

University of San Diego

Digital USD

Newspaper, Motions (1987-2019)

Law Student Publications

9-1-2004

Motions 2004 volume 40 number 1

University of San Diego School of Law Student Bar Association

Follow this and additional works at: <https://digital.sandiego.edu/motions>



Part of the [Law Commons](#)

Digital USD Citation

University of San Diego School of Law Student Bar Association, "Motions 2004 volume 40 number 1" (2004). *Newspaper, Motions (1987-2019)*. 113.

<https://digital.sandiego.edu/motions/113>

This Book is brought to you for free and open access by the Law Student Publications at Digital USD. It has been accepted for inclusion in Newspaper, Motions (1987-2019) by an authorized administrator of Digital USD. For more information, please contact digital@sandiego.edu.

VERBA VOLANT SCRIPTA MANENT

MOTIONS

University of San Diego School of Law

Volume 40, Issue 1

September 2004

WELCOME!

USD introduces the class of 2007

With the new year in full swing, the University of San Diego School of Law has a lot of new faces and a lot look forward to.

The 352 students making up the 2004 1L incoming class are an outstanding and diverse group. Ranging in age from 19 to 50, the class of 2007 is made up of approximately 27% minorities and 44% women.

Our incoming student body

represents some 28 states. California leads the group, with approximately 79%. The largest number of our out of state transplants are from Washington, Nevada, Maryland, Minnesota and Virginia.

The most represented undergraduate institutions this year are U.C. San Diego, U.C. Los Angeles, University of San Diego, U.C. Berkeley, U.C. Santa Barbara, University of Southern California, UC Irvine, San Diego State and Brigham Young University. In all, the incoming class represents approximately 148 undergraduate schools.

These students are coming to us from a variety of undergraduate backgrounds, with majors in finance, mathematics, international relations, marketing, engineering, religion, English, economics, philosophy and political science. The most represented majors are political science, English, psychology, economics and history. Approximately 11% of the incoming class are coming to USD with advanced



photograph provided by SBA

degrees, including five students with Ph.D.s.

The average grade point average for the incoming student body this year was 3.38 for the Day Division and 3.21 for the Evening Division. The average Law School Admissions Test (LSAT) for entering students was 163 (the 90th percentile) for the Day Division and 159 for the Evening Division (the 79th percentile).



photograph provided by SBA

WHAT'S INSIDE

DEAN'S CORNER.....	2
LETTER FROM THE EDITOR.....	3
CALENDER OF EVENTS.....	3
LAW REVIEW'S NEW MEMBERS.....	4
TEMPLATE OF SUCCESS.....	4
ESSAY BY MICHAEL THORSNES.....	5
PROFESSOR OF THE MONTH.....	5
EQUAL JUSTICE FOR ALL.....	6
CROSSWORD.....	7
PUZZLED PASSAGES.....	7
INTERNET SECURITY.....	8
IRAN'S NUCLEAR PROGRAM.....	10
IMPORTANT NUMBERS.....	10
CONTEST.....	11
SUPREME COURT IN REVIEW.....	12

Law School to Celebrate Annual Red Mass on October 4

The Law School, in conjunction with the Saint Thomas More Society of San Diego, invite all to the annual celebration of the Red Mass on Monday, October 4, 2004 at 5:30 p.m. in Founders Chapel on the USD campus. A reception will follow the Mass in Founders Hall Foyer and the French Parlor. The Mass will be celebrated by the Most Reverend Robert H. Brom, Bishop of San Diego.

The Solemn Votive Mass of the Holy Spirit, traditionally known as the Red Mass, is a unique event for all members of the legislative, judicial, and executive branches of the government and of the bar, as well as members of the legal academic community, Catholic and non-Catholic alike. On this special occasion, all may reflect on the God-given power and responsibility that are part of their studies, offices, and work. Together Red Mass participants ask God to grant all the members of the legal community

the virtues and gifts necessary for the proper and just administration of their duties. The reception provides a great opportunity to meet socially with fellow students, faculty, and members of the local bench and bar.

The custom of a special Mass for Bench and Bar originated in England, France and Italy in the early thirteenth century. The first recorded Red Mass, celebrated in 1245, was held in the chapel of the Order of Advocates, La Sainte Chapelle. Elsewhere in France, the Red Mass was celebrated in honor of St. Ives, the patron saint of lawyers. Almost 100 years later, during the reign of Edward I, English judges and lawyers assembled for a Red Mass before the opening of each term of court. The priest wore red robes to represent the wisdom of the Holy Spirit. The judges of the High

Please see *Mass* at page 9



University of San Diego
SCHOOL OF LAW

Motions
Published Since 1963
Formerly The Woolsack

5998 Alcala' Park
San Diego, CA 92110
619-260-4600, ext. 4343
motions@sandiego.edu
www.sandiego.edu/motions

Our mission is to provide news, information, analysis and commentary to the students, faculty and staff of the University of San Diego, the University of San Diego School of Law, and the general legal community of San Diego. We believe that journalistic excellence is the soundest foundation for success. We pledge to seek and report the truth with honesty, accuracy, and fairness. These principles are cautiously guarded by each member of the Motion staff.

EDITOR

Nicole D. Rothstein

STAFF

Jeremy Cowan
Troy Pickard
Karen Prosek
Aaruni Thakur

CONTRIBUTORS

Mike Thorsnes

ADMINISTRATIVE REVIEW

Carrie Wilson
Dean of Student Affairs

SUBMISSIONS

Motions welcomes all letters, guest columns, complaints and commentaries. All submissions must be signed and include daytime and evening telephone numbers. We do not monetarily compensate contributing writers. We reserve the right to edit for content, length, style and the requirements of good taste.

DISCLAIMER

The contents of this newspaper do not reflect the views or opinions of the University of San Diego School of Law, the University of San Diego School of Law News Organization, or the Editors, Directors or Staff of this newspaper and are solely the products of the authors in their individual capacities. Unsigned editorials reflect only the view of the Editorial Board of this newspaper, a Student Organization consistent with University of San Diego School of Law policies.

The Dean's Corner

Greetings from the Dean:

For all you first year students, I am very happy to welcome you to USD Law School. And for the rest of you, welcome back. The 2004-05 school year is already well underway and, as our 50th Anniversary celebration winds down, we can look forward to another busy and exciting year. Students are encouraged to complement their academic endeavors and coursework with our numerous programs, speakers, and events, academic and social, and to learn something about the history, growth, and direction of our outstanding law school. These extra-curricular opportunities not only add to your academic pursuits, but they provide significant and meaningful exposure to life outside the classroom.

New faculty and a new administrator join us this year. We welcome new faculty Donald Dripps, Adam Kolber, David Law, and Lisa Ramsey. **Professor Donald Dripps** joins the USD School of Law faculty from the University of Minnesota Law School where he taught as the James A. Levee Professor of Criminal Procedure since 1998. A nationally recognized scholar of criminal procedure, evidence, and criminal law, Professor Dripps will teach Criminal Law and Evidence this fall. **Assistant Professor Adam Kolber** was a law clerk for the Honorable Chester J. Straub of the U.S. Court of Appeals for the Second Circuit and practiced law with Davis Polk & Wardwell in New York before joining the faculty this year. A graduate of Stanford Law School, where he was also an editor of the *Stanford Law Review*, Professor Kolber's scholarly interests focus on the intersection of law and ethics in such areas as bioethics, professional ethics, and criminal responsibility. He is teaching Criminal law this semester. **Assistant Professor David Law** served as executive editor of the *Harvard Law Review*, clerked for the Honorable Stephen Reinhardt of the U.S. Court of Appeals for the Ninth Circuit, and practiced law with Munger, Tolles & Olson LLP in Los Angeles, before obtaining a Ph.D. in political science at Stanford and a second law degree at Oxford. Professor Law is teaching Federal Courts this semester.

Assistant Professor Lisa Ramsey clerked for Judge Rebecca Beach Smith of the United States District Court, Eastern District of Virginia. An honors graduate of UCLA School of Law where she served as an editor the *UCLA Law Review*, Lisa was an associate in the Intellectual Property Litigation Group of Gray Cary Ware & Friedenrich (San Diego) before joining the USD law faculty. She teaches and writes in the



area of intellectual property law.

