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# MOTIONS

University of San Diego School of Law

Volume 44, Issue 6

VISIT MOTIONS ONLINE:  
WWW.USDMOTIONS.BLOGSPOT.COM

April 2009

## STUDENTS CHOOSE NEW CONSTITUTION & SBA BOARD

By Austin Evans, Staff Writer



Students voted in favor of a new SBA constitution and executive board March 23 and 24, and elected five new board members along with other council and honor court positions. Jason Marsh, newly elected SBA President, will take office March 30 and he is "Very excited and duly respectful of the responsibility."

"I'm very happy to be able to serve my law school in this capacity, and I look forward to what all the elected candidates and I can bring to the SBA this year," added Marsh.

Rounding out the incoming executive board will be Bora Song as day vice president, Elizabeth Noakes as Evening Vice President, Lucas Woodward as treasurer and Nick Fox as secretary.

"It is an honor to have the confidence of the student body in being elected to this position," stated Fox.

The SBA elections committee ran the elections and was pleased with how the campaigns ran.

"Win or lose, it was a great race, and we were happy to be a part of it," said Pinita Shah, elections committee vice chair. The elections offered two major slates, The Choice and the Justice League. Both slates took a variety of positions.

"I think both slates ran very good campaigns," noted committee chair Bob Brady. "It was good to see candidates reach out on Facebook and such to get their message out there."

In running the elections, the committee faced some difficulty in registering candidates. Marking a change in policy from previous years, the committee required students to turn in their forms during a three hour window on a Friday afternoon. Previous years had allowed candidates to turn forms in at any time.

Garrett Wait, candidate for Day Vice President, missed the window due to work, and was told his late declaration would violate the SBA constitution. Wait ended up running as a write-in candidate.

In reacting to the policy change, Brady stressed the importance of the positions.

See New Constituion, page 6

## 12 FINANCIAL TIPS FOR THE POST-LAW SCHOOL REAL WORLD

By Erik Carter, Staff Writer

Yes, the job market sucks right now, and the only financial issues most of us are thinking about are how we're going to pay off that six-figure student loan debt and avoid living in our parents' basement for the rest of our lives. But when you do find that job (and eventually you will), here are some tips (some conventional and some rather unconventional) to make sure you start the rest of your life on the right financial foot:

### Health Insurance

Make sure you have it. Lack of health insurance is the #1 cause of bankruptcy in the US. If you aren't lucky enough to have a job that provides it, you can still purchase affordable insurance on your own by choosing a catastrophic plan with a high deductible and a health savings account (HSA). Anything you put in the HSA can be used tax-free for uninsured health expenses or tax-deferred for retirement.

### Disability Insurance

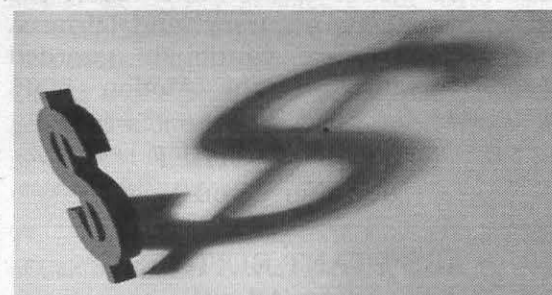
If you have a lot of fixed expenses that won't disappear in the event you're disabled and unable to work, you should consider purchasing a disability insurance policy. It is expensive, but that's because the odds of needing it are much higher than people realize. The best way to hold down costs is to choose a plan that reduces the payments by any government insurance benefits you receive. If you're purchasing an insurance policy in California (and this applies to all the types of insurance policies discussed in this article), you can also save some money by finding one of the small number of agents willing to rebate you back part of the commissions they earn.

### Dependents

If you have dependents, you should purchase enough life insurance to cover their needs until they can take care of themselves should something happen to you. Unless you're using insurance to pay estate taxes or some other permanent need, stick to low-cost term insurance. The most comprehensive term life insurance site is term4sale.com.

### Pay off Debts

Pay off credit cards and other high-interest consumer debts. It doesn't make sense to invest money for even



an 8-10 percent return when you're paying 13 percent or more in interest to credit card companies. A penny saved is a penny earned.

