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## Motions 2006 volume 41 number 1

University of San Diego School of Law Student Bar Association

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# MOTIONS

University of San Diego School of Law

Volume 41, Issue 1 August 2005

## Donkeys and Open Bars by Bron D'Angelo

I had the rather unique opportunity this summer to represent the University of San Diego at the Association of Trial Lawyers of America's (ATLA) annual Convention in Toronto, Canada. Now, for those of you who just read that and didn't say to yourselves, "Huh?" well shame on you. Yes, this year's annual convention for the Association of Trial Lawyers of America was held in Canada. I will get back to that a little later.

I participated in a program designed for law students to attend the ATLA convention. The good people at ATLA provided me with a room, paid the registration fee for the convention, and allowed a partial reimbursement for airfare. Going into it I had absolutely no idea what to expect, my only experience with ATLA having been a set of mock trial competitions put on by our own ATLA division.

So what exactly is ATLA? Many students in law school are oblivious to what the anagrams that clutter our daily lingo actually are. ABA, SBA, ATLA, SDCBA, the list goes on, and all of them want our dues. But what are they and how can they help us? According to the ATLA website ATLA is:

"The world's largest trial bar. ATLA promotes justice and fairness for injured persons, safeguards victims' rights--particularly the right to trial by jury--and strengthens the civil justice system through education and disclosure of information critical to public health and safety."  
[www.atla.org](http://www.atla.org)

That's great, I am so glad that ATLA is providing such a service to the American people, I feel like wrapping myself in an American flag right now. But what is in it for me? I was to learn though that it is much more than that, and as nice as the statement sounds, there is a lot of benefit for lawyers as well, which is good, because who wants to pay dues if they don't get anything out of it?

On arrival at the hotel in which the convention was held I was just a guy in a sea of attorneys, their spouses, and their children. Just a face in the crowd, nobody really paying attention to me, until I put on my ATLA approved nametag. As soon as the nametag went on I felt as though I became the center of attention. Faces that had walked by before suddenly stopped and wanted to chat. And the question everybody wanted to ask?

"So what kind of law do you practice?"

This was to become the unofficial mantra of the convention, and my answer of, "Oh I am still a law student" was not the way to have longer than a two minute conversation. ATLA is an unreal opportunity to network. Everybody there is looking to spew knowledge and share ideas about areas of law that interest them. (I actually tried a little experiment at one of the mixers, and in a loud voice said "Securities Law!" Within 10 seconds I was talking with three attorneys from around the United States about securities law. By the by, I know nothing about securities law, which was fine because they did all the talking.)

With hundreds of attorneys from around the United States, and dozens of Continuing Law Education (CLE) courses going on everyday, the ATLA National Convention was a prime opportunity to learn from other

please see ATLA continued on page 4

## Lawyers Descend on Chicago by Kirsten Widner

Nearly 10,000 lawyers and law students swarmed into Chicago in early August for the American Bar Association's Annual Meeting for 2005. The meeting offered hundreds of Continuing Legal Education (CLE) courses, speeches from prominent lawyers, including Attorney General Alberto Gonzales, and endless networking opportunities. The Convention also provided a forum for members to elect officers and delegates, and to help set the agenda for the coming year.

Law student involvement comes primarily through meetings of the Law Student Division (LSD), which holds its own Assembly to debate and establish positions on key issues, which are then represented in the ABA's House of Delegates by three LSD Delegates. This year, the Assembly voted on three reports put forth by other groups within the ABA. Of these, one passed easily and two failed soundly within the LSD Assembly. The recommendation which passed in the LSD and later in the larger House of Delegates was a statement of strong support for the continued independence of the federal judiciary. The two that failed were much more controversial, and both focused on lobbying efforts in state legislatures. One would have encouraged states to pass laws prohibiting insurance companies from denying coverage for injuries resulting from drug or alcohol use, and the other would have encouraged lowering the costs and increasing the availability of inmate phone calls. Though these two initiatives failed at the LSD Assembly, both were passed by the full House of Delegates. The ABA's position on these matters is important, because as the largest association of lawyers, with more than 400,000 members and a powerful lobbying arm, the ABA wields significant political influence.

Finding a way to leverage that lobbying power to support law students was a significant issue in the election of the LSD Delegates to the House of

please see ABA continued on page 4

## How Will it End? The San Diego Mayoral Election by Mary M. McKenzie

The time: November 2005. Incumbent City Councilmember Donna Frye is in a run-off mayoral election in San Diego, the nation's seventh largest city. Is this déjà vu? Didn't we vote for mayor last year? Twice actually, and once this year. As the new semester begins, San Diego is still waiting for the mayor who will take the city into a strong-mayor system in January 2006.

November 2004. Mayor Dick Murphy was in a run-off election with County Supervisor Ron Roberts, when Councilmember Donna Frye entered the race as a write-in candidate. When the election was over, Frye had approximately 3000 more votes than Murphy, but more than 5000 of her votes were ruled invalid because the oval was not "bubbled in" next to her name. As Dick Murphy became more and more burdened by the scandals in city government (and was voted one of the country's worst mayors by *Time*), he announced his resignation, effective July 15. The last appeal about the election was dropped. Donna Frye announced immediately that she would run again for mayor.

Ten others joined her in the race, and on July 26, 44% of San Diegans voted for one of eleven candidates for mayor of "America's finest city." As expected, no candidate received more than half the vote, forcing the fourth mayoral election since last summer. Three candidates obtained votes in the double digits. Donna Frye, the only Democrat in the field, won 43% of the vote. Jerry Sanders, former police chief of San Diego, received 27%, and Steve Francis, a business owner and former Nevada state legislator, received 24%

(after spending approximately \$28,000 per day on his campaign). The run-off is scheduled for November 8.

In the meantime, the City's pension system has a deficit of between \$1.5-\$2 billion dollars. Whether the agreements made by the pension board are legal has not been determined. (Donna Frye emphasizes that she was the only Councilmember who voted against underfunding the pension system.) A number of pension board members are under local, state, and federal investigation. The City Council is currently two members short. Two Councilmembers, Ralph Insunza and Michael Zucchet (who briefly was acting mayor after Murphy resigned), left office after being convicted for conspiracy, wire fraud, and extortion in the "Strippergate" affair. They will be sentenced the day after the election, in which 26 candidates are vying for their seats. A run-off election is highly likely.

Undoubtedly, specialists in electoral law have had a field day with recent developments in San Diego. The City Council recently debated a bill prohibiting write-in candidates in run-off elections. Although election reform is clearly urgent, more urgent now is that we take seriously our responsibility to deliberate on the choices open to us and to vote on November 8.