Lisa Pearl, Janice Sperow, and John Rice join the Lawyering Skills I program this year. **Lisa Pearl** was a communications/writing consultant in the Bay Area before joining the Skills program. An honors graduate from Northwestern Law School, Lisa was law clerk to the Honorable Elaine E. Bucklo of the United States District Court for the Northern District of Illinois, was a litigation associate at Chicago's McDermott, Will & Emery, and taught at both DePaul University College of Law and Northwestern University Law School. **Janice Sperow** graduated with honors from Hastings College of the Law, served as law clerk to the Honorable Richard J. Cardamone of the U.S. Court of Appeals for the Second Circuit, and was senior litigator at Morrison & Foerster before becoming managing partner at Ruiz & Sperow in the Bay Area. Janice currently serves as Chief Arbitrator for the National Association of Securities Dealers. **John Rice** graduated from the University of Virginia Law School and clerked for the Honorable Judith N. Keep of the United States District Court, Southern District of California. He was an Assistant U.S. Attorney in New York, Chief Criminal Prosecutor in the Republic of Palau, and a federal prosecutor.

Visiting faculty continue to add to the luster of our faculty ranks. **Jane Henning** received her J.D. from UCLA, clerked for the Honorable John Davies of the United States District Court in Los Angeles, and was an associate at Skadden Arps and Jones Day, where she practiced in the areas of securities and patent litigation. Professor Henning is teaching Civil Procedure and Animal Law. **Edward Larson** is the Richard B. Russell Professor of History and Law at the University of Georgia, where he specializes in law, science and technology, and health care law. He is teaching Health Care Financing this semester. **Pierre Legrand** teaches law at the Sorbonne, where he is also director of the postgraduate program in comparative

Please see *Dean* at page 3

Dean, Continued from Page 3

legal studies. Professor Legrand is teaching European Legal Cultures this semester. **Mathew McCubbins** is the Chancellor's Associates Chair of Political Science at UCSD and is a leading scholar of American government and positive political theory. He co-teaches Statutory Interpretation with Dean Rodriguez this fall. **David McGowan** received his J.D. from Boalt Hall Law School, where he later served as a lecturer teaching corporations and corporate control transactions. He joined the University of Minnesota faculty in 1998 and is teaching Professional Responsibility and Copyright Law here at USD. **Miranda McGowan** graduated with honors from Stanford Law School and clerked for the Honorable John T. Noon of the U.S. Court of Appeals for the Ninth Circuit. A member of the University of Minnesota Law School faculty, Professor McGowan is teaching Employment Discrimination and Law and Literature this fall. **Heather Murr** graduated with honors from Hastings College of the Law and was a member of the Lawyering Skills I faculty before stepping down from that program and joining the USD visiting law faculty. Professor Murr teaches in the area of gender law. **Graham Strong** received his J.D. from the University of Virginia School of Law and an LL.M. from Georgetown University Law Center. He continues his visit at USD and will be teaching Evidence and Professional Responsibility this fall. **The Honorable H. Lee Sarokin** continues as Distinguished Jurist-in-Residence. Judge Sarokin, now retired, was appointed to the Federal District Court in New Jersey by President Carter in 1979 and the Third Circuit Court of Appeals in 1994 by President Clinton.

On the administrative side, we welcome Jan Barnes to the Law School as the new Associate Director of Alumni Relations. Jan has over 25 years experience in non-profit management and program development and served as the Associate Director of Regional Services and Director of the San Diego Region for the National Kidney Foundation of Southern California. Jan holds a B.A. degree in psychology from San Diego State University.

As the school year begins, I look forward to meeting incoming students and welcoming back old friends. And whether I see you in the classroom, or in the hallways, parking lots, and coffee carts which make up our fabulous USD environments, I look forward to hearing from you about our law school and its challenges, and celebrating our accomplishments and strengths. As we reflect on our past, together we will define our future and strengthen the reputation of our school and its programs in the community, in the law school world, and in the profession.

Have a great year!

LETTER FROM THE EDITOR

Dear Readers:

This is the first time that I am writing to you as Editor-in-Chief of Motions. As my first act as Editor-in-Chief, I would like to extend sincere and heartfelt thanks to Damien Schiff, the previous Editor-in-Chief. He did an outstanding job and in doing so, he made my job as staff writer last year an easy and most productive one.

The second half of the spring semester is always a difficult one for the Motions staff. We have lost a group of graduating writers who devoted much of their law school careers to producing Motions each month. Thank you and best wishes to you all.

In this, my first month as Editor-In-Chief, I have been thinking a lot about what I want to see in Motions this coming year. I have no doubt the quality of design and writing will remain top notch but this doesn't mean there isn't room to improve. We will continue to experiment with creativity in content and design and expanding our prospective audience within the San Diego community.

To that effect, I am excited to say that we have a great new group of eager law students ready to take up the responsibility of bringing the news to you, the students, staff, and professors of USD. These students are full of focus and I firmly believe that their ideas will clearly be felt in the positive innovations we have planned for the paper this year.

I am proud, as well, to



introduce our exciting new website at www.sandiego.edu/motions. In the coming months, it will not only allow readers to view current and archived issues but will allow them to access web-only content, content which will be available only to our web-based readers.

In short, I encourage everyone to get involved this year; it promises to be a great one! Fresh voices and viewpoints are always welcome and those interested in writing, marketing, or illustrating should contact the paper for details.

Best Regards,

Nicole Rothstein
Editor-in-chief

Calendar of Events

October 4, 2004- Red Mass, 5:30 p.m. in Founders Chapel.

October 14 - 16, 2004- Moot Court National Criminal Procedure Competition.

October 14, 2004- Applications for the Intersession 2005 Study Abroad programs due. Applications for the Summer 2005 programs are not yet available but will be available soon.

October 28 - 30, 2004- USD National Moot Court Team competes in the Stetson University International Environmental Law Competition.

October 29, 2004- School of Law Halloween Party, at the Seaside Room of Marina Village (Stay tuned for details).

TO BE ANNOUNCED- Brown Bag Series- "First Year Survival Skills." Contact the Office of Development and Alumni Relations @ 619-260-1692.

November 1, 2004- Examsoft deadline.

DON'T SEE YOUR ORGANIZATION? E-MAIL US YOUR EVENTS AT MOTIONS@SANDIEGO.EDU.

DEADLINE FOR NEXT ISSUE IS OCTOBER 8TH.

San Diego Law Review Announces New Members

By Nicole Rothstein
Editor

It is well known that Law Review membership remains one of the highest academic honors in a law student's career, carrying with it a level of professional prestige that will follow a student throughout their career. It is no wonder then that a great many prominent attorneys, judges, and academics began their legal careers as editors on their school's Law Review.

The *San Diego Law Review* recently announced its new members for the 2004-2005 academic year. Eligibility for membership for the Law Review is limited to first-year law students. The top five percent of the 1L class after the first semester of the first year and the top ten percent of the 1L class at the conclusion of the first year are automatically eligible. Students may also become eligible, regardless of previous academic performance, by participating in the annual Write-on Competition that

takes place immediately before classes start in August. The Law Review provides each competitor with a copy of a legal problem that each competitor must analyze and address in a ten to twelve page brief.

This year's new members, in alphabetical order, are: Lester J. Anderson, Phillip S. Askim, Brent Avery, Bradley Blank, W. DaMarr Boyd, Tahra Broderon, Henry G. Broome III, Rebecca Byrne, John Carter, Michele Cella, Elizabeth Cree, Gregory Davis, Dustin Dodgin, Brian Fellner, Brian Fong, Nicholas Fromherz, Melanie Goforth, Aaron R. Hand, Karen M. Harkins Slocumb, Elan Kidd, Hollie Klatzko, Angel Lawrence, Peter Lucier, Christopher Martin, Elizabeth McElwee, Joshua Meier, Nicholas Miller, Kevin Moon, Daniella Morone, Angelee Mullins, Shaun Mulreed, Nathan Nouskajian, Jason Petrek, Sarah Pinkerton, Robert Pribish, Melissa Schamun, Nicole Schwarz, Scott Siler, Nathan Slegers, Aarti Suyan, Jacqueline Treu and

Benjamin Wagner.