### Prepare for Disasters

Store a "survival kit" of emergency supplies, including 3-9 months of food and water. This used to seem like paranoid behavior until 9/11 and Hurricane Katrina hit. Whether from terrorist attacks or natural disasters, it's very easy to imagine how food and water supplies can be disrupted. Food reserves can also be used to get you through a period of unemployment or other financial hardship. The best way to do this is to buy food in bulk (which saves you money) and then replace the food supplies as you use them so the food doesn't go bad and you don't end up storing food you'll never eat.

### Emergency Expenses

Keep 3-9 months of non-food expenses in an emergency savings account. This should be somewhere safe and easily accessible since you never know when you might need it. A Roth IRA money market account is an ideal place to start building your emergency savings. Contrary to popular wisdom, you can withdraw up to the amount you've contributed anytime for any purpose without tax or penalty. Whatever you don't withdraw grows tax-free after 5 years for a first time home purchase (up to \$10k) or for any purpose after you turn 59 1/2. Once you've maxed out your Roth IRA contributions, you can start building your emergency fund in a taxable account and shift your Roth IRA into higher earning long term investments. Check moneyrates.com and bankrate.com to find the highest rates.

### On-line Banking

You can also use those sites to find a good on-line bank account for your day-to-day checking and savings needs. On-line banks tend to pay much higher interest rates and charge lower fees since they don't have all the expenses of maintaining a physical branch network. Many even rebate ATM fees back to you so you can use any bank's ATM for free.

### Planning for Retirement

Start planning early. We've all heard about how Social Security won't be there for us and how important it is to start saving early. First, calculate how much you need to save to maintain your standard of living into retirement. The best software for this can be found at esplanner.com for \$149. Second, decide where to put those savings. If your employer offers a retirement plan with a matching employer contribution, start by getting

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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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## INTERVIEW WITH KATE SANTON

By Ashley Hirano, Staff Writer

This month *San Diego Law Review* moves on to interview our students who are published in outside journals. Today, we talk with Kate Santon about her article "The Worth of a Human Life," soon to be published in the *North Dakota Law Review*!!!

Why did you pick the comment topic that you did?

I came across this topic while working as a summer clerk at Thorsnes, Bartolotta, & McGuire, and I knew the topic relatively well and could make some very interesting arguments regarding this issue.

Has your comment changed the way you view law school?

Absolutely. I now think that it is really important in law school to write articles for seminars or for a journal. These activities require you to develop additional skills that would not necessarily be gained in the typical law school class. They require you to develop the ability to be critical about the law and propose creative and interesting solutions to better the law, and to do so in an articulate manner. These activities require a level of logic and ability to be detail-oriented that one would not necessarily develop without this experience. I would definitely pursue these opportunities again if I had to do law school over again.

So what does the future hold for Kate Santon?

Law firm, judicial clerkship, White House Fellowship, U.S. Attorney's Office, district judge. Oh, sorry... I just fell asleep and dreamed I was an entirely different person for a minute. Sorry, what was the question?

What's your biggest nerd moment?

Well, unfortunately, that occurs about every day. I do think that my fondness for the Bluebook tips the scales, however.

Tell me a joke.

What do lawyers wear to court? Law suits.

If you could do the comment process over again, what would you do differently?

Ha! Yeah right. Again? Do you think I'm crazy?

## Editor's Comment

Dear Readers,

It may be hard to believe, but this is the last issue of *Motions*, and the end of the school year is quickly approaching. I've had a blast doing *Motions* stuff, and I think it will be one of the things I miss most about law school after I graduate. I would like to thank the school and student body for providing a medium for my writing. It has truly been a pleasure.

Next year, we will have two Editors-in-Chief. I had trouble picking one editor because both Andrew and Austin are very qualified and enthusiastic. Dean Wilson proposed a co-editorship as an alternative, and so I would like to introduce Andrew Adams and Austin Evans as next year's Editors-in-Chief. Andrew was a writer and Assistant Editor this year, and Austin has written many editorials. Both have made significant contributions to *Motions* during their time here. They have many wonderful ideas for next year and will make a great team.

I wish to those who are graduating with me the best of luck with the Bar and the job search. To those who have a year or two left - believe it or not, you might just miss it when it's over.

Ta-ta,  
Jenn Chou  
Editor-in-Chief



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Ok, fine. If you could just rewrite the first comment again, what would you change it to?

Ah, yes, I would write on federal regulatory preemption of state tort law claims. That was my original idea for my topic but it was much too hard to put together when I first started the comment writing process. This is still in the back of my head as a project to do in my free time after law school. Ok, that's the second biggest nerd moment.

Closing thoughts? Arguments?