Both candidates were asked by *Motions* why this election is so important. By press time, only Donna Frye had responded. She said "...because our city is facing a significant crisis and we, as San Diego voters, have the opportunity to transform our City with a new spirit of optimism. This election will allow us to change direction and begin an era of open and

honest government." Frye emphasized her success as Councilmember in opening the doors of Council sessions. For more information on the candidates, their websites are [www.donnafryeformayor.com](http://www.donnafryeformayor.com), [www.jerrysandersformayor.com](http://www.jerrysandersformayor.com).

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University of San Diego  
SCHOOL OF LAW

Motions  
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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.

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#### 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.

## From SBA President Dan Rawlins

Hello and Welcome to all returning Students, Faculty, and Staff, as well as to all the new faces just now joining the USD Law community. For myself, and on behalf of the Student Bar Association Executive Board, we look forward to meeting all those newly arrived to the Law School and renewing friendships from last year.

The SBA serves many functions on campus: institutional and administrative liaison; student club organizational umbrella; advocate for student interests on multiple Law School and University committees; coordinator of student social events and community service opportunities; and representative of the Law School and student body to local, state and national legal entities such as the ABA and San Diego County Bar Association just to name a few!

Ultimately, however, we are here to serve the needs of students, so please do not hesitate to search any one of us out to ask questions or seek assistance. We have an open door policy (our office is located on the first floor of Warren Hall) and each Board member holds office hours every week.

Last year the SBA was very important to students in many respects. Under the guidance of the SBA Board, the SBA successfully advocated a change in the grading system and similarly altered the school's ranking system as well. Now, students will receive grades on a 4.0 scale and the mandatory curve has been adjusted from a "C" grade average to a "B" grade average. This change will help make students more competitive in the state and national job markets and brings our school in line with the vast majority of ABA approved law schools nationwide. These achievements culminate from 2+ years of work on behalf of many SBA Officers and the support of numerous Faculty and Staff. Building on this success, we are currently working on a complete redesign of the SBA website and we have now focused our sights on replacing the antiquated upper division registration process.

But, don't let all this hard work fool you. We also know how to have fun and we have many great things planned for 2005-2006! In addition to the very popular Fall Halloween Party – usually the best party of the year – the SBA will be hosting a Welcome Event and Club Fair on Friday, August 26<sup>th</sup>, a Spring Party (where students select the theme) and we are working on several exciting speaker and social events to take place throughout the year. Additionally, there is a coordinated Bar Review event each week at a local bar with reduced or free cover for USD Law students and negotiated drink specials. And, for the first time, the SBA will be selling unique T-shirts to the law school community during the first few weeks of the semester. Each club will have the opportunity to earn extra funding for their organization by selling shirts, and these extra funds can be used for a wide variety of club activities. You can't get these T-shirts in the bookstore, so come by the table in the Writs and check out the new designs and styles.

Be sure to check out the SBA website for useful information throughout the year, and as stated above, don't hesitate to stop by the SBA Office or otherwise drop us a line. We're here to work for you and we look forward to a fun and productive year.

Dan Rawlins  
SBA President, '05-'06

You may be asking why USD Law needs a newspaper. It may seem like an outdated concept (so 20<sup>th</sup> Century), but the *Motions* staff believes that a newspaper can serve at least two important functions. First, the newspaper is a chronicle of the activities of the student body.

The newspaper is also a forum for students to communicate with fellow students, the faculty, and even the surrounding community. This issue has an excellent variety of the types of writing *Motions* will accept.

The new editorial team of *Motions* is hard at work to improve the paper for the 2005-2006 school year. That said, we are still under construction. The Editor is offering cold water bottles to the first student that brings any mistake in the August issue to his attention.

The mission of *Motions* is to highlight legal issues of particular interest to the USD Law community, as well as promote USD's involvement with, and effect on, the greater San Diego community. We hope to engage our readership this year with topical articles on Law and the legal profession, as well as with more entertaining pieces that may appeal to overworked law students.

Returning students will recognize some changes, such as the smaller font in order to avoid the

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TO STUDENTS, ALUMNI AND  
MEMBERS OF THE LEGAL  
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DIEGO AREA.

WE ARE CURRENTLY  
SEEKING WRITERS FOR  
NEXT YEAR!

CONTACT US AT:  
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EDU**

"Grandma's Reader's Digest in 16 pt. font" look we were sporting. We are confident that law students accustomed to reading case books with a magnifying glass will not be perturbed. What you may not notice is that, for the first time, and from now on, *Motions* is printed on recycled paper. In a further effort to move toward using less paper, issues of *Motions* will begin appearing on the web later this year.

*Motions* is also getting settled in its new digs in 120 Warren Hall near the Lawyering Skills I offices. We sincerely thank the administration for providing us with the space. Feel free to drop by and say hello, offer your suggestions, or get more information on what we do.

Ultimately, *Motions* is only as good as the students who participate in its creation. We invite everyone to submit articles, interviews, cartoons or photos of interest to the USD Law community and beyond. Keep in mind that *Motions* readership is not limited to the USD Law community, as it is distributed to San Diego court houses, the other law schools, law firms and other legal organizations.

We hope you have an excellent year!

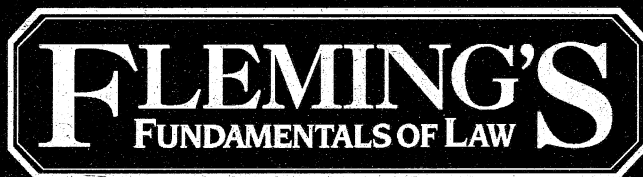
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### Schedule of Seminars:

#### SAN DIEGO

- Saturday, September 17, 2005: Noon-6:00 pm
- Sunday, September 18, 2005: Noon-6:00 pm
- All Sessions will be given **LIVE** at California Western School of Law, 350 Cedar St., San Diego, Saturday-Room 2B, Sunday-Auditorium..

#### SANTA CLARA

- Saturday, September 24, 2005: 9:00 am-4:00 pm
- Sunday, September 25, 2005: 9:00 am-4:00 pm
- All sessions will be given **LIVE** at the Santa Clara University School of Law, 500 El Camino Real, Santa Clara, Room 142.

#### ORANGE COUNTY #1

- Saturday, October 1, 2005: 9:00 am-4:00 pm
- Sunday, October 2, 2005: 9:00 am-4:00 pm
- All sessions will be given **LIVE** at Hope International University, 2500 E. Nutwood at Commonwealth, Fullerton (across from Cal. State Univ., Fullerton), Second Floor, Room 205.