The *San Diego Law Review*, ranked number 31 in the nation, is a student run legal periodical written by students, professors, practitioners and judges. The next issue of the Law Review (August/September 2004) will be a commemorative issue, celebrating its 40th anniversary and the 50th anniversary of the law school. It will be available in October.

If you have any questions concerning the Law Review, you can contact them at lawreview@sandiego.edu.



TORERO TEMPLATE OF SUCCESS: Mike Thorsnes

...first in a series

By Aaruni Thakur
Staff Writer

If the name Thorsnes sounds familiar, it may be because you have either participated, or know someone who has participated in, the Mock Trial's Thorsnes Closing Argument Competition. Or, you may be a professor who has imagined receiving the Thorsnes Outstanding Professor Award.

Mike Thorsnes graduated from the University of San Diego, School of Law in 1968. He practiced law in San Diego until 2002, when he retired from active practice in business litigation law from Thorsnes, Bartolotta & McGuire. In 1984 and 1991, Mike Thorsnes was honored as an "Outstanding Trial Lawyer," the latter award coinciding with a case where he, along with his partner Vincent J. Bartolotta, helped to secure the largest condemnation verdict in California. Mr. Thorsnes has also been selected among "The Best Lawyers in America" in Business Litigation (Woodward Press) every two years since 1992.

In 1998, USD School of Law honored Mr. Thorsnes with the Outstanding Alumnus award, and the following year the University of San Diego awarded him the Author E. Hughes Career Achievement Award. In 2000, Mr. Thorsnes received the prestigious Daniel T. Broderick III Award for Civility, Integrity, and Professionalism. In 2001 and 2002, he was recognized by the Los Angeles and San Francisco *Daily Journals* as one of the "100 Most Influential Lawyers in California." Mr. Thorsnes has been admitted to the Trial Lawyers Hall of

Fame for never having lost a jury trial.

Motions: Why did you go to law school?

MT: I was an alternate at the University of Michigan Medical School, and found out I'd have to wait another year (August 10, 1965) to be admitted. Vietnam was cooking up, and I had no interest in going to Vietnam. I really wanted to stay in school because I was very opposed to the war. I spoke to USD Law's Dean at the time, and was admitted to law school and loved it. I'd rather be an attorney at 25, than a physician at 33.

Motions: What did you think of law school?

MT: I wasn't sure what I was supposed to do. I thought I was supposed to memorize the names of cases. In law, you get to be creative; in medicine you are up against Mother Nature, and she is very tough to beat. While in school, I was on Law Review, was President of the Bar Association, and headed a group of students that helped to implement the first clinical training program for law students in the state.

Motions: What was law school like in the Sixties?

MT: Since I was married, I worked seven days a week as an assistant to a Doctor through my first year. After that my wife worked and put me through school and it was the first time in my life that I didn't have to work. I am convinced that most of learning comes outside of the classroom. I considered it a luxury to just attend class and not work everyday.

Motions: What was your first job?

MT: I was hired by Higgs, Fletcher & Mack. I was the first USD student interviewed by Luce Forward. I made it all the way to Mr. Luce, who asked if USD was accredited, and I said, "It was when I left this morning, but I'll call and check if you'd like!" He said, "You don't need to get smart with me," and I said, "You need to get smart when it comes to a school like USD." I made partner at Higgs in four years, where I spent a total of ten years.

Motions: When did you decide that you wanted to start your own firm?

MT: In 1978, I was working for a firm that I liked, had several associates working for me, and had a spectacular practice going. I was thinking I would either get an advanced degree at Stanford, go to Ireland and read, or start my own firm. With two small children, I chose the latter.

Motions: Is it true you met your future partner at Higgs?

MT: Yes, Vince Bartolotta was an associate, and I believed he would be a great attorney. I was right.

Motions: What is your most memorable case?

MT: I have a lot of memorable cases at TBM. I was lead counsel on *Colunga v. Hercules*, a 1998 case involving falsification of manufacturing and inspection records by a missile producer. We won the largest settlement ever at that point. I also worked with Fred Gordon in the Jack

Please see *Torrero* at page 8

FROM THE EDITOR- Motions is both pleased and honored to bring you this original essay by Michael Thorsnes

Welcome.

To the school for gladiators.

Like your fabled counterparts the knights of middle ages - you will soon roam your country in search of fights of others. Our job is to train you to win those fights where appropriate. It is your responsibility to understand the arena in which those fights will occur - the weapons you bring with you - the obligations and duties you have - and the consequences of the victory or loss.

The Arena

In law school the arena will consist of intra-school and inter-school competitions based on hypothetical facts. In both cases (individually or as a team) two combatants will enter the field. One will leave victorious, the other lying vanquished with the acrid smell of blood on hot sand. You will face equally committed adversaries intent on putting you in the sand. They will have worked as hard as or harder than you and will be highly motivated by the totemic rewards that await the victor.

Later - there will be real facts and real consequences, frequently life-long in their effect. Your clients will have but one chance at the battle. Also different may be the quality of your opponent. Like you the opponent may be untested and untrained in real battle or, more likely, have a skill set beyond your own. Thus recognizing your possible disadvantage, you have a duty to the client to try to level the playing field if you can.

As you progress with your own skill set, things change. You will now

want to find the most highly skilled opponents you can, and test your ability against theirs. When you emerge victorious, leaving such an opponent on the sand, the sense of satisfaction will be overwhelming. The reward is in the work itself.

Your Weapons

You have but three weapons in your arsenal, each of them tempered by duty and responsibility.

Your first weapon is a razor-sharp mind. A mind honed with precision sufficient to cut through spurious argument, omissions, misstatements, and other forms of inaccuracy or untruth - a mind that cannot weaken and will not be distracted - a mind that focuses completely on the job at hand.

Your second weapon is a quiver full of arrows, highly sharpened and able to penetrate the armor that seeks to hide the truth. Those arrows are words, plain, simple, direct words. Unmistakable in their meaning. These arrows are gathered in sentences, paragraphs, and are found used in both written and oral presentations to the court. They take the form of questions—which must be answered. You shape these arrows so that they appear unique, modulated, and at best are few in number.

The final weapon is the heart - of a lion - a heart that shows compassion for the truth, wherever it is—but cannot stand the thought of loss. A heart that will drive you to full preparation, no matter the physical cost. A heart that will have you work through the whole night, night after night if necessary.

And yet this heart, like the other weapons, must be tempered with responsibility to the court and to the profession. This heart must be willing, despite its voracious appetite for victory, to concede matters which should be conceded under fact or law - a heart committed to the truthful presentation of your case. If your heart is not so tempered, your victory will be short-lived and irrelevant - for there is no victory without honor. So too there is no dishonor in a loss occasioned through compliance with the rules, ethics, or obligations that attend our profession.

A Final Word

In our country the National Football League is thought to be the last refuge for gladiators. In reality, that refuge is not found in a game, the results of which are quickly forgotten after the season. It is found instead in the courtroom, where the battles are just as bloody, yet have consequence that can extend a lifetime. Prepare yourself well - your opponents are waiting...

Michael Thorsnes
Lecturer in the Law - Oxford

Dedicated to Professor Richard Wharton of the University of San Diego School of Law and Coach of its Mock Trial Teams which have participated in the national finals in all but one of the last fifteen years - gladiators in the making.

Copyright 2004

ABA Model Rule of Professional Responsibility Rule 6.1

Featured Professor of the Month: Professor Jean Montoya

By Karen Prosek
Staff Writer

Last year, Professor Montoya, my Evidence professor, informed my class that she might be late for our next class. She then proceeded to tell us about Justin, a client she had been representing pro bono for several years. She wanted us to know that the afternoon prior to our evening class, she would be representing this client in a parole hearing.