I've really enjoyed law school. For all of you 1Ls, law school goes quickly. Don't forget to enjoy it while it lasts.



Kate Santon

## STUDENT RECEIVES POLICY KEY TO THE LAW SCHOOL!

By Joanna Fuller

Yesterday, under the glow of a computer monitor, Dean Cole awarded Cynthia Tsai, 3L, the first ever "Policy Key to USD Law." Cynthia, known to friends as Cindy, gushed: "It was a great day for me!" Cindy was honored for being the only student to date to have successfully waited 1,630,950 seconds for login to occur. She has downloaded Policy Key just 32 times, and expects that her perpetual Policy Key will open up doors in the legal community as well. Congratulations, Cindy!





## THE CHINA FACTOR

By Peter Stockburger, Staff Writer



The global financial meltdown is complicated. I'm not even sure I completely understand what is happening. So, it's pretty much impossible to even begin to analyze the intricacies of the crisis in a cursory article such as this one. What this article hopes to do, however, is illuminate one of the major international players involved: China.

China is so big and so rich that its reach is virtually unlimited. China is the United States' second-largest creditor after Japan, and has an important role in either perpetuating or resolving the current financial crisis. In a report published in the *Asia Times*, for example, Inter Press Service notes "The Wall Street firesale has prompted economic pundits in China and elsewhere to call on Beijing to snap up stakes in United States financial institutions and further China's influence on global financial power." Chen Jie, an economics professor at Shanghai Fudan University, further notes that "China cannot easily afford to pass up such an opportunity...We have been anxiously trying to find investment opportunities for our financial capital, but before the crisis, there existed a myriad of visible and invisible barriers for Chinese investment overseas, particularly in the United States."

China, however, has remained thus far pretty unassuming. Although it is fortified with great liquidity and large reserves, "Chinese banks and government investors have preferred to sit on their hands rather than go on a shopping spree of tumbling Wall Street firms." In fact, many of the top Chinese bank officials have summarily dismissed the "groundless" reports that China plans on buying up \$200 billion worth of U.S. Treasuries in order to assist the U.S. in combating the financial crisis. Not surprisingly, these statements are contradicted by the schizophrenia that is official Chinese policy. Reuters News, for example, has reported that although the head of the China Banking Regulatory Commission recently said that "China might consider injecting liquidity into the United States to help it save the market," a spokesman for that Chinese-government agency has indicated that its chief "never made such comments anywhere." These commentaries are buttressed by national concerns, including Liu Yuhui, an economist at the Chinese Academy of Social Sciences, who has noted that if "China does not participate in the U.S. bailout plan, and that causes the financial crises to sweep over the real U.S. economy, then the damage to China will certainly be very great...China's bind is that, if the Chinese government actively participates in the U.S. bailout plan, that will mean the government assumes some of the bailout risk. If the bailout plan is aborted, China may be dragged in even deeper."

According to Bloomberg News, "Japan and China are the two largest foreign creditors of the U.S.: Japan holds \$593 billion of U.S. Treasury bills, followed by China with \$519." In the words of chief financial economist at Bank of Tokyo-Mitsubishi IFJ Ltd. in New York, "China owns us, lock, stock and barrel, so it's more important than ever that the U.S. monetary authorities coordinate their monetary policies with China." In the end, it will become increasingly difficult for the United States to sustain its current account deficit with China by simply printing more money. Broader and more robust partnerships are necessary. Problems with the dollar, China's extraordinary stake in U.S. markets, and China's global military and financial reach ensure China will increasingly become a 21<sup>st</sup> century superpower. How the United States responds will determine how much of a factor China will ultimately play.

## TO ALL LAW STUDENTS:

By Jason Marsh, Staff Writer

Spring is an exciting time for graduates. Many law students are preparing to graduate, securing summer jobs, and making their way to one formal or another. The Graduate Student Council (GSC) hopes to contribute to the excitement of the graduation season.

First, we are happy to announce the return of our annual "Padres at the Park" event. Last year, tickets for a night of baseball, good food, good drink, and good friends sold out within 48 hours.

Shortly after the Padres event, we will be holding our own Graduate Student End-of-the-Year Party. Come one, come all! We expect it will be in one of the hottest downtown watering holes, and we encourage you to bring your dancing shoes.

