators. This internationally recognized organization has more than 150,000 living members. Almost one out of six American attorneys is a member of PAD. Membership benefits include professional programs, alumni contacts, scholarships and loans, and an internet-based Electronic Communications program.

USD’s McCormick Chapter has been very active this year. Fall semester events included New Member Initiation, Happy Hour at Lahaina, Halloween Costume Drive for children at a local hospital, “Bull Dictum” softball tournament with Sports and Entertainment Law Society, and Toy Drive with Women’s Law Caucus and Jewish Law Student’s Association. Spring Semester began with Event Week, consisting of a guest speaker and workshops on networking and the Legal Related Education project. The success of PAD events comes from the enthusiastic and creative mixing of ideas between members. As membership grows, more ideas are exchanged. PAD is privileged with the addition of Dean Rodriguez and the opportunity to exchange ideas with him.

To learn more about PAD, contact Sheila Peyrebrune, (619) 547-0082.

America’s Greatest Places to Work With A Law Degree

By Kimm Alayne Walton, J.D.
Reviewed By: Mei Mei Cheng

If you are anything are like me, you may still be in the painful throes of job-hunting. While job-hunting itself is difficult enough, it may even be made worse by not really knowing what you are hunting for. However, there is help out there. America’s Greatest Places to Work With A Law Degree by Kimm Alayne Walton is a user-friendly, entertaining book filled with helpful information for the even the most clueless job-seeker. What makes her book better than many other career books on the market is that she understands that not everyone in law school wants to practice law and therefore explores both traditional and non-traditional employment options.

First of all, Walton’s book does a great job of profiling what most of us are looking for, traditional legal employers. Her profiles are interesting to read, detailed and cover a wide range of employers including the Department of Justice, small and large law firms, government jobs, corporations, clerkships and public interest. Each employer profile explores things such as location(s), web site address, company achievements, hiring personnel, hiring practices, breakdown of employee gender/race, what they do, who they represent, hours and pay, and history.

Walton also includes interviews with employees which lets the reader in on what it’s like to work there. The profiles are great because they give the reader a good idea of what the employers are about which helps the reader assess its viability as a future career prospect. The profiles also provide all pertinent contact information which makes communicating with the employer easy to do.

In addition to the traditional legal employers, Walton’s book also has something for those of us who may be interested in non-traditional law careers. She profiles what she refers to as “ultimate dream jobs,” which includes career opportunities in the sports and entertainment fields. She profiles these employers in the same detail as the traditional legal employers and gives the pertinent contact information as well on advice from herself and those in the industry on how to break in.

In addition to the job-seeking information, Walton’s book is made complete by helpful advice on the qualities to look for in an employer, advice on handling debt and how to make the most of any job. Overall, I found this book to be a good starting point for the job-hunt. It contains valuable information about employers laid out in a well-organized fashion, along with encouraging yet practical advice on how to get a career that is right for you.

(This book is available at the USD Bookstore Price: $24.95)
Many People Gave a Day, and the Dean Had to Pay!

The Public Interest Law Foundation (PILF) raised $27,794 March 1st through March 5th for USD’s Loan Repayment Assistance Program (LRAP) in what was the 1st Annual LRAP Pledge Drive.

Grant Morris began the pledge drive with a generous donation of $5,000 from the Law Faculty Fund. The students, faculty and staff of the School of Law together pledged $11,397. Prior to the pledge drive, Dean Rodriguez agreed to match any pledges that PILF gathered, up to $10,000. However, at the end of the week, realizing that PILF had raised over $10,000 the Dean agreed to match PILF dollar for dollar.

PILF is a student-run organization that was created in 1987. It’s primary objectives are to educate the community about the value of public interest law, and to support those that undertake a career that further’s the public interest. In 1993 LRAP was started to help new School of Law graduates who choose a public interest career repay their loans. LRAP was able to give no more than 2-3 awards per year, at approximately $1000 each. Most USD graduates must pay at least that much per month in school loans; this debt burden does not allow many to choose a public interest career. With the generous contributions that have been made, LRAP should be able to make a few more awards next year. PILF hopes that the annual drive will generate a substantial endowment that will not only increase the number, but also the amount of awards given yearly.