Intrigued by Professor Montoya's discussion, I later met with her and asked her to tell me more about the case. Justin* (name changed) is serving a life sentence for a 2nd degree murder he committed when he was 16 years old. Justin, now 26, illustrates prison's rehabilitative purpose. During his incarceration, he has earned his high school diploma and is working toward an A.A. degree, and has learned several trades. He writes,

directs, and acts in prison plays and has maintained a perfect disciplinary record.

Inmates eligible for parole who do not have a private attorney are assigned a lawyer to provide representation at the parole hearing. Usually, this attorney represents multiple inmates and receives a small flat fee per inmate. Consequently, personal attention to an inmate's case is limited. When Justin learned he was eligible for parole, he wanted a private attorney. Through a mutual acquaintance, Professor Montoya agreed to represent Justin pro bono.

When Professor Montoya reviewed Justin's casefile, she found evidence of prosecutorial misconduct and other petition-worthy issues. Professor Montoya filed for a writ of habeas corpus. Both the habeas corpus and Justin's parole have been denied.

I asked Professor Montoya how

it felt to do so much work, for free no less, and still not get the results. Professor Montoya responded, "It is gratifying to help someone with no recourse. Giving someone solid representation and saying what needs to be said is its own reward....even when there is a bad result."

Requests for pro bono assistance find Professor Montoya several ways. Often, acquaintances will refer cases to her. Or, lawyers will read her articles on jury selection or child witness issues and contact her for assistance. As a result, Professor Montoya has provided pro bono advice to attorneys on their cases. Professor Montoya says she believes, "when you write and become an expert in certain areas, there is a duty to share what you have learned."

Of her pro bono work, Professor Montoya says, "I like to do it because

Please see ABA at Page 9

STUDY ABROAD IN 2005!

The Ahlers Center for International Business is sponsoring study abroad programs for Undergraduate students during Intersession 2005 and Summer 2005.

INTERSESSION 2005

HONG KONG:

Econ 333: International Economics, Dr. Alan Gin

BUENOS AIRES:

ETLW 494: International Business Law, Profs. Craig & Linda Barkacs

Applications for the INTERSESSION 2005 programs are now available from: <http://business.sandiego.edu/ib> or from the Ahlers Center for International Business in IPJ #134. Applications are due on OCTOBER 14, 2004.

SUMMER 2005

ROME:

MGMT 309: International Comparative Management, Dr. Tom Morris
FINA 300: Financial Management, Dr. Elizabeth Webb

PARIS/STRASBOURG:

MKMT 300: Fundamentals of Marketing, Prof. Chris Redo
MGMT 300: Managing People in Organizations, Dr. Stephen Standifird

Applications for the SUMMER 2005 programs are not yet available but will be available soon. An information session for the SUMMER 2005 programs will also be scheduled soon.

For information regarding either Intersession 2005 or Summer 2005 programs, please contact the Ahlers Center for International Business in IPJ 134 or at 619-260-4896, <http://business.sandiego.edu/ib>.

Congratulations to the new 1L SBA class reps:

- **Section A:**
Julius Sokol
- **Section B:**
Kirsten Widner
- **Section C:**
Stephanie Fink
- **Section E:**
Matt Bresnahan

And Equal Justice For All...

featuring pro bono and public interest information, campus activities, student and professor involvement, issues

by Karen Prosek
Staff Writer

The return to school means answering the familiar question, "So how did you spend your summer vacation?" For many students, "working at my internship" or "summer school" are likely answers. If you happened to have worked for a public interest group or the government, the follow up question is always, "How did you pay for that?"

Unlike students working at a traditional law firm, an offer for a summer internship from a nonprofit legal services organization or a government agency does not include a stipend. Since bills must still be paid, these students must make a difficult decision – intern for school credit, take out an additional private loan, or use up their work study hours.

For instance, Adriana Cordoba, a 3L, was offered a summer internship after her first year at Children's Law Services in Los Angeles. Adriana considered interning for school credit because this would mean she would have to pay tuition—making her eligible for summer financial aid. Because she didn't need the additional credits and could take out a private loan for a lower (but still substantial) amount, Adriana opted to go with the

private loan. This loan funded her summer providing legal services to dependent foster youth.

However, for students interested in public interest opportunities, there are several avenues by which law students can work for a non-profit or government agency and still pay those summer bills without incurring additional loans:

Community Service Grants

Community Service Grants are available to fund positions in nonprofit organizations. Government agencies are not eligible. Grant funding comes from unexpended student aid funds projected to be left at the end of the academic year. These positions are considered paid positions, are not based on need and are not a part of the student's financial aid package. The amount of money available and the numbers of grants awarded varies from year to year based on available funding.

Grants are available to all JD students and students nominate themselves by completing an application. A committee composed of administrators and faculty reviews all applications and makes the final decisions. A Community Service Grant may fund up to 40 hours per week for 10 weeks. Students can apply for

hourly wages \$10 - \$12 but grants are capped at \$4,000 per student.

This summer, Hanna Gibson, 2L, used her Community Service Grant to work for the Los Angeles City Attorney's Office, Animal Protection Unit. On Hanna's first day of work, her boss handed her two articles on dog fighting (where 2 dogs are forced to fight one another and parties usually bet on which dog will win.) and asked her to write a program proposal to address this problem. Hanna spent the following 6 weeks developing a 46 page proposal and meeting with various city departments to ensure their cooperation with the program.

By the end of the summer, Hanna had presented the proposal to a closed meeting of city officials, the Assistant Chief of Police, the Director of Animal Services, the representative for the president of the city council and city council members, as well as a police captain and an organized crime detective.

Though Hanna is back at USD now for her 2nd year, her program is currently being implemented in Los Angeles. Chief Bratton of LAPD was extremely supportive of the proposal and has assigned his