These social gatherings are just one part of what we do, but they are a vital aspect of our focus on uniting the overall USD graduate community. When we work together, we work stronger and accomplish more. The GSC has three main focuses: (1) improving the life of graduates at USD; (2) improving the image of USD in the community; and (3) improving opportunities for graduate students upon matriculation.

First, improving graduate life at USD begins with bridging the gap among the graduate programs. The GSC meets on a monthly basis with representatives from SOLES, the School of Nursing, the Business School, Arts & Sciences, Ministry, IPJ, and the School of Law. We are actively seeking a representative from the graduate theatre program. Together, we share information about opportunities in each of the individual programs and work to bring our schools closer together. Law students are encouraged to become a part of the GSC, and I look forward to meeting any who may be interested in joining our group.

Second, the GSC acts as the face of the graduate population in interactions with university administrators. Over the past year, the GSC worked with the financial aid offices to reconcile graduate complaints regarding funding schedules. We also have been instrumental in planning sessions for USD that will see the university's development over the next 10 years. Furthermore, we are excited about our contributions toward, and the special space we have secured within, the soon-to-arrive Student Pavilion. Beyond "the Hill," GSC members regularly engaged in charitable blanket drives, community service trips to Tijuana, and other outreach to the greater San Diego community. We work hard to show the character of the USD graduate student.

Finally, it is our goal that USD graduate professionals will have more meaningful and fulfilling lives after completing their respective programs. Much of this goal is achieved through effective networking. Indeed, in challenging economic times, it is all the more important to work to build your network through positive community interactions so that you will always be the first to know when a new position opens up in your chosen profession. The GSC bridges the gaps between the various professional schools, and then works to bridge the gap again between graduates and the greater USD and San Diego communities. It is through this active and positive networking that many will come to find greater value in their USD degrees.

This year, once again, the GSC will be chaired by one of your own. As I replace Todd Headden as chair of this university-wide and influential council, I hope that I can continue Todd's positive representation of the Law Community to the University as a whole, as well as ensure that the Law School's needs are duly considered by the committee whenever appropriate. For instance, while it is not the GSC's specific charge nor directly in our power, I am proud to say that our school's specific parking concerns have a voice in all campus planning meetings thanks to our representation. So too are concerns over the use and the environment of the LRC, especially during finals. And furthermore, many law students' voices were considered when planning the new Student Life Pavilion. As a direct result, the new building will soon offer a fantastic nexus for comfortable communications and mingling with the other graduate programs on campus, as well as raise graduate students' visibility as a united constituency to the University's administration. In my position as chair of the GSC, all graduate student needs are important, and I'm thrilled to work with a group of like-minded professional students and a very sympathetic and helpful administrative representative.

Enjoy your spring, prepare for your summer, and be ready for the future. The GSC and I wish you a very successful 2009 and hope to see you at one of our several upcoming events.

If you are a member of the graduate community and would like to be a part of this dynamic group, seek out your local student body representative, or email us at [graduate.student.council@gmail.com](mailto:graduate.student.council@gmail.com) or [gsc@sandiego.edu](mailto:gsc@sandiego.edu) for more information.

Your humble servant,

Jason N. Marsh  
Chair, Graduate Student Council  
USD School of Law, JD Candidate, 2010

## JCEL SYMPOSIUM

By Andrew Adams, Assistant Editor

On Friday, February 20<sup>th</sup>, the Energy Policy Initiatives Center (EPIC) and the Journal for Climate and Energy Law (JCEL) held the first annual Climate and Energy Law Symposium on the USD campus. Academics, government lawyers and private practitioners from around the country gathered to hear three panels of speakers discuss different aspects of the interplay of state and federal law aimed at mitigating climate change. Central to the discussion was whether states should pass laws addressing climate change, what the federal government should do when states do act and how to reconcile different regulations.

The event began with a speech by Mary Nichols, Director of California's Air Resources Board, the entity entrusted with developing the plan and implementation structure of California's landmark Assembly Bill (AB) 32 and its supporting measures. She noted that with the change in Washington, California's own legislative scheme was not likely to change much. The likely outcome of any federal climate change law would not be to preempt state law, but rather a system of "cooperative federalism."

Under this "cooperative federalist" society, the federal government sets a "floor" of regulation, and marks the baseline level for pollutants that states must meet. If states want harsher regulations, they can pass more stringent laws, but there is no federal "ceiling" that would prevent them from requiring lower pollutant levels. Some commentators like to refer to this as the "laboratories" theory, from a popular Justice Brandeis opinion in which he refers to states as laboratories of democracy, setting examples, both good and bad, for federal law. Symposium participants were uniform in their expectation that future federal legislation would take this form.