Eventually the aim is that LRAP will encourage more USD graduates to pursue careers in the public interest.

PILF and those served by attorneys working in the public interest law deeply appreciate the many contributions that were made by the students, faculty and staff. By contributing, USD demonstrated that it highly values ensuring that unorganized and underrepresented groups are recognized in legal proceedings that often affect them.

Honor Court Opinion Cont. from Page 8

date, and the words “Independent Project: 2 Credits.” Underneath these words were the words “FIRST DRAFT.” (Professor Y) testified that handing in a first draft is one of the requirements he gives students attempting to gain independent study credit. (Professor Y) testified that the contents of the paper struck him as being unusual, and he decided to investigate. (Professor Y) testified that he ran a few sample sentences from the accused’s paper through a Westlaw search. This revealed that the paper had been copied almost verbatim from a law review article and a well-known treatise. Neither of these sources was cited in the paper.

The law review article and the treatise were presented at the hearing. The prosecution pointed out the particular sections of the law review article and of the treatise which were copied verbatim in the accused’s paper. The accused stipulated that the content of pages 3 through 31 of paper was taken verbatim from the law review article and the treatise. The accused eventually admitted that pages 31 through 37 were copied from a third source, which also was not cited in the paper. (The accused) stated that only pages 1 through 3 and pages 37 through 41 were original work product.

The accused’s defense was that the paper handed in to (Professor Y) was merely a compilation of research and was not meant to be construed as original work product. The accused stated that since (he/she) had missed several deadlines to which (he/she) had agreed to meet, (he/she) was not attempting to get credit for the independent research. (Student X) stated that (he/she) was interested in the subject of the paper and had only submitted (his/her) research to (professor Y) in paper form in order to receive his comments. Under questioning from members of the court, the accused testified that (he/she) had not told (Professor Y) this, nor made any attempt to let (him/her) know that this was (his/her) true intent.

II.

Based upon all evidence and argument presented, the Honor Court did not find the accused’s position credible. By a unanimous verdict, the court found that, beyond a reasonable doubt, the accused had violated Section 3.01(b) of the Honor Code, which prohibits submitting as one’s own work the work of another. The verdict was reached on October 1, 1998, and the accused was informed of that decision on that date.

III.

The issue of sanctions was heard on October 6, 1998. The accused, the accused’s counsel, the prosecution and all the sitting justices were present. After deliberation, the court unanimously voted to recommend to the Dean of the School of Law that the following sanctions against the accused be imposed:

1) (Student X) shall be suspended immediately from the University of San Diego School of Law until the Fall 1999 semester.

2) A letter of censure shall be placed in (Student X)’s permanent student file.

3) Should (Student X) return to the University of San Diego School of Law as a student, (he/she) may not compete in any inter-school competitions.

4) Should (Student X) return to the University of San Diego School of Law as a student and (he/she) be found to have violated any provision of the Honor Code, (he/she) is to be expelled immediately from the School of Law.

ALL CONCUR (participating: Gabor, C.J., and Petersen, Mueller, Heiser, Snyder, Lawrence, J.J.)

October 11, 1998

1st Annual LRAP Pledge Drive

Students, Faculty and Staff $11,397
Dean Rodriguez $11,397
Law Faculty Fund $5,000
Total Contributions $27,794

THANK YOU!
From the Public Interest Law Foundation
Legal TV RoundUp

by Bob McPhail

Undoubtedly, I have a confession to make. I like television. Yes, despite the fact that the illuminati among the American public are generally agreed that television is bad, I actually think it is great.

In fact, one of the first things I did when I started law school was to buy a 10 foot satellite dish so I could watch a few of my favorite shows at times that would fit with my school schedule. A little known benefit of owning a big satellite dish is that you can actually watch most network and syndicated shows days before they air on the local network affiliates. Unfortunately, this also means waking up at 5:30 am on Saturday morning to watch shows like Ally McBeal.