Please see Equal at Page 9

MOTIONS CROSSWORD

By JEREMY COWAN © 2004

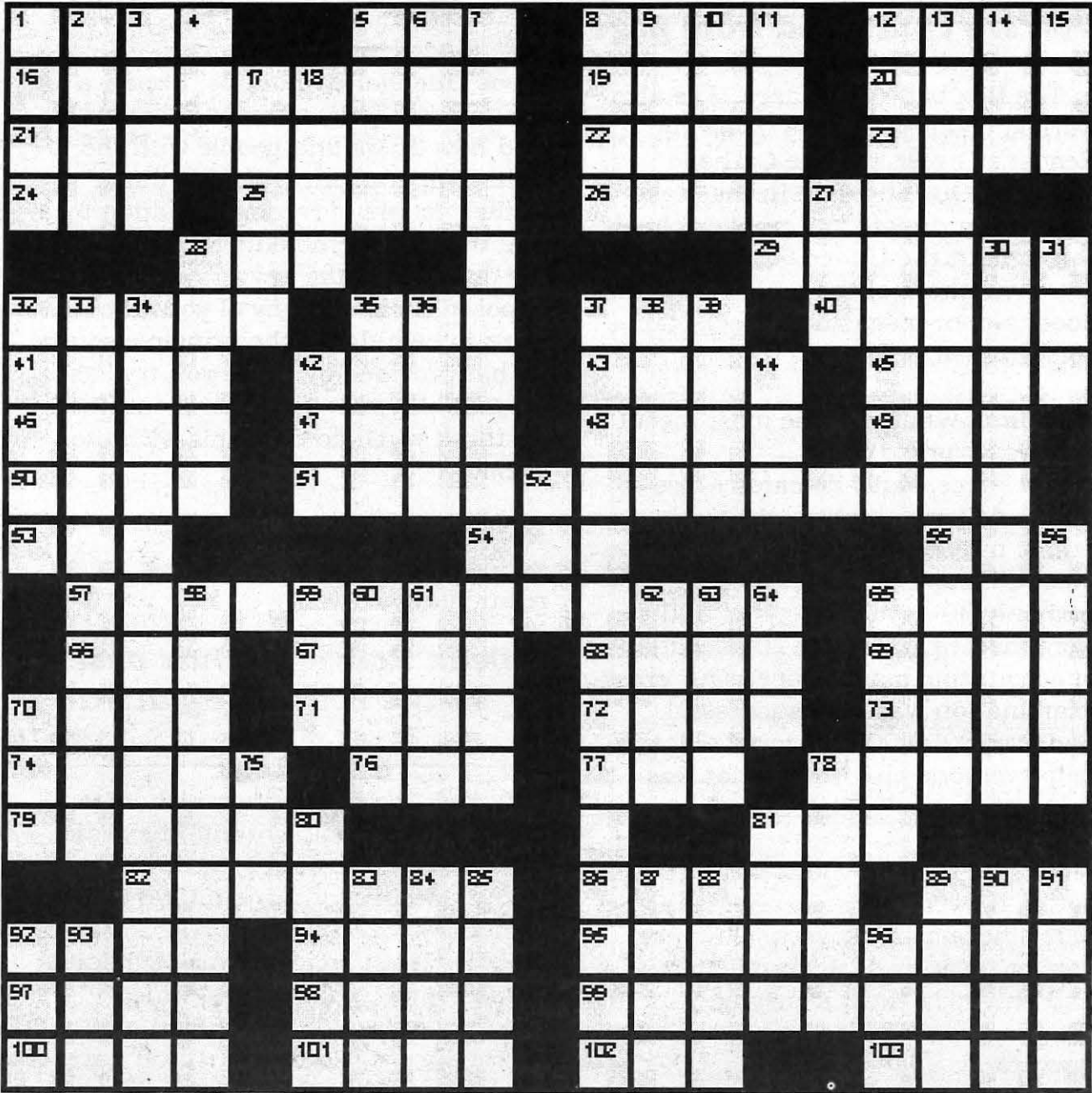
- Across
1. Roman eight
5. Pitiful
8. Fraud
12. CAT, for one
16. Meddlesome
19. Nutty *Sp.*
20. Further
21. Bizarre
22. In the sack
23. Formerly
24. The panda
25. Pool shot
26. USD enrollees
28. 1st Chief Justice
29. Raffles
32. Boatswain
35. Approx.
37. Unhinged
40. Marx brother
41. Swear
42. Opposed
43. Hipbone
45. Artistically render
46. Tractor trailer
47. Willing
48. Hindu dress
49. ____ heredis
50. Flag, botanically
51. Managed
53. Register mkr.
54. Arch. Software
55. Mesh
57. Properties
65. Rosacea
66. Grazed
67. Blue-pencil
68. Corner
69. Gyro keeper
70. Power system
71. Maritime legend

72. Moldings
73. Waters
74. Fiends
76. Old boys
77. Lodge
78. Passage
79. Compound
81. TV network
82. SD paper
86. Popular website
89. Gratuity
92. Spike and Robert E.
94. Hoof sound
95. Intoxicate
97. All, *-prefix*
98. Zeus' sister
99. Erratic
100. Edge
101. Geological time
102. Throttle
103. Void

- Down
1. Perspective
2. Quechua
3. Pruritus
4. Anger
5. Patricians
6. Deliberation
7. Revoking authority
8. Lath
9. Tramp
10. Maple genus
11. Framework
12. Suavest
13. Electorate
14. Electric discharge

15. Formerly known as
17. Upset
18. Stoppage
27. Mythical bird
28. Of Law. *Latin*
30. Western
31. Follows "fa"
32. Depression
33. Fleece
34. Work part-time
35. Oklahoma town
36. Pipe tube
37. Mistaking
38. Regrettably
39. Soil
42. Wing
44. Mostly nitrogen
52. To steal
56. Flirt
58. Bank anew
59. Lair
60. Previously mentioned. *Latin*

61. Prison term
62. Midday
63. Rent
64. Runner
65. Tribune
70. Deity
75. Situated
78. Terminate
80. Specialty
81. Filberts
83. Margarine
84. Norse deity
85. Health resorts
87. Dwarf buffalo
88. Biddies
89. Forbidden
90. It will
91. Rind
92. Throw
93. Flightless bird
96. Belonging to, *-suffix*



PUZZLED PASSAGES

Q U O T A T I O N
W N T R S R H T P

In the example above, the letter "R" is properly decrypted with "T"; similarly, "T" properly becomes "O". Find the proper letters to decrypt the puzzle. *By Jeremy Cowan © 2004*

V L X H M C M Q H L M J Q K X J W J R S A X A X
P W X A A T X U G M , X R B L E V M C M Q W J D M W U
H E W E A M H L M J Q J T T E Q H X W A E I W A ,
W X V U M Q A B E R E H S M R M Q X W W U W E A M
F X F M Q A . - - X Q H L I Q H Q X J R

JOIN THE LAW
SCHOOL'S
BEST KEPT SECRET...

- FUN, TEAM-ORIENTED ATMOSPHERE
- GREAT WAY TO GET INVOLVED WITH CAMPUS ACTIVITIES
- FLEXIBLE TIME COMMITMENT- SPEND AS LITTLE AS 30 MINUTES A MONTH!
- LOOKS GREAT ON YOUR RESUME

JOIN MOTIONS, THE SCHOOL OF LAW'S STUDENT-RUN NEWSPAPER SINCE 1971 (FORMERLY THE WOOLSACK)!

WE ARE CURRENTLY SEEKING WRITERS, ILLUSTRATORS AND ADVERTISING MANAGERS.

CONTACT NICOLE ROTHSTEIN (EDITOR) AT: MOTIONS@SANDIEGO.EDU OR 619-260-4600, EXT. 4343

Torrero continued from page

in The Box bad-meat cases. I've also worked on class actions involving Reader's Digest and the Catholic Church. Our litigation in that case resulted in private and public schools throughout the United States receiving a greater share of the profits from the door-to-door magazine subscriptions sold on their behalf.

Motions: What was the most recent case you worked on?

MT: I successfully defeated a two billion dollar claim brought by the public utilities commission under the most difficult of circumstances. We had only 30 days to prepare, and we were investigating over 70 allegations of accounting malpractice. Our cross-examination was very successful. I had over \$200,000 in visual aides to help everyone else know what was going on, as well as me.

Motions: How do you feel about letting young lawyers work on big cases?

MT: I believe in my young lawyers: you let them work the problem out and only help them if they need it. In the process, I've made a lot of good lawyers.

Motions: Is it true that you've never lost a jury trial?

MT: Yes, it is true. I have lost several court trials, but never a jury trial.

Motions: What's your secret?

MT: On a good day, you can fool one person. On a better day, you can fool two. On your best day, you can fool three people, but never twelve. So I never try. I know the issue, I do the research, and I try to present it in a fashion that lets the jury find the truth. There's never a false step because credibility with the jury is crucial. I also think that you have a duty to concede certain issues of law where you are wrong. The judge has to defend the honor of the court, and the opposing counsel is also counting on you to be honorable.

Motions: What's the most important

thing a lawyer should have if he or she wants to be a judge?

MT: Since I served on Governor Gray Davis' Judicial Committee, I know a lot about this. Temperament is essential. And how do we find people with the right temperament? We don't look at their letters of recommendation to find their temperament. We look at the opinions of the lawyers who have opposed them. So any of you who want to be judges...the principle source is that provided by those you try cases against. If you're fair with them, then we think you'll do the same with the public.

Motions: I understand you've had some interesting business relationships?

"Dean Rodriguez has assembled one of the finest faculties in the country by attracting and keeping some major talent."

MT: Yes, I've had some race horses, I've started a bank, got into the radio station business, and I was a partner in the third discotheque in San Diego, sometimes called Rasputin's. Rasputin was known as someone very difficult to kill. Rasputin's daughter died two hours after she had lunch at our place! From then on, we would have food that could kill a Rasputin. I've also developed real estate, run a ranch and managed boxers, three of whom became world champions.

Motions: How do you assess USD as a whole, and the law school in particular?

MT: The University is one of the most up to date and beautiful schools in the country. As for the law school, in only fifty years, it's poised to become one of the great schools. Students that attend the university love it. Dean Rodriguez has assembled one of the finest faculties in the country by attracting and keeping some major talent.