#### LOS ANGELES

- Saturday, October 8, 2005: 9:00 am-4:00 pm
- Sunday, October 9, 2005: 9:00 am-4:00 pm
- All sessions will be given **LIVE** at the Wyndham Hotel, 6333 Bristol Parkway, Culver City, in the Projection Room.

#### ORANGE COUNTY #2

- Saturday, October 15, 2005: Noon-6:00 pm
- Sunday, October 16, 2005: Noon-6:00 pm
- All sessions will be given **LIVE** (Lecturer: Attorney John Couch) at Hope International University, 2500 E. Nutwood at Titan, Fullerton (across from Cal. State Univ., Fullerton), Room 215A.

#### VENTURA

- Saturday, October 15, 2005: 10:00 am-4:00 pm
- Sunday, October 16, 2005: 10:00 am-4:00 pm
- All sessions will be given at the Ventura College of Law, 4475 Market St., Ventura, Room 9. **VIDEO PRESENTATION**

#### SACRAMENTO

- Saturday, October 15, 2005: 9:00 am-4:00 pm
- Sunday, October 16, 2005: 9:00 am-4:00 pm
- All sessions will be given **LIVE** (Lecturer: Attorney Mara Feiger) at McGeorge School of Law, 3200 5th Avenue, Sacramento, Room B.

#### RIVERSIDE

- Saturday, November 5, 2005: Noon-6 pm
- Sunday, November 6, 2005: Noon-6 pm
- All sessions will be held at California Southern School of Law, 3775 Elizabeth St., Riverside, Room 2. **VIDEO PRESENTATION**



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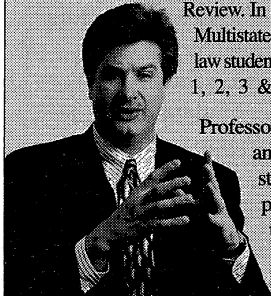
#### PROFESSOR JEFF A. FLEMING

Attorney at Law • Legal Education Consultant

For the past twenty-three years Professor Fleming has devoted his legal career to the development of legal preparatory seminars designed solely to aid Law Students and Bar Candidates in exam writing techniques and substantive law.

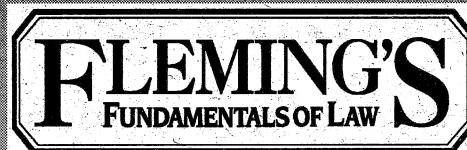
Professor Fleming's experience includes the Lecturing of Pre-Law School Prep Seminars and First, Second and Third Year Law School Exam Solutions®. He is the Organizer and Lecturer of the Baby Bar Review Seminar and the Founder and Lecturer of the Legal Examination Writing Workshop. Both are seminars involving intensive exam writing techniques designed to train the law student to write the superior answer. He is the Founder and Lecturer of Long/Short Term Bar Review. In addition, Professor Fleming is the Publisher of the Performance Exam Solution® and Multistate Examination Workbooks, the creator of The Exam Solution Tape Series®, which aids law students in exam preparation, the Author of the Essay Examination Writing Workbook Volumes 1, 2, 3 & 4. These are available in legal bookstores throughout the United States.

Professor Fleming has determined that the major problem for most law students is weak analytical skills. Most students can learn the law, but application of the law is a stumbling block under exam conditions. Professor Fleming has structured his programs to include both substantive law and legal analysis training. This provides the combination necessary for the development of a better-prepared and skillful law student and Bar candidate. These courses have made it possible for thousands of law students to improve their grades and ultimately pass the Bar exam.



### REGISTRATION FORM

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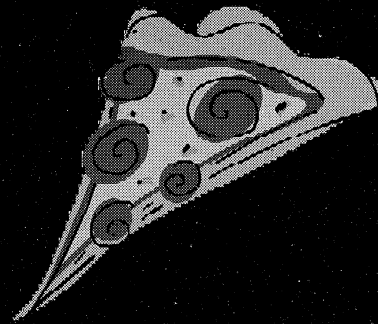


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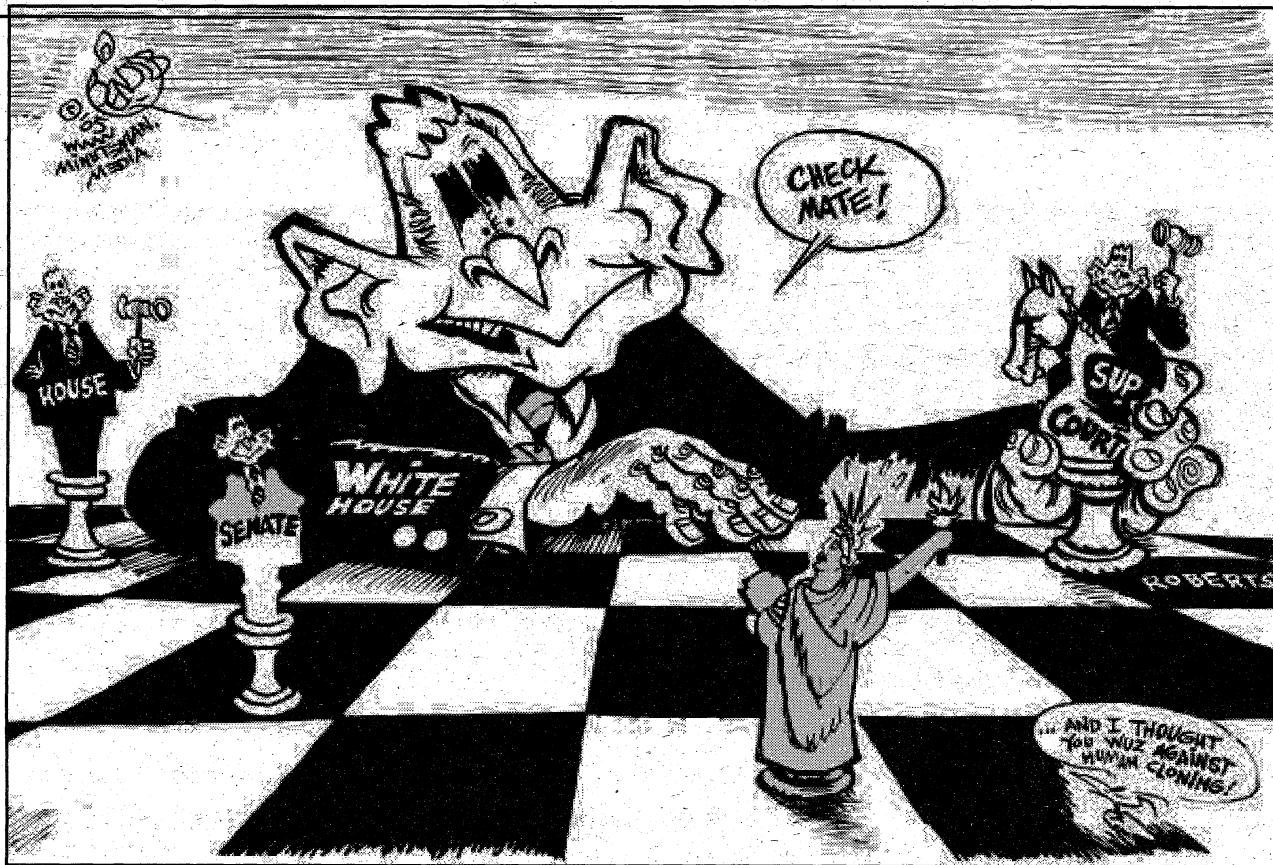
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by Khalil Bendib [www.bendib.com](http://www.bendib.com)