Having said all that, I have to admit that I have been pretty disappointed with the quality of television out there this season. What's less than surprising is that in the wake of the OJ Simpson case, American television has become a sea of legal themed programming. Interestingly, this is a uniquely American phenomenon whereas on Canadian television/Canada incidentally produces over 30% of all English language television programming in the world today, there hasn't been a new Canadian-produced legal drama on the air since the popular show "Street Legal" ended its run in the early 1990s. Here is a quick round-up of some of the legal themed TV shows that are out there this season with some capsule reviews:

Judge Judy - This show has been on for a few seasons already and all I can say is that Judge Judy is exactly the kind of judge you would never want to argue in front of in a real court. Cranky and opinionated, this show does more to hurt the reputation of the judiciary than anything else out there.

Judge Mills Lane - His claim to fame is that he referees all the big Las Vegas boxing matches but unfortunately out of the ring he's nothing but boring. My prediction is that this will be the one and only season for this show.

Judge Joe Brown - See the description above but delete the Las Vegas thing.

Animal Court with Judge Wapner - All I can say is that the good Judge should've stayed in retirement. If you have to watch a show about animals, try "When Animals Attack" on the Fox Network.

Sex Court with Judge Juli - I have no idea what the Playboy Channel was thinking when they put this show on the air, but I must admit that Judge Juli Strain has a certain charm. While the judicial procedure Judge Juli practices may be dubious, her remedies seem to please both the litigants and the audience.

Ally McBeal - Undoubtedly my favorite show last season, the writing has taken a nose dive in recent weeks by focusing more on the quirksiness of the characters than on their relationships with each other. While Ally McBeal enjoys good ratings in many markets, I can't help but think that the unfocused storylines are going to alienate many viewers. Still, the cast is excellent and Calista Flockhart is still the most talented young actress on television today.

The Practice - Gritty and at times uncomfortable to watch, the Practice has gone from being a mediocre drama to a sleeper hit about some of the real ethical issues lawyers confront in practice. While you may never have a client come to your office with a human head in a duffle bag, the lawyers on the Practice make it clear that a legal career is often about working the grey area between your own moral inclinations and what the obligations of the criminal justice system dictate.

Law and Order - I'll be honest and say I've never watched an entire episode of this show. It apparently attempts to take cases "ripped from today's headlines" as the advertisement goes and put them into the context of an hour long legal drama. For my money, the Practice and Ally McBeal do a much better job.

The People's Court - I know you've been sworn in, I have read your complaint. Three words, Where's Judge Wapner? Ed Koch may have been a popular mayor, but he just isn't credible as a judge. Even Doug Louelin can't save this one. My recommendation is that Ed be required to trade shows with Judge Wapner so that Animal Court with Ed Koch can quietly fade into television history.

Well, I don't know what it means that there are so many legal shows in one season, but I would encourage you to at least try to catch some of these during your next vacation. Sure most of them are pretty bad, but at least you'll know what your future clients are talking about if they tell you that you use too many "Fishisms" or if they ask what the chances are of having their case heard in Judge Lane's Courtroom.
The Saint
Standing on the Shoulders of Giants

places in Tijuana, but you don't see too many people escaping that life.

"Well...it's good that you're graduating. This generation is doing so well," my aunt said.

"It's the intelligence left over from our generation," joked my father with a stubborn pride as he continued driving.

In truth, though my generation of Estolano men and women had produced doctors and lawyers on both sides of the border, it would have been interesting to have seen what my dad's brothers and sisters could have done had they not been working to support us. Many of them were star students who'd been unfortunate enough to have been born in a country that had given them the choice between studying and eating.

"Your uncle is ready to see you all now," said the in home nurse shortly after we'd arrived at my uncle's house. For a moment, I felt something close to despair as I saw my uncle lying on the bed with a pipe stuck in his throat, but then his smile brought me back. My uncle might be dying, but he wasn't dead yet!

For the next fifteen minutes or so, we joked around with my uncle and brought him up to speed with what was going on in the world. He couldn't speak, but somehow in gestures he let us know what he thought about everything from Clinton (a big thumbs down and a finger across the throat from the only Estolano republican) to things happening in the family.

As we left, he held each of our hands and mouthed a message to each of us. When he held my hand, I was struck by the passion with which he tried to speak to me. It was as if he was trying to give some last bit of advice on which path to take in my life.