Motions: What is your current relationship with the University of San Diego?

MT: I'm Vice Chair of the Board of Trustees of the University. I made

a significant gift to the law school in 1995 at the time I had gone into the radio business.

Motions: You're of counsel now, how do you keep busy?

MT: I do three things for the Kerry Presidential Campaign: I'm National Co-Finance Chair, Photographer, and Poet Laureate. I don't cover every campaign stop, but when I do, my camera likes Mrs. Kerry and vice versa. I'm also working on a book about my involvement with Kerry's road to the White House. I've known Senator Kerry since the mid-80's. I think he's going to win, and I think he'll be a great president. So far, as National Co-Finance Chair for the Kerry campaign, I've raised \$2.7 million.

Motions: Where do you see the legal profession heading in the next 20 years?

MT: To more ADR, alternate dispute resolution; less discovery; greater attacks on consumer rights.

Motions: Sounds bleak...

MT: It's not bleak...I'm in favor of less discovery, and more ADR. But the attack on plaintiff/consumer's right is in full swing and will continue to be that way. But that's an issue for leaders of the trial bar. I'm a Democrat, but there are a lot more issues that are more important to me than trial lawyer issues. They've recently repealed the ban on assault weapons, created an economy that is struggling and will buckle, and they've started us in an improper war that our grandchildren will be paying for. And they've done it with a lot of hypocrisy, attacking the military records of John Kerry and Max Clelland.

Motions: Who should I interview next?

MT: David Casey Jr. He just came off from serving as ATLA president. On October 9th, he'll receive the Broderick Award III for Civility, Integrity, and Professionalism.

AOL Introduces two-layer internet authentication

Nicole Rothstein
Editor

This month America Online (AOL) unveiled its newest internet security measure, a so-called two-factor authentication scheme that may forever get rid of the one-step logon. It's the first major online business to offer customers this second layer of protection.

The new optional service will cost \$1.95 a month, in addition to a one-time fee of \$9.95.

With this new program, passwords alone won't be enough to get onto America Online. Subscribers receive a matchbook-size device

displaying a numeric code that changes every minute, which they must use to log on. Scammers who guess or steal a password will no longer be able to gain access to the account without the device in hand.

This new service is initially being targeted at those most likely to feel the pinch of internet security breaches: small businesses, victims of identity theft and individuals who conduct a lot of financial transactions through their email accounts.

Two-factor authentication schemes of various sorts are common in other countries like Scandinavia, Brazil, Singapore, to name a few.

AOL spokesman Andrew

Weinstein said the time was ripe to offer it as subscribers move more of their sensitive financial information online.

It won't protect services offered outside AOL by third parties on the open Internet, except in cases where their statements and other sensitive information are sent to the AOL e-mail account.

Analysts are hoping that AOL's offering will prompt other Internet service providers and banks to consider such systems more seriously, though the prevailing belief these days is that customers will find them difficult to use.

Equal, continued from Page 6

Assistant Chief to oversee supervision of the implementation of the program. The program represents a historically unheard-of cooperative union between the LAPD and Animal Services.

The proposal has since been widely distributed among the national legal and law enforcement community and is being used as a prototype for other cities initiatives regarding dog-fighting.

Summing up her summer experience, Hanna said, "I was able to accomplish more in 2 months than I could have ever dreamed. And without the Community Service Grant, there is no way I would have had this opportunity."

Work Study

These off-campus positions are a part of the Federal Work Study program and a part of a student's financial aid package. These positions can be at nonprofit organization or a government agency. These awards are based on work study eligibility and completion of the application process. Awards are also based on the amount of funding projected to be available for this type of student employment. Agencies awarded these positions must be willing to provide 25% of the amount the student earns.

Michelle Rapoport, 2L, used work study funding to work for Neighborhood Legal Services, a nonprofit agency in Los Angeles. Michele assisted indigent clients with family law issues, such as paternity and divorce and housing issues. Michelle's favorite part of her summer was empowering people who had no idea they had certain rights.

In one case, a couple came to the clinic after they received an eviction notice for non-payment of rent. The landlord had accepted

the rent on the 10th for the last year but they received the notice on the 2nd day of the month. Michelle and her supervising attorney assisted the couple to prepare for their eviction hearing by role-playing as the judge and opposing counsel. They had the couple practice giving testimony and presenting evidence.

Michelle said, "At the hearing, it felt so empowering to see the couple model what we had practiced in the trial preparation and see the landlord's surprised look they asserted their rights." Michelle said, "because the apartment was rent controlled, it was very important for the couple to keep their apartment. It would have been very difficult for the couple to find new affordable housing."

Equal Justice Works Summer Corps

Equal Justice Works, a national organization promoting public interest careers, offers Summer Corps stipends. Summer Corps is an Ameri Corps-funded program that provides 200 law students with the opportunity to earn a \$1,000 education award voucher for spending the summer in a qualifying internship at a non-profit, public interest organization. Eligible host agencies include nonprofit organizations serving low-income or underserved communities, legal services organizations, State Public Defenders' offices and civil rights organizations. Government agencies, international human rights organizations and private law firms are not eligible to be host organizations. In February, the Public Interest Law Foundation (PILF) will hold an informational meeting on how to fund a public interest summer position. Community Service Grant and Work Study applications are usually due in early March. Since students are responsible for contacting agencies and finding employment, interested students are encouraged to contact potential employers in late fall or early winter. Students are encouraged to inquire whether the agency has funds to provide all or a portion of a stipend.

Mass, continued from page 4

Court, all of whom were doctors of law, conformed to this ecclesiastical symbolism by also wearing red robes. As a consequence, the term "Red Mass" emerged.

The Red Mass is often celebrated in the United States on the first Monday in October, where it coincides with the opening of a new session of the U.S. Supreme Court.

If you would like to attend, please RSVP to the Event Response Line by October 1 at 260-6848 or usdlawevent@sandiego.edu so that we may order catering accordingly. Students, faculty, and staff who are interested in participating in the service or assisting with the event, please contact Theresa Hrenchir, Director of Special Projects, at 260-7438, by E-mail at hrenchir@sandiego.edu, or at her office in Warren Hall 202.

ABA, continued from page 6

it keeps me in touch with current practice. I see what students will face. And I get to meet the legal needs of someone who wouldn't otherwise have a lawyer. It is nice to do something other than for the money, to do it just because it is the right thing to do."

Justin will be up for parole again next year. Professor Montoya plans to be there to represent him.

Had Professor Montoya's hearing been on a non-class day, we might never have known about her involvement in pro bono work. Learning about Professor Montoya's pro bono work in such a roundabout way got me thinking - how many other professors are involved in pro bono work? What type of pro bono work do USD professors do? How do our professors balance pro bono work with teaching duties, writing responsibilities, and family life?

Highlighting professors' pro bono activities and answering these questions are the purposes of this feature. To nominate a professor, please contact Karen Prosek @ kprosek@sandiego.edu so Motions can feature his or her pro bono work.

Superior Court of California County of San Diego

PUBLIC SERVICE ANNOUNCEMENT

Like to steer people straight? Learn about Superior Court by staffing the information desk at the South County Courthouse one morning or afternoon a week. Training and parking provided.

Contact Julie Myres at 619-531-3489 to volunteer or for additional information.

BE A POWERFUL VOICE FOR A CHILD

San Diego's abused and neglected children need you. Volunteer to serve as a Court Appointed Special Monitor. All training provided. These volunteers lend support to the children, research a case, interview parties involved, and make recommendations to the court. Educational Surrogates and Advocates are also needed. Our next information sessions are Wednesday, November 10 and Tuesday, December 7. Call Voices for Children at (858) 569-2019 or visit www.voices4children.com for more information.

MOTIONS NOMINATED BY ABA!

Please join us in celebrating our multiple nominations by The American Bar Association Law Student Division for the 2003-2004 ABA Law Student Division Annual Newspaper/Magazine Award. Each year, the ABA Law Student Division recognizes outstanding law school periodicals and the achievement of individual writers. Entries are judged on "reporting, writing, editing, persuasiveness, originality, design, and particular relevance to law students."