ABA continued from page 1

Delegates. All of the candidates focused on ensuring that the ABA continue its efforts to ease law school debt, through increased federal Stafford loan limits, loan forgiveness programs, and income-contingent repayment options (ICR). If you are interested in learning more about the ABA's efforts in this area, go to: <http://www.abanet.org/lsd/legislation/>.

The LSD also deals with resolutions specific to law schools, and here USD was well represented in the Law Student Division Assembly, with SBA President Dan Rawlins playing a crucial role in resolving a divisive issue. Fierce debate arose over the timing for a nationwide Diversity Day for all law schools. The date had initially been set for April 4, in honor of the assassination of Dr. Martin Luther King, Jr. Many schools, however, had problems with this date due to its proximity to finals. A resolution was proposed to move it to some time in February or March, but many students were concerned that this would lead it to conflict with existing celebrations of Black History Month and Women's History Month which are in February and March respectively. As the debate grew uglier and any resolution seemed doomed to fail Dan, along with colleagues from Widener University and Cooley University brokered a compromise amendment allowing schools much more flexibility in selecting a date for Diversity Day. The amendment was approved, and the resolution passed with overwhelming support, thanks to his hard work and flexibility.

Both the outgoing and incoming Presidents

of the ABA took time to come and address the LSD. Former ABA President Robert Grey gave an inspirational speech encouraging students to remember their roles as part of the community, not just as lawyers. He received a standing ovation. New ABA President Michael Greco laid out three primary initiatives for his term. First, he hopes to see "a renaissance of idealism in the legal profession." In order for this to happen, he believes that significant law school loan forgiveness is crucial, so that new attorneys can focus more on issues and ideals, rather than on finding ways to repay their substantial debt. Second, he has created a task force on access to civil justice, based on the belief that everyone, not just those who can afford it, should have access to legal assistance with issues of family, shelter and health. Finally, he has created a commission on civic education and the separation of powers to focus on improving school civics curricula so that our country's citizens will better understand our legal system. If you wish to learn more about these initiatives, you can watch media clips of President Greco's speech on the ABA website, at: [http://www.abavideonews.org/ABA320/greco\\_issues.php](http://www.abavideonews.org/ABA320/greco_issues.php).

The whole Annual Meeting was extremely well organized, and professionally run. I found my attendance enriching, both professionally, through contacts made and information received, and personally, through some terrific new friendships. Involvement also provides unique national leadership opportunities. For more on joining the ABA or on future Annual Meetings, see [www.abanet.org](http://www.abanet.org) or our own ABA Chair on campus, Tim Cross.

ATLA continued from page 1

attorneys about the law in your field. ATLA further allows attorneys to share documents with each other via their website, and get help on troubling cases, as well as guide starting lawyers on the best path to success.

Unfortunately, I am not a practicing attorney and, furthermore, I have no idea what kind of law I would even want to practice, and since there were not that many attorneys from the west coast, it was also difficult to go job fishing. So I found myself drawn to the programs that revolved around the message of ATLA, and this is where I discovered the most important benefit that ATLA provides.

I feel that before we go on in the article I need to clarify a few things. The first thing is that according to my voter registration card I am a Republican. I can feel as though I have lost some of you on that one, but stay with me. I am a real Republican. That basically means I just don't think that the government needs to go sticking its nose into every persons business, something the present administration clearly cannot seem to do, but that's for another article.

The reason I say this is because I did not know what kind of convention this was going to be, but when I looked through the list of keynote speakers, it read like a Democrat All-Star team: Howard Dean, John Edwards, Senator Dick Durbin and Paul Begala, just to name of few. Seeing as I have an open mind and tend to vote based on shared beliefs and not what party a person is from, my interest was piqued. What could possibly bring all these individuals to the ATLA convention?

Turns out that ATLA is one of the largest lobbying groups in the country, and they are lobbying for basic concepts wrapped in euphemism. Their quote is just too wordy, so I will paraphrase it for you. It basically means, NO TORT REFORM. Since most of you are going to go into the practice of law, this is an issue that greatly affects all of us, both morally and financially.

Many of us are going to graduate from law school anywhere between \$30,000-140,000 in debt. That means that no matter what our intentions were for going to law school, we are going to have to make some money when we come out. So I knew that whatever was said was through rose-colored glasses, because some of it, even if just a little bit, had to do with wanting to get a bigger pay check at the end, and I can understand that.

The first speaker, and I think one of the better ones, was Dick Durbin, the minority whip of the Senate. I have never before had the opportunity to hear a Senator talk in person before, but it is definitely slick. I was listening to Durbin talk, and five minutes into it he started talking about how certain individuals are trying to cap the amount of awards that can be granted by juries. Without missing a beat, he went into a story about a little girl who had been crippled because of a faulty product. This little girl would suffer for the rest of her life, her medical bills would be astronomical, and it was done through no fault of her own. He then went on to talk about how if awards were capped, then there would be no justice for that little girl, she would have to live a life of pain, and the bills could not be paid, and that this was sad.

I agree with him. Critics of the jury system like to pretend that tort reform is a black or white issue. Opponents of tort reform think that greedy corporations need to be stopped and brought to justice and opponents think it is the victims that are greedy. I think both sides have a point, but when the government gets involved then it is a whole different story. They are essentially picking the side for us, and the jury does not have the opportunity to decide the truth.