I've thought a lot about what he might have been saying. I'll confess, sometimes I spent time thinking about my uncle when I should have been in class. It's definitely been a moment of pause. I've concluded that I may never know the specifics of his advice, but I do know the general message that the example of his life has set for me. In many ways, I'll live my life as a thank you for the opportunities that my uncle and father gave my generation. I would never have been graduating this May without their support. To paraphrase what someone once said, if I have reached far in my life it is only because I've stood on the shoulders of giants. Thank You

By Ray Estolano

There are moments that remind you of the seriousness of life. My high school English teacher used to refer to these moments as times that give us pause. By "pause", I suppose he meant that some things could affect us so much as to make us forget about everything else in life such that we paused and reflected simply on what had happened.

Earlier this semester, I traveled to LA in a mini-van filled with two aunts, an uncle, my oldest brother and my father. The conversations that we had on the road were light, but tinged with sadness. Everyone was happy to be together, but we all wished that it could have been for a different reason.

You see, the reason that we were going to LA was because my uncle was dying of Lou Gehrig's disease.

"So, how is school going?" my aunt Sophia asked as she tried to fill the time. Her interest and smile were genuine, but looking in her eyes I realized that I'd never seen her look so old before.

"It's going well. I graduate at the end of the semester." I said and then thought instead about the last time that I'd seen my uncle. He'd been so happy and strong then.

He'd been so full of stories of how life had been for him and my father while growing up. They spent their childhood in a house put together out of the pieces of wood, cardboard and aluminum that other people had thrown away. You can still see houses like this in too many
The Sinner

The Failure of "Education Through Intimidation"

or

Socrates Is Dead, So Like, Get a Clue and Teach Something

Socrates started out as a nice enough guy, if a bit on the lazy side. That all changed one day, when he was late for work, probably stuck in traffic, a bit hungover, with no lesson plans written for the day and absolutely no idea of how he was going to fill his hour and fifteen minutes of class time. He then, in his I-don't-give-a-flying-fuck attitude, began to question them instead of teaching. And, much to the disgust of his pupils, he became a tyrant and a bully, much like our professors. He became especially entrepreneurial pupils, and, once he realized how much smarter than his students Plato and his other teachers were, he began to ask questions. Thusly Socrates begat his eponymous method that unto this day still sucks.

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MOTIONcl

Tio Leo’s 5302
Napa Street
Now if you
don’t know this
outfit, you ain’t
been going to
class much. It’s a
nifty
Americanized-Mexican chain resta-
unt-bar that you pass going up the hill
to ol’ USD. Great swing and rockabilly
bands gig here, but the dance lessons
will set you back a five-spot. Cats and
here...but you gotta get the stones up
to get out on the floor. I’m sure the
Joe’s are proud
of their son
Buffalo, his place
gets jammed on
Wednesdays!

Cafe Sevilla
555 4th Avenue
There ain’t nothing finer than
being able to cut it up Latin style.
Bop in on Tuesday or Thursday to get
your salsa steps down and then kick it
up to Lambada
and Samba on
Sunday. Hey, a
couple Latin dance
sessions and 2
years of high-
school Spanish
don’t make me
Armande Assante,
but after a few
chicks can and do get their kicks here.
Some of these kids can move, though,
so don’t be caught with two southpaw
kickers. The fin
might be worth it.
Papa Jack’s
502 4th Avenue
My poisonous
fave. An upscale
gin-joint with
martoonies like
the Sahara.
Fellow sinners
will dig the smoking/cigar lounge in
between sets. Fellas, your dance card
will be full ‘cause there usually are
more goils here than on El Cajon
Boulevard. If you
can jitterbug or are
willing to learn,
you’re in like
Flynn. Give her
your cocktail olive
and you’re so money!
Buffalo Joe’s 600 5th Avenue
Now even I don’t have a problem
outdoing the flapjacks that turn out on
Wednesday nights here. Great place
for the novice swinger. Like Papa’s,
plenty of beautiful babies to pacify
Cosmopolitains,
I fake it real
good. Valerie,
the instructor
here is a
doll...she’ll
show you the
ropes.