Is it the bomb that will bring us together?

By Troy Pickard
Staff Writer

Despite the demands of the International Atomic Energy Agency, Iran hasn't agreed to dismantle its nuclear program. And, why should it? Even in a worst-case scenario in which it is seeking to develop nuclear weapons, it is preposterous to suggest that Iran somehow lacks some inherent right to "the bomb," a right that is somehow only held by the United States, United Kingdom, France, Russia, China, India, Pakistan and Israel.

The goal of the IAEA (and of the U.S.) in this case is to prevent nuclear proliferation, a very noble and reasonable goal on its face. Upon closer inspection, however, the benevolence of this goal falls apart. In the 1950's and 60's, when the only two nuclear powers were the U.S. and the Soviet Union, it is commonly accepted that nuclear weapons existed in large part to deter violent conflict between these two superpowers – both sides were quite reluctant to attack one another through either nuclear or conventional means, because each side was capable of delivering an unacceptable level of nuclear retaliation. But, even at this early

point in nuclear history, there was an underlying goal that has since become the dominant objective of nuclear non-proliferation, and the main benefit that the U.S. derives from it – the continued ability of nuclear powers to bully and even aggressively attack non-nuclear states with impunity. Iraq is a perfect example – from this perspective, it is difficult to think that the Bush administration honestly believed that Iraq possessed nuclear (or chemical or biological) weapons, for had that been the case, an invasion of Baghdad would have meant a radioactive Tel Aviv (at the bare minimum). And, speaking of Iraq, who among us doubt Iran's place on the list of countries about to get "the treatment" from the American military (provided that they don't first acquire nuclear capabilities)?

Possession of nuclear weapons effectively precludes a country from facing this type of violent handling and encourages other states to use diplomacy rather than force. North Korea is a case in point. Despite being a far-greater threat to it's neighbors than Iraq was, and being ruled by a dictator no less-awful than Saddam Hussein, there is no "Operation Infinite Justice" force massing below the 38th parallel.

So, what does the world expect

Iran to do? 600 miles away from over 100 of Israel's not-so-secret nuclear weapons, it is also sandwiched between Iraq and Afghanistan, two non-nuclear countries now full of U.S. forces that were both invaded and conquered without having so much as raised their voice at the United States. As Bob Dylan sang, and as the Iranians are surely thinking, "You don't need a weatherman to know which way the wind blows."

Ultimately, the world should indeed be looking toward efforts to ensure peace and adherence to international law. To that end, there may actually be a benefit to some degree of nuclear proliferation: the argument, put forth by Charles Osgood in his 1962 book "An Alternative to War or Surrender," suggests that an atmosphere of tension-reduction, cooperation and good will can be achieved when opposing forces know, among other things, that violent force can be met with nuclear retaliation.

In the end, it boils down to one inescapable point. Neither the United States nor any other current nuclear power have the right, or the moral authority, to be the only nuclear shows in town.

Numbers To Remember

Office of the Dean
619-260-4527

Admissions

Warren Hall, Room 203
(619) 260-4528
Fax (619) 260-2218
jdinfo@sandiego.edu
M-T, Th-F, 8:30 a.m. - 5:00 p.m.
W, 9:30 a.m. - 6:00 p.m.

Career Services

Warren Hall, Room 111
(619) 260-4529
Fax (619) 260-6828
lawcareers@sandiego.edu
M, Th, F, 8:30 a.m. - 5:00 p.m.
T, W, 9:30 a.m. - 6:00 p.m.

Pardee Legal Research Center
(619) 260-4541
M-F, 8:00 a.m. - Midnight

Records

Warren Hall, Room 202
(619) 260-4526
Fax (619) 260-5961
lawreg@sandiego.edu
M, T, F, 8:30 am - 5:00 pm
W, Th, 9:30 am - 6:00 pm

Financial Aid

Warren Hall, Room 203
(619) 260-4570
jdinfo@sandiego.edu
M - T, Th - Fri, 8:30 a.m. - 5:00 p.m.
W, 9:30 a.m. - 6:00 p.m.

Graduate Programs

Warren Hall, Room 207

(619) 260-4596
llminfo@sandiego.edu

Housing

Mission Cross Roads 125
(619) 260-4777
housing@sandiego.edu

Summer programs study abroad

Warren Hall, 3rd floor
(619) 260-7460
(this number is a Message Center line and does not ring in our office. Calls are returned between 2 pm and 4pm California time)
FAX 619-260-2230 fax
cking@sandiego.edu
M-F, 8:15 a.m. - 3:45 p.m.

Parking Services (619) 260-4518
Campus Card (619) 260-5999
Hughes Administration Center, Room

210
M,T,Th,F, 9:00 a.m. to 4:00 p.m.
W, 9:00 a.m. to 6:00 p.m.
Fax (619) 260-7499

Cashier's office

Hughes Administration Center, Room 207
M-F, 9:00 a.m. - 4:00 p.m.
(619) 260-4809
Fax (619) 260-2215

Student Accounts

Hughes Administration Center, Room 207
M,T,Th,F, 9:00 a.m. to 4:00 p.m.
W, 9:00 a.m. to 6:00 p.m.
(619) 260-4561
Fax (619) 260-4126
studentaccounts@sandiego.edu

www.sandiego.edu/motions

As this issue goes to press, our new website is being published. For the latest articles and photos, plus archives and law links, see our website at:
www.sandiego.edu/motions

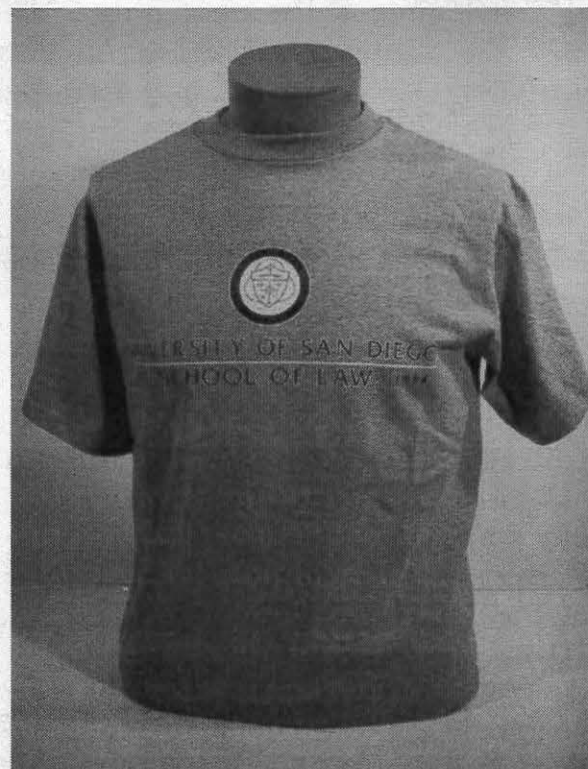
CONTEST! CONTEST! CONTEST!

1. Read Andrew J. McClurg's humorous piece "The Universe's Best Product Warning Label" (re-printed below).

2. Submit a photo or physical representation of the funniest warning label you have seen for a chance to win a USD Law School t-shirt.

3. Be sure to include your name, email address and t-shirt size.

4. Only one submission per student and submission must be emailed to motions@sandiego.edu or placed in our mailbox (Warren Hall 2nd floor) by October 20th (winner to be announced in November issue of Motions).



Important Warnings and Instructions for the Model XP-200 Stepladder

Important: This product contains a warning label known to the State of California to cause cancer.

1. General Warnings and Information. Judging from the number of lawyers on our company softball team, ladders are extremely dangerous products. Our legal department advises us to expect nearly 5,000,000 injury claims this year since that is how many ladders we sold last year. After years of study by top industry experts, we have determined that the foremost danger of a ladder is falling off it. However, these same studies show that ladders can be very safe household products when treated with proper care and respect and kept stored in the garage.

If you think:

- "Black & Decker" is a big law firm . . .
- "Air bag" is a technical medical term for "lung" . .
- "Burn the candle at both ends" is helpful product information . . .
- This warning serves a useful purpose other than to cover our you-know-whats . . .