Richard J. Lazarus, a visiting professor at USD and a Professor of Law and Faculty Director of the Supreme Court Institute at the Georgetown University Law Center, where he teaches Environmental Law, Natural Resources Law, Torts, and Supreme Court Advocacy closed the Symposium with a speech. Lazarus is on campus to teach a class about the Supreme Court and its recent environmental law cases, one of which he briefed and argued. He is considered to be one of the foremost scholars in the field, and has extraordinary experience with trial advocacy on the Supreme Court level.

In his closing remarks, Prof. Lazarus pointed out the largeness of the task of creating regulatory schemes that both address and mitigate climate change without unduly burdening the economy. He argued that overhauling the energy sector would require something similar but grander than the Apollo program (the government program dedicated to putting a man on the moon). While this seems to be an incredibly gargantuan task, he said that he found inspiration while researching the Clean Water Act in the National Archives, in the documents and correspondence as Congress and President Nixon shaped the Clean Water Act.

He stated that legislators were shaping a new kind of law, one that puts human health and protection of water and air above the cost-benefit analysis that goes into nearly every decision. And while protecting water stores and the air we breathe might sound fundamental now, back then it was almost a foreign concept. Nevertheless, the Clean Water Act passed unanimously in Congress as Senators and Representatives made the policy decision

See JCEL, page 5



# ARE WE COMPLICIT IN HATE CRIMES ON CAMPUS?

By Ben Schenker-Anderson and Jenn Mauri

There were 15 reported hate crimes or hate-motivated bias incidents on the USD campus in 2008.

Let me repeat:

**There were 15 reported hate crimes or hate-motivated bias incidents on the USD campus last year.**

These are just the hate crimes that have been reported and documented by Public Safety. And all but one of them has gone unsolved. Not one witness has come forward. Not one perpetrator punished. Why is this? Public Safety seriously, diligently, and professionally investigates every incident. Public Safety takes reports and makes itself available for information. And yet no one seems to know what happened or who did it. Most of these incidents occur in the residence halls, where students are living in close quarters and know everything about their roommates and neighbors. It should not be difficult to find out who defaced a poster, or who wrote homophobic comments on the bathroom mirror. People talk, and people who do such things usually like to brag about them. And yet only one person has come forward in any of these 15 incidents.

In February, and March, several incidents have been reported. There is a feeling on campus that something must be done, but what?

**What are "hate crimes" and "bias incidents"?** [taken from the USD website]

Hate crimes are against the law. Under California law, a hate crime means a criminal act committed, in whole or in part, because of one or more of the following actual or perceived characteristics of the victim: (1) disability, (2) gender, (3) nationality, (4) race or ethnicity, (5) religion, (6) sexual orientation, or (7) association with a person or group with one or more of these actual or perceived characteristics. Hate crimes are not separate, distinct crimes, but rather are traditional offenses motivated by the offender's bias. Hate crimes may include crimes involving not only offenses against persons but also offenses involving damage to property, such as breaking windows of religious institutions, spray painting walls with offensive words and/or symbols, or defacing or burning property.

Hate crimes also violate university policy, including for example the Student Code of Rights and Responsibilities and the Policy Prohibiting Discrimination and Harassment. A student, group of students, student organization, or employee found to have violated such policies is subject to appropriate disciplinary action up to and including separation from the university. The university also will take appropriate corrective action against individuals who engage in hate crimes who are not students or employees when the conduct occurs on university property or otherwise is university-related.

Bias incidents, on the other hand, may not meet the necessary elements required to prove a hate crime under California law, but the behavior may violate university policy or state or federal civil law. A bias incident is conduct that is motivated, in whole or in part, because of the victim's actual or perceived disability, gender, nationality, race, ethnicity, religion, or sexual orientation. Examples of bias incidents include dissemination of racist flyers, defacing of a student organization flyer, name-calling, and other similar conduct that is motivated by the actual or perceived protected status of a person or group. A student, group of students, student organization, or employee found to have violated such policies is subject to appropriate disciplinary action up to and including separation from the university. The university also will take appropriate action against individuals who engage in bias incidents who are not students or employees when the conduct occurs on university property or otherwise is university-related.

## USD's Culture

Perhaps this has something to do with how USD students relate to each other, and how this code of conduct is reinforced by the administration.