Cantares
5450 LaJolla Boulevard
Can’t really give you the dish on
this hall ‘cause I ain’t been there. It’s
outta my galaxy ‘cause you gotta drop
a dime here, minimum (these LaJolla
outfits bleed ya). They bill themselves
as the best tapas bar in San Diego and
usually want you to make a reserva-
tion. You’ve got a trifecta of other
options on Sundays, but I don’t know
another joint where you can polish up
your Merenge, Salsa and Rhumba all
in the same night. It might be a class
idea if you’ve got
a high-mainte-
nance dame on your hands and
you wanna look
like a high-roller.
Pero $10? Ay
Chihuahua!

That’s the Scoop, Palie.
Law Students Urged to Participate in Unique Clinical Programs

Pre-registration for next year's courses is coming up soon, and students should be aware of two unique clinical opportunities offered at USD the Center for Public Interest Law (CPIL) and the Children's Advocacy Institute (CAI). Both CPIL and CAI were founded by Professor Robert C. Fellmeth, a former "Nader's Raider" consumer advocate, Deputy District Attorney, and Assistant U.S. Attorney. Professor Fellmeth holds the Price Chair in Public Interest Law at the School of Law's first endowed faculty chair.

Center for Public Interest Law

CPIL will soon be recruiting current first-year and second/third-year evening students interested in administrative, regulatory, consumer, and/or public interest law for a limited number of internships available during the 1999-2000 academic year. Selected students are given the opportunity, unique in the nation, to participate first-hand in the state's regulatory process and to have articles they write published in the California Regulatory Law Reporter, the only legal journal of its kind in the nation.

Created in 1980, CPIL is an academic center of research, teaching, learning, and advocacy in public interest and administrative law. The Center focuses its efforts on the study of an extremely powerful, yet often overlooked, level of government: state regulatory agencies. These agencies and their federal counterparts regulate all aspects of business (including banking, corporations, insurance, and real estate), professions (including attorneys, physicians, accountants, engineers, and architects), trades (including contractors, barbers, and cosmetologists), and the environment (air and water quality, pesticide use, forestry, coastal resources, and waste management).

An understanding of these agencies' how they work, the procedures they follow, their authority and jurisdiction, and the limitations on their powers is an indispensable weapon in the arsenal of most attorneys, especially public interest attorneys.

CPIL offers two courses to USD law students: Public Interest Law and Practice and Public Interest Law Clinic. Public Interest Law and Practice is a four- or five-unit introductory course in which students study the substantive laws governing the functioning and decision-making of state administrative agencies. These laws include the "sunshine statutes" (which require most agency decision-making to take place in public and guarantee public access to most agency records) and the state Administrative Procedures Act, which governs the process agencies must follow to adopt regulations or take disciplinary action against the license of a licensee. Students also study important limitations on the power of agencies (including constitutional and antitrust limitations) and the functioning of the state legislature, which may enact, repeal, or amend the enabling acts of most agencies.

As part of the course, each student monitors one or two of California's major regulatory agencies, including the State Bar, the Public Utilities Commission, the Department of Insurance, the Medical Board, and Cal-OSHA, among many others. Students attend meetings of their assigned agencies, monitor and analyze their activities, interview agency officials and licensees, and track rulemaking, legislation, and litigation affecting their agencies. Three times during the year, students submit articles summarizing agency activities for publication in the Reporter (with attribution to the student author). The Reporter is reprinted on Westlaw.

Students who enjoy Public Interest Law and Practice frequently go on to take Public Interest Law Clinic, in which they design their own writing or advocacy projects related to regulatory or public interest law. In the past, these projects have included writing critiques of agencies or agency programs; petitioning an agency to adopt regulations; drafting model legislation and testifying before legislative committees; participating in litigation to enforce the Administrative Procedure Open Meetings, Public Records Acts; or submitting amicus curiae briefs on public interest issues pending appeal. Student critiques of publishable quality may satisfy USD's written work requirement.