Under the current proposed scheme, a huge company could pay \$250,000 to a victim before the matter even gets to trial, and the victim will take it fearing they can't get much more. A cap will negatively effect the system, and that is bad for all lawyers, both defense and plaintiff attorneys, not to mention victims that have been legitimately hurt. Yes, there will always be those attorneys and victims who try and cheat the system, but it is not the job of the Senate and President to punish them. Rather, it should remain a system of peer-review with pressure coming from the legal community. Ultimately, it should be up to the courts and the jury system.

Which brings us back to the beginning, just why did ATLA have their national convention in Canada? I think Senator Durbin said it best.

"ATLA had such a bad year politically in 2004, they had to move to Canada."

# ΦΑΔ

## Phi Alpha Delta

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Harvey R. Levine did not go to USD for law school, but from 1972 to 1992, he taught at USD Law, so he has made a significant contribution to the quality of our alumni. During his career as an insurance bad faith and personal injury lawyer, Mr. Levine has been a part of litigation with over \$400 million in verdicts in his favor. He successfully represented the San Diego Padres against Lloyds of London and taken on companies such as Columbia House, Alcoa, and Dow Chemical Company.

Mr. Levine’s has been selected as one of the “Best Lawyers in America” every year since 1987. In 2003, and again in 2004, Mr. Levine was selected as one of the “Top 100 Lawyers in California” by the Los Angeles Daily Journal; in 2000, Mr. Levine’s San Diego colleagues awarded him the Bernard E. Witkin Award for Civic Leadership and Excellence in the Teaching, Practice, Enactment or Adjudication of Law. In 2002, the Consumer Attorneys of San Diego named Mr. Levine the Trial Lawyer of the Year, an honor that the San Diego Trial Lawyers Association also bestowed upon him in 1981, 1986, and 2002.

Mr. Levine recently agreed to discuss his career and his views on the law with *Motions*.

**Motions:** *What made you want to go to law school?*  
Before going to law school I did not really enjoy the educational process and I always worked one or two jobs so I did not study very much. However, in undergraduate college I was most enthusiastic and very energized by subjects which had anything to do with law. I would read cases in courses in political science, labor law and business law and I would find myself studying these subjects, not because of an assignment or a potential examination, but rather in response to pure love of the subject matter. This joy for the subject of law continued throughout law school ( I used to go to the law library 12 or 13 hours on weekends not to necessarily study for required assignments but just to read as much law on various subjects as time would allow...and because of the Ford Foundation Fellowship I received from N.Y.U. Law School I extended my formal legal education by acquiring LL.M. and S.J.D. degrees). My interest in the academics of law have continued throughout my career so that, concurrent with my practice of law, I have enjoyed writing books, articles and presenting seminars to lawyers throughout the U.S. and Canada.

**Motions:** *What was USD like in the early 1970s when you first began teaching at the law school?*  
In the early 1970’s U.S.D. Law School was in a transitional period which seemed to be characterized by the recruitment of students and faculty from a broader spectrum than earlier years. The student body, faculty, curriculum and facilities were in an evolutionary stage that served as a foundation for the continued growth and national recognition of the Law School.

**Motions:** *What is your most memorable case? What makes it stand out in your mind?*  
I have many “most memorable” cases. Some are memorable because of a result, others because of a humorous event during litigation or trial. Others are memorable because of an injustice revealed in a courtroom and some because of the value and character of the client. In insurance bad faith cases I have represented large corporations, governmental entities, political parties and individual policyholders on claims against their insurance companies. All of these cases are “most memorable” and none seem “memorable” to the exclusion of others. However, some cases are “most memorable” because of the level of emotional drama that attached to the case. For example, I represented Kip Hayes in his nursing care claim against Prudential Insurance Company. Kip’s lifetime nursing claim was denied and, absent coverage, he would have to live the remainder of his life confined to a hospital as a quadriplegic. (He was fully paralyzed as a result of a head to numbers tackle at Mt. Miguel High School when he was 17.) As a consequence of a 4 year legal battle with Prudential, Kip not only received \$220,000 a year for lifetime nursing care and despite being a full quadriplegic, he married his nurse, Laura, and they had a beautiful little boy named Hunter Hayes. This case left me with a great sense of personal satisfaction and happiness. I did not request or receive any legal fees for representing Kip on this case. The case would be a screenwriter’s delight.

**Motions:** *Some of the money figures involved in the cases your firm represents are gargantuan, totaling over \$400 million. Can you describe the feelings you had working on your first multi-million dollar case?*  
I didn’t have feelings working on my first “multi-million dollar case” any different than any other case. For me the feelings on a case have not pivoted on whether it

TORERO  
TEMPLATE OF SUCCESS  
by Aaruni Thakur

is a “multi-million dollar case.” The feelings I have experienced incident to the litigation of a case have been generated by the nature of a party’s reprehensible conduct and the specific nature of the harm caused by the conduct.

**Motions:** *What was the first firm you worked for? What made you want to start your own firm?*  
I did a lot of various appellate work while still teaching full-time at the law school. I worked with Bob Baxley, Esq. and then with William Shernoff, Esq. for 12 years. Our firm was Shernoff & Levine and the firm eventually evolved into the firm of Levine, Steinberg, Miller & Huver. I am still great friends with Bob Baxley and William Shernoff.

**Motions:** *How do you feel about letting young lawyers work on big cases?*  
Young lawyers bring new ideas, creativity, enthusiasm and energy to big cases. Their contributions to the litigation of a case are invaluable! I also derive great pleasure in watching young lawyers experience professional growth and accomplishment! I also enjoy the opportunity of sharing my observation with young lawyers that a great sense of humor is a wonderful asset in the world of trial law.

**Motions:** *How do you perceive USD Law as an institution?*  
U.S.D. is a wonderful law school and has continued to garner increased respect and admiration in the national and international legal community.

**Motions:** *What activities are you involved in outside of the law?*  
I am involved in many activities outside of the law. I have worked hard to serve as a mentor to many young people in San Diego. I have received numerous awards from the YMCA for these activities. I currently serve on the Board of the San Pasqual Academy which is an academy for foster children in San Diego. I enjoy spending time with my family and have a passion for running and triathlons. I have completed 65 marathons and ultra-marathons and have also completed 2 Ironman Triathlons. I ski a lot and love sports. I also love reading books. Some of my favorite authors are Phillip Roth, Milan Kundera, Cormac McCarthy, Richard Powers, J.D. Coetzee and Haldor Laxness.