Use ladder as follows:

- Do not climb above third step.
- Do not climb above the second step.
- Use ladder only under the supervision of a qualified mental health professional.
- Do not go near a ladder.

3. Set Up. Set ladder up on solid, level ground. Do not set ladder up in mid-air, underwater or on unstable surfaces such as steeples, moving amusement park rides or the moon. To assure ladder is set at proper angle, perform this easy check: level your vision with the plane of the ladder. If you see the ground approaching, stick your arms out quickly and try again.

4. Safety Recommendations. Our legal department held an important meeting at a popular downtown bistro which resulted in a cell phone call to Marketing, instructing, in that snide way Legal has, that we include the following recommendations for safe ladder use to preserve the important legal defense of *Weus Toldicto Uso*. Always follow these basic safety precautions: Step 1: Spray two tons of foam insulation around base of ladder. Step 2: Encase yourself securely in plastic bubble wrap (DO NOT POP BUBBLES. THIS IS SERIOUS.). Step 3: Wear a helmet approved by the National Football League, but not the one Troy Aikman uses. Step 4: Hire an independent contractor to climb up the ladder and get the hell out of the way.

5. Climbing the Ladder. Begin by grabbing the sides of the ladder firmly with both hands. Place one foot securely on the first step. Pull yourself up. Stop! Do not over-exert yourself. Take your pulse. Proceed only if your heartrate is below 120 beats per minute. *Never have a heart attack on a ladder.* Repeat procedure until desired height is reached, but never stand on the top step. Don't ask us why we put it there if you can't stand on it, just take our word for it and don't do it. If you're ever tempted to disobey this instruction, simply call our toll-free number and we'll send one our lawyers out to slap you around.

6. Common Ladder Mistakes.

- (1) Avoid contact with electrical current. Never attempt to plug in a ladder.
- (2) Avoid contact with lawyers. Statistics show most ladder accidents involve lawyers.
- (3) There is no such thing as "Safe Sex" on a ladder.
- (4) This sticker gets slippery when wet. That's why we put it on the side. If you're standing on this sticker you've got the ladder pointed the wrong way.
- (5) Never use ladder during hurricanes, tornados, earthquakes, civil unrest, Running of the Bulls, Grand Prix auto races or other activity likely to upset ladder. If ladder becomes upset, give it a chance to calm down before climbing all over it.
- (6) Ladders are not toys. Keep all ladders out of the reach of children. Kids, if you're reading this, No, No, No!
- (7) Be careful when moving ladder around work site. You could poke somebody's eye out with this thing!
- (8) Never drink and climb. Always have a designated climber on hand.

7. Ladders Don't Kill People, People Do. At least that's what we thought until we had a big corporate meeting over this whole warning-label fiasco. Marge Lipscomb from Marketing lost it and whacked Hal Weenicker from Legal in the pelvis with a Handy-Home-Stepmate Model 404. Weenicker fell over on Joe Bugler who toppled onto Laura Keenbeam. Weenicker died in an ambulance accident on the way to the hospital. His estate is suing us for failing to warn of this obvious ladder risk. Keenbeam is also suing Bugler for sexual harassment. So, please, if you get irritated with someone, just use a handgun like everyone else.

8. Partial Warnings Only. See Owner's Manual, Volumes 1-29, for complete instructions and warnings in 37 languages and gang signs. Coming to stores soon: Totally safe virtual ladder climbing.

Enjoy Your XP-200 Stepladder!

Originally published under the title *Rungful Suits* in the June 1997 issue of the *American Bar Association Journal*.

Copyright 2001-2004 Andrew J. McClurg

From the Bench: 2003-2004 Supreme Court in Review

In honor of the upcoming 2004-2005 U.S. Supreme Court term, here is a recap of some of the major rulings during the 2003-2004 term:

Hamdi v. Rumsfeld, Rasul v. Bush and Rumsfeld v. Padilla- Combatants:

Ruled 6-3 that the White House did not have authority to seize and detain foreign-born battlefield captives, held at the Guantanamo Bay Naval Base in Cuba as alleged collaborators with the Taliban or al Qaeda, and indefinitely deny access to courts or lawyers while interrogating them. Ruled 8-1 that the detainee, Yaser Hamdi, had the right to consult a lawyer and challenge his confinement. Ruled 5-4 that another alleged enemy combatant, Jose Padilla, was not entitled to sue for his freedom because his suit was filed in the wrong jurisdiction.

Mitch McConnell, et al v. Federal Election Commission, et al- Politics:

In a 5-4 vote, Supreme Court upheld key provisions of the McCain-Feingold campaign finance law, including its ban on political parties' receipt of "soft money," the previously unregulated contributions from corporations, unions and wealthy individuals.

Ashcroft v. ACLU (II)-Porn:

In a 5-4 decision, Supreme Court voted to block enforcement of criminal penalties, under the Child Online Protection act, against commercial web operators who post sexually explicit material without taking steps to shield minors. Case was returned to lower court for further scrutiny of the "plausible, less restrictive alternatives"



to the law

Aetna Health Inc. v. Davila-HMOs:

Ruled unanimously that federal law prohibits states from authorizing patients to sue HMO's for damages for harm suffered because of denial of coverage.

Tennessee v. Lane, et al-Disability:

In a 5-4 ruling, Supreme Court held that states can be sued for denying accommodations to disabled persons that would allow them access to courts or other facilities providing fundamental civic rights.

Jose Francisco Sosa v. Humberto Alvarez-Machain, et al- International:

Ruled that the Alien Tort Statute offers only a limited opportunity for foreign nationals to sue in US courts for alleged violations of international law that take place in other countries.

Ruled that the Statute is primarily jurisdictional absent additional action by Congress.

Cheney v. United States District Court for the District of Columbia- Cheney:

Voted 7-2 that Vice President Dick Cheney's energy task force does not have to release its records. Sent the lawsuit back to a lower court with instructions to pay more attention to the Bush administration's claim that court intervention would violate separation of powers.

Elk Grove Unified School District v. Newdow-Pledge:

In a 5-3 ruling, Supreme Court refused to remove the phrase "under God" from the Pledge of Allegiance; father had no legal standing to sue because he does not have exclusive custody of the child.

United States v. Patane- Miranda:

Ruled 5-4 that prosecutors cannot offer evidence of a confession obtained by a police officer who: questioned a suspect without warning him of his right to remain silent and consult a lawyer; waited until the suspect confessed; and then issued the warning and questioned him again.

United States v. Public Citizen-Trucks:

Ruled unanimously, on narrow procedural issues, that the president has authority to allow Mexican trucks to enter U.S. highways without ordering an environmental review.

Hiibel v. Sixth Judicial District of Nevada- Identity:

Ruled 5-4 that a person lawfully stopped and questioned by police on reasonable suspicion of wrongdoing can be prosecuted under state laws for refusing to identify themselves.

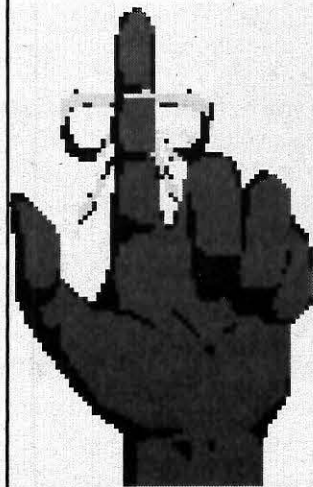
NEXT ISSUE

THE 2004 ELECTION:

ALL THE LOCAL AND NATIONAL COVERAGE

THE PARTIES & ISSUES AT STAKE FOR 2004

IMPORTANT REMINDER



For busy law students and legal professionals, remembering to register to vote or request an absentee ballot on time can prove difficult. However, we should all make

a conscious effort to make sure we are registered by October 4th to vote in the upcoming general election on November 2nd. Several important state propositions will also on the ballot this November. For more information, visit the California Secretary of State website at: <http://www.ss.ca.gov/elections/elections.htm>.