Children's Advocacy Institute

Created as part of CPIL in 1989, the Children's Advocacy Institute (CAI) is a public interest organization dedicated to improving the status and well-being of children in California by representing their interests and their right to a healthy, nurturing childhood. CAI offers two courses at the USD School of Law to students interested in child advocacy: Child Rights and Remedies and Child Advocacy Clinic. Child Rights and Remedies, a three-unit course offered in the fall semester, surveys the broad array of child advocacy challenges: the constitutional rights of children, defending children accused of crimes, child abuse and dependency court proceedings, tort remedies and insurance law applicable to children, and child property rights and entitlements.

Taking or completing Child Rights and Remedies qualifies students to participate in Child Advocacy Clinic, a unique clinical program spanning up to two semesters. Student clinicians have two options. First, they may choose to work with an assigned attorney and social worker from the San Diego Office of the Public Defender representing abused children in dependency court proceedings. In the past, students have worked on cases concerning an adolescent who was placed in foster care for three years after being abandoned by both parents and left with a substance-abusing older sister; an infant who was severely physically abused by her parents; or a young child who had been molested by his father. For a semester, students work two days per week at the Public Defender's Office; they are expected to participate in all aspects of their assigned cases, including court appearances, trial preparation, interviews of witnesses (including the child), and trying a case. Child Advocacy Clinic interns have a second option: policy work with the CAI professional staff involved in state agency rulemaking, legislation, test litigation, or similar advocacy. In the past, these policy projects have included the filing of a lawsuit to force a state agency to adopt public playground safety regulations; legal research on the unconstitutionality of a legislative bill which would have authorized the public paddling of juvenile graffiti offenders; or legal research and writing on the California Children's Budget, an annual publication of the Children's Advocacy Institute which tracks state spending on programs affecting children. Students may also opt to work on the projects of CAI's Information Clearinghouse on Children, which publishes the Children's Regulatory Law Reporter, a semiannual journal highlighting decisions affecting children made by California regulatory agencies.

Through these projects, students can make an impact on public policy before graduating from law school. For example, in 1994, Clinic intern Susan Duke conducted a statewide survey of all 58 California counties to ascertain what qualifications are required of attorneys who represent minors in dependency proceedings. Duke issued her findings in a report, which was the basis for successful legislation sponsored by CAI assuring qualified counsel for children. That legislation was recently upheld by the Second District Court of Appeal, which cited Duke's study as support for its decision.

All of the courses offered by CPIL and CAI expose law students to important sources of law which are not covered in most other law school courses: state legislatures, state administrative agencies, and local governing bodies. As these governmental fora become more active in making law, attorneys must know how to navigate their processes on behalf of their clients or constituencies.

According to Professor Fellmeth, perhaps the most promising aspect of CPIL/CAI scholarship and activity has been the entry into state regulatory agency staffs, legislative committee staffs, and public interest advocacy groups of a large number of CPIL/CAI interns following graduation. "Our graduates include the executive director of the nation's third-largest utility ratepayer advocacy group; a senior attorney in the General Counsel's office of the state Department of Insurance; the director of Project Heartbeat a groundbreaking San Diego initiative to improve mental health services for children; a senior official at the state Health and Welfare Agency; and the chief consultants to both the Senate and Assembly Judiciary Committees. We offer experience and education in areas outside the conventional private practice of law f areas in which the student/practitioner can make a difference in public policymaking."

The offices of both CPIL and CAI are located in the rear basement of the Legal Research Center. Students interested in the courses offered by CPIL or CAI should attend one of the information meetings to be held on April 14th and 15th, just prior to preregistration, and should preregister for CPIL/CAI courses according to the instructions in the preregistration packets.
# Summer 1998 Bar Exam Pass Rate

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<tr>
<th>Overall USD Pass Rate:</th>
<th>69%</th>
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<tr>
<td>(169 of 245 Passed)</td>
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<tr>
<th>USD Students Supplementing With PMBR:</th>
<th>91%</th>
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<td>(129 of 142 Passed)</td>
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<th>USD Students NOT Taking PMBR:</th>
<th>39%</th>
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<td>(40 of 103 Passed)</td>
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Increase Your MBE Score…
Increase Your Odds Of Passing!

Absolutely, Positively A Necessary Multistate Supplement!

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