**Motions:** *Where do you see the legal profession heading in the next 20 years?*  
I cannot project where the legal profession will be going in the next 20 years. I perceive the legal profession as an organism responsive to international, national and local forces...the world appears to be changing so rapidly and is so unstable that it would be difficult to predict where the law will be going in the next 20 years...not to mention

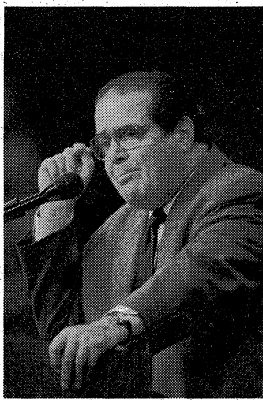
STUDENT BAR ASSOCIATION  
WELCOME EVENT AND CLUB FAIR

The Welcome event and Club Fair will take place on Friday, August 26<sup>th</sup>, from 4:30pm to 7:30pm. Come learn more about all the student clubs and activities available to you! Pizza, Beer and Sodas will be provided and the SBA will be conducting a raffle for multiple special prizes.

See you there!  
~your SBA Reps



FDR (Story Inn)



Scalia (Choate Inn)

Phi Delta Phi

Φ Δ Φ

At last, the Left and the Right agree on something....  
Excellence.

in law school, there is not much time to get out and explore all there is to San Diego. Without guidance, there is no way to know what is going on. Here is a small look at some things to do in San Diego (and at USD) when your nose is not in a book.

Outdoors/Sports

For the outdoors person and sports lover, there are a wide variety of things for you to do. The obvious events are watching the Padres or the Chargers play. For those who love horse races, Del Mar Races is the place to go. With over 90 golf courses in San Diego, there's plenty of opportunity to practice your swing. La Jolla Shores offers snorkeling for a look at the tide pools. Mission Bay is the place to be for kayaking and canoeing. The beaches offer plenty of activities to do throughout the year. There are hot air balloon rides, hiking in Palomar Mountains, surfing, scuba diving, and much more.

Culture

Balboa Park contains many activities for the person that wants a cultural experience. It is home to the Old Globe Theater, a variety of museums, a Japanese Tea Garden, International Houses (with a different culture hosting each week), Centro Cultural de la Raza, the World Beat Center, and the Zoo. Each Tuesday, a different museum offers free admittance. Throughout San Diego, there are a variety of places to watch plays and operas, including the San Diego Civic Theater, La Jolla Playhouse, and San Diego Opera.

Nightlife

The Gaslamp District in downtown San Diego, Pacific Beach, and La Jolla have a variety of clubs and bars to relieve a little bit of stress. Whether it is salsa

dancing, hearing a band, or tasting a variety of beers, there is something for everyone. For a change of pace, there is always Mexico. Being close to the border, Rosarito is an option. With bars, clubs, and concerts, Rosarito is a good time.

Food

A little known fact about San Diego is that there are a wide variety of places to eat. Unfortunately, there is not enough space to give a detailed account of each place. What needs to be known is that there is a variety of food for everyone to try (Hawaiian Barbecue -L&L's, Brazilian-Rei do Gado, Afghan-Khyber Pass, Soul Food-Huffman's Barbecue, Mexican, Thai, sushi, vegetarian, to name a few). If a short trip to get some of the best lobster around is what is desired, Puerto Nuevo (Baja California) is the place to go.

Events/Concerts

Throughout the year, San Diego becomes a hot place for a variety of events. In November, there is the Gold Coast Classic. Two HBCUs (Historically Black Colleges & Universities) play football against each other. It's a weekend event including a step show and battle of the bands (like Drumline). The Holiday Bowl is a big event for college football lovers. The runner up from the Pac-10 and the 3rd selection from the Big 12 play against each other at Qualcomm Stadium. Downtown hosts celebrations for Mardi Gras, St. Patrick's Day, and Cinco De Mayo. Around May, there is the PB Block Party with a variety of bands performing and a lot of food to eat. In the summer, Street Scene is a concert with a variety of bands performing. People come from all over to enjoy this two-day event.

Miscellaneous Places and Attractions

Sea World and the Zoo are not far from the USD campus. These places can be fun, especially in a small group. Legoland is also a popular attraction, however, it's more for the law student with kids. For the gambler, there are a few casinos located in San Diego County. Sycuan and Viejas are popular places to go. For poker players, it is not hard to find someone who has regular games at his or her house. For the wine lovers, there are plenty of wineries around to enjoy a day of wine tasting.

USD Campus

On campus, there is not a lot to do, but it is important to always look out for the free food. Throughout the year, there are activities held in front of the UC (aka, Cafeteria), called nooners. When these are held, there is usually an opportunity for free food. May have a chance to get free burritos from Chipotle, some barbecue, tacos, or make your own sushi. It is not unusual to see a vendor on campus selling jewelry or shoes. Speakers and comedians frequent the campus. A big concert is held once a year. Discount tickets are available for students for the movies, Disneyland, Knotts Berry Farm, Zoo, Magic Mountain and more. Our own law school hosts 2 parties a year, bar review (with discount entry into local clubs and discount drinks), free food at club meetings, and plenty of mixers to keep your calendar full.

For more information, check out the San Diego Reader (publication is free anywhere, or [www.sdreader.com](http://www.sdreader.com)) or the San Diego Convention & Visitors Bureau website ([www.sandiego.org](http://www.sandiego.org)).

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AGE RANGE	MONTHLY PREMIUM
SINGLE	
Under 30	\$59
30 to 34	73
35 to 39	82
40 to 44	115
45 to 49	145
50 to 54	186
55 to 59	280
60 to 64	357
YOUTHCARE™	
Under 1	\$78
1 to 18	55



# The Supreme Court Nominee After Next

by Jared Ackley

I am starting a grassroots campaign: Hillary Rodham Clinton for the next open seat on the United States Supreme Court. Court junkies and amateur bloggers alike were finally sated last month in their desire for new stories about the future of the Bench with a somewhat surprising retirement announcement from Justice Sandra Day O'Connor. Although many were bemused that the highly prophesized retirement of Chief Justice William H. Rehnquist did not occur on schedule, it does not seem bankable that the drama is over with the naming of just one successor to the High Court. Judicial watchers can count on illness, old age, another surprise exit, or to a lesser extent, the "borking" of nominee John G. Roberts, Jr. to result in another vacancy shortly.

In light of this virtual certainty, perhaps even before the next term begins in October, I would like to submit to the President and the law student alike, some of the qualities important in the selection of a future nominee. It is a keep-it-simple-stupid list of things to look for in a justice beyond routine political compromises and the standard academic credentials like going to college. The role played by these near philosopher kings in recent years has been magnified by the media and so the selection process should carefully take into account certain intangibles that might be missed by the careful, but paper-bound vetting committees that have no doubt been hard at work since day one of the current administration.

I will start with the requirement that often goes

## A Call to Service From Former SBA President Tim Cross

As we begin the upcoming academic year, we are faced with many challenges and even more opportunities. For some of us, we are starting a new life in the law. As we are engaged by the faculty and our fellow classmates, our perceptions and ideas about the world will be fundamentally enriched and we will gain an understanding of the expansiveness of the legal system. Many of us will be returning to school to further this inquiry and to seek out the connection between our study and the real world (looking for jobs!). For the rest of us, we will be seeking to extract the full richness of the experience as we prepare to end what will be, for many of us, our last full-time academic experience.

As we have journeyed through these stages, each of us can point to someone who in some small measure has helped to make our law school experience even better. Such service is key to the feeling of collegiality at our school and is one of the greatest attributes our student body possesses.

In the spirit of carrying on this tradition, I encourage everyone to participate as fully as possible in the student activities in the coming year and to reach out for the chance to be the person who takes the time to serve others. Aside from being able to feel smart (a feeling we all excel at cultivating in ourselves), we can also feel good about our contribution to another's success and to the success of our school.

Have you ever said to yourself, I wish that I could get help from someone who knows what they are doing? Well, now is your chance to be the kind of upper-classmate that you wish you had.

So, take a step outside of your solipsistic existence and get to know a younger classmate this year. Find a 1L with that look of Property class consternation on their face and lend them a hand. You can also get involved with the mentor-mentee program of the SBA or the many opportunities to serve in SBA and club leadership positions. We are fortunate to have fantastic student leadership and this year promises great accomplishments.

In the end, our professional reputation will always be tied to the University of San Diego School of Law. Let us go forward in building up this wonderful institution so that it can continue to grow, blossom, and mature into the class of great law schools in which it belongs.

unsaid but stands as the first test for a new nominee as his or her selection is announced: a memorable name. A good name results in simple bonus points in the public consciousness every time a local anchor opens his or her mouth, plus you have instant authority and pacification before an opinion is even read. Yes, monikers such as Oliver Wendell Holmes, Jr., William O. Douglas, or John Paul Stevens are attached to brilliant legal minds, but their names certainly do not hurt either. A good guidepost would be at least three distinct names, with an abbreviation or suffix optional. It is true that acceptance of a name might follow the effectiveness of the justice, but why make the nomination process any harder?

Secondly, the President should pick a non-judge. This is going out on a limb because there is no chance to remove, say an intellectual from the vacuum of academia and delve into how they would handle opinions on the Bench. However, in today's world of super vetting, you can avoid a virtual civil war in the Senate Chambers because the unknown will not draw nearly as much live fire since everyone will be speculating at best. So far this course of action seems to be working with nominee Roberts with his short history as a Circuit Court Judge. It's not that there is anything wrong with the huge baggage produced by years and years of a nominee's opinions, but why not bring in a different viewpoint by nominating an academic, a former politician, an artist, or even an astronaut? Was selecting Governor Earl Warren for chief justice really the biggest mistake President Dwight D. Eisenhower ever made?

Third, select someone with an interesting hobby. I personally warmed a lot to Secretary of State Condoleezza Rice when I learned she had been a concert pianist since age four and had volunteered to play in a charity concert for pulmonary hypertension early this summer in support of the granddaughter of a member of Congress. It would be interesting and add diversity to the court if the next justice had some type of quiet, parallel career or hobby for the citizenry to "discover."

Finally, find another Justice Holmes. We need a judicial all-star preferably with a knack for prose and witty one-liners to save a judicial system hampered by labels of activism, policy-making, and besieged by party politics. The best part of learning the law is clinging to fancy legal fictions and metaphors that seem to walk out of everyday life or even childhood fairy tales such as "fruit of the poisonous tree." Better yet, nominate two justices with this talent to up the ante and inspire the judicial system like Mark McGwire and Sammy Sosa did for baseball with their great homerun chase. Granted, it will be hard to find another Justice Holmes, but if someone between Bob Dylan and Justice Brennan could be found, I think it would get people more interested in the law. We want the citizenry to be informed right?

With these criteria in mind, I think Hillary Rodham Clinton would be a fascinating political gamble for the President's nomination for the next open seat, staying within his administration's theme of "shock and awe." The nomination of Senator Clinton might be a little off-the-wall, tongue-in-cheek, and downright crazy, but at the same time should provoke conversation towards taking a different approach with the Supreme Court nomination process. Of course, I don't have to make a realistic choice, just an intriguing one.

Instantly, if he wasn't impeached and the Democrats themselves didn't reject the nomination, the President would probably gain huge political capital from creativity alone for any other vacancies on the court during his term. The President doesn't lose anything in particular with the vote count because Senator Clinton would likely vote similarly to Justice O'Connor. Further, any perceived liberal leaning would be made up for with a later conservative justice selection added to nominee Roberts' vote. Most of all, the President gains politically because Republicans would get another seat in the Senate, he knocks out the likely biggest name Democratic candidate for the 2008 Presidential election, and again more goodwill for his reputation as a coalition builder just as new polls show people are tiring of some of his other decisions.

Moreover, Senator Clinton meets many of my K.I.S.S. requirements. Hillary Rodham Clinton has the long, attention grabbing name tailored by public life. Senator Clinton is not a judge, but did go to law school before entering a life of public service outside the judiciary. Her relationship with her husband, former President William J. Clinton is enough of a hobby to keep everyone interested in her and the Court. Further, Senator Clinton has been involved in writing numerous books so she should do at least an average job in the prose department and would in the very least bring a different style to her opinions since she is not a career judge. Finally, her star power has already made her a big-shot in the Senate even though she is still only in her first term. Placing such a well-known politician on the Bench would certainly launch a new era in the Court's history- of course maybe this is exactly the opposite of what the other two branches would like.

While I'm not the huge Hillary-supporter some might expect from someone touting her nomination for a seat on the Supreme Court, I think if the President seriously considered this move, Senator Clinton might be a workable candidate either tactically on a short list or to at least jar standard Washingtonian thinking. So you probably heard it here first, Senator Hillary Rodham Clinton for Associate Justice of the United States Supreme Court.

## SBA T-Shirt Fundraiser

The SBA will be selling T-Shirts during the first few weeks of the semester.

We'll have standard Tees, Baby-doll Tees (in crew and V-neck), And Sweatshirts in 5 different colors and 3 different styles!

Come visit the table in the Writs During the first two weeks of school to see samples and buy your favorite styles and colors



## Law 101 by The Honorable Judge H. Lee Sarokin

Last semester I moderated a panel of corporate general counsel for the purpose of demonstrating to students the advantages or disadvantages of corporate counsel jobs and how to go about obtaining them. In my introductory remarks, I made some fairly innocuous comments about the role law school friendships had played in my career. To my surprise, each of the general counsel present picked up on the theme and recited events in their own lives which were generated by their law school and later friendships. Realizing that inadvertently I may have come upon some gem, I thought that it might be interesting to share that newfound wisdom with you.

My introduction answered the question that I am often asked as to how I came to be a judge. I wish that I could attribute it to my remarkable academic record at Harvard Law School, but that would not be true. I became a judge because I played intramural basketball there. My closest friend and teammate was Larry Fleisher. Larry loved basketball, and on his own initiative formed the National Basketball Players Association out of his own pocket. His intent was not to make money, but rather to obtain free tickets to the Boston Celtics and New York Knicks basketball games.

It turned out to be an incredible success, and Larry Fleisher wound up representing virtually of all the great basketball players of his (and my) time. Among his clients was Willis Reed, the then captain of the championship New York Knicks, and Larry sent him to me as a client. I cannot tell you what it means to walk down the main street of Newark, New Jersey alongside Willis Reed. First, one has a stiff neck looking up to his 6' 10" face, but in addition, people left their cars running in the middle of the street to run over and shake his hand. Crowds followed us, and people clapped and cheered along the route. But I digress. Larry called me and asked if I would represent Bill Bradley who was moving to New Jersey and was looking to buy a house. I was a trial lawyer at the time, but in order to meet the legendary Bill Bradley, member of the championship N.Y. Knicks, Rhodes Scholar, Olympic gold medal winner, highest scorer in the history of the National Basketball Championships and the third highest scorer in college basketball, I would remember (or learn) how to close title on a house.

Bradley bought a house, and actually got good title through my efforts. We and our spouses became great friends, and when he decided to run for the U.S. Senate in New Jersey, he asked me to be his finance chairman. I told him that I knew nothing about politics and even less about political fundraising, and the quintessential Bradley reply was, that was exactly why he wanted me. No cloud. No baggage. He was only interested in integrity and reputation. He won and asked me to become federal district court judge. The financial sacrifice was tremendous, but I agreed and under his sponsorship was appointed by President Jimmy Carter. When President Clinton was elected, Senator Bradley again urged me to go on the Court of Appeals, and I was appointed and confirmed. So I became a federal judge because I played basketball in law school---- but more importantly, I made a friend who changed my life. I do not suggest that you make friends for what you may derive from them someday, but rather that you keep, maintain and cherish those friendships that you enjoy, because it is those friendships that will enrich your lives in ways that you might never imagine.

## An Open Letter from Our Ninth Circuit Governor

Dear Fellow Law Students,

I wanted to take a moment to introduce myself and let you know how excited I am to work with you this year.

I am the 9<sup>th</sup> Circuit Governor. The 9<sup>th</sup> Circuit encompasses Southern California and Hawaii and includes University of Hawaii- William S. Richardson School of Law, University of San Diego School of Law, Thomas Jefferson School of Law, California Western School of Law, Chapman University School of Law, Whittier Law School, Western State University College of Law, Loyola Law School Los Angeles, Southwestern University School of Law, Pepperdine University School of Law, UCLA School of Law, and USC Law School. I will be a 2L at Loyola Law School, Los Angeles. I attended UCLA as an undergraduate, majoring in Neuroscience/Psychobiology.

I am here to serve as a resource and to promote the ABA Law Student Division's goals throughout the 9<sup>th</sup> Circuit. The goals of the 9<sup>th</sup> are to increase membership, promote diversity, and to have a circuit-wide Work-A-Day and Mentoring Program.

The theme of Work-A-Day is Breast Cancer Awareness. The Law Student Division was able to order pink bracelets which read "Law Students Think Pink" for this event. Work-A-Day is scheduled for the first two weekends in October, however, because all of October is Breast Cancer Awareness month, I would like to encourage USD School of Law to hold an event promoting this theme anytime in October. Events range from entering a team for a 5K run/walk to collecting donations in exchange for the Law Student Division's bracelets. For more information about Work-A-Day, please see <http://www.abanet.org/lsd/work-a-day/>

The 9<sup>th</sup> will also be starting a Mentoring Program with the Young Lawyer's Division of the ABA. More information, along with applications, will be sent out via a circuit e-mail.

Our Fall Roundtable, co-hosted by the 12<sup>th</sup>, 14<sup>th</sup> and 15<sup>th</sup> Circuits, will be held on October 14<sup>th</sup>-15<sup>th</sup> in Downtown Los Angeles. A meet and greet event will take place on the 14<sup>th</sup>, with the bulk of the programming on the 15<sup>th</sup> at Loyola Law School. We are planning on having a "Coffee with Experience" event with practicing attorneys, an Entertainment Law Panel, and Training/ Roundtable discussions for SBA Presidents, ABA Representatives and Lieutenant Governors. Registration for this FREE event will be set up through the circuit website within the next few weeks. I encourage everyone to attend, regardless of involvement in the ABA or SBA.

The benefits of ABA membership are vast. The \$20 membership fee gives you a coupon for a free Legalines study aid, a subscription to Student Lawyer Magazine and the ABA Journal, PMBR and Barbri discounts, access to the ABA's Health Insurance and Car Insurance Plans, and much more! Not only will you have the opportunity to network with practicing attorneys and form life-long friendships with your law student peers, but the ABA will also help you understand and respect the legal profession.

Keep an eye on our website at <http://www.abanet.org/lsd/9thcircuit/> for more details on our upcoming programs and events. If you have any questions or comments, please do not hesitate to contact me. I look forward to working with you to promote the goals of the 9<sup>th</sup> Circuit!

Best,  
Caroline Siefert  
Caroline Siefert  
9<sup>th</sup> Circuit Governor  
American Bar Association—Law Student Division  
[caroline@abanet.org](mailto:caroline@abanet.org)



**L.I.T. Promotions**  
**Cordially invites you to the Year's first**  
**Bar Review.**  
**At E-Street Alley**  
**Friday August 26<sup>th</sup>**  
**Mention you are with USD to get in for only \$5**  
**before 12am.**  
**Drink specials all night.**  
**This event will be a celebration of the bringing**  
**together of the newest members of USD and**  
**a welcome back to our returning students and**  
**friends.**

Located in the Historic Lawyers Block Building at 919 Fourth Ave. San Diego, CA 92101. E- Street is one of San Diego's largest clubs (19,000 square feet) and features Chino, a full-service dining/ catering restaurant with a sushi bar; the plush Blue Room lounge; and Club E, a high-energy dance club.

A Cali-J endorsed event...jot that down!