When bias and hate incidents occur, the following steps are taken:

After receiving a report, Public Safety will (according to their own website):

- Take every case seriously
- Meet promptly with the individual who made the report
- Discuss options and review this Response Procedure
- Conduct, arrange for, or oversee an investigation. As appropriate, an investigation may involve the appropriate local law enforcement agencies. The investigation may be referred to, overseen or conducted by other appropriate university officials when a complaint falls within the scope of another applicable policy, such as the Policy Prohibiting Discrimination and Harassment.
- Contact the appropriate campus resources to provide help and support (e.g., Counseling Center's on call psychologist, Dean of Students or designee, or another appropriate university representative)
- All reports by or involving students will be forwarded to the Dean of Students.
- All reports by or involving employees will be forwarded to Human Resources.
- As needed, arrange for appropriate reporting of the incident (e.g. on the San Diego County Hate Crimes Registry or as part of the Annual Safety and Security Report).
- As appropriate, the university's Critical Incident Response Team or the Sensitive Issues Team will be convened to respond to the situation and take appropriate action.

**But what if, instead, this was to occur:**

- 1) an **immediate mandatory meeting** was held in a town hall format, in which
- 2) a **discussion is held of what exactly transpired** and what it means to be victimized;
- 3) a **discussion of the hurt, anger, and outrage** that everyone should feel on behalf of their fellow resident and colleague; and
- 4) **action steps** taken to address the incident.

Appropriate action steps would be tailored to the kind of harm suffered (racism, sexism, sexual orientation): For every type, however, the resulting action should be a show of solidarity for the individual(s) attacked, and a demonstration of unity against such behavior, language, or action. Only by agreeing as a group that this is unacceptable behavior, will it be seen as *not OK* for people to attack that individual or group.

**What can I do to make a difference?** [taken from the USD website]

Learn more about community organizations challenging hate on campus.

Get involved in promoting awareness and openness.

Dispel prejudices and racist ideas by taking the opportunity to counter distorted views.

If you know a victim, offer your help, provide support, and show the victim that you and the university community care about his or her well-being.

Encourage the victim to report the incident.

Do not write off hate crimes and bias incidents as "pranks" or "bad behavior."

Follow the reporting procedures listed above.

Do not assume that someone else has made a report of an incident you observed or experienced. Report the incident yourself.

Do not participate in activities or visit websites that perpetuate hateful or biased behavior.

Be part of a community that does not tolerate any act of discrimination, harassment, or hate.

To learn more about USD's efforts to educate our community please visit [www.sandiego.edu/unitedfront](http://www.sandiego.edu/unitedfront) and the

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as much of the match as possible. Then max out your eligible contributions to a Roth IRA before contributing additional funds to your employer plan. Third, invest the savings in a diversified portfolio covering stocks, bonds, and commodities in proportions appropriate to your risk tolerance. For stocks, choose mutual funds managed by value managers with a proven long-term track record. If none are available in your employer plan, stick with low-cost index funds covering large and small companies and foreign and domestic markets. For bonds, invest in US government i-bonds in taxable accounts or short-term TIPS in retirement accounts. Keep commodity funds in retirement accounts. Finally, stick to your investment plan. The biggest mistake investors make is to try to time the market by either jumping into hot areas of the market (like dot-coms in the 1990s) or more recently in real estate or by panicking during financial crises and selling in a downturn. **DO NOT DO THIS.** If anything, the current financial crisis is a great opportunity for young people to buy stocks cheap. The goal is to buy low and sell high, not the other way around.

## College Savings

If you have children, consider funding a 529 college savings plan and get your parents and other relatives to contribute. These plans have numerous tax benefits for college savings. You can invest in any state plan regardless of where you live or where your child goes to college. The best is the West Virginia plan, which allows you to invest in specially-designed value index funds normally only accessible through certain approved investment advisors for a fee. If you max out a 529 plan, you can also use Education IRAs to save for other expenses like private school, computers, and books (we know how expensive those can be).

## Long-term Care Insurance

Don't buy this unless you already have a sizable net worth. It's not because you're too young. It's because if you need long-term care due to an accident or illness, Medicaid will pick up the tab after you've spent down practically all of your assets. Long-term care insurance is expensive so it only makes financial sense if you have a lot of those assets to protect. In other words, you might want to recommend it to your parents if you'd like to inherit something someday.

## Protecting Your Assets

If you do have sizable assets, you should also purchase an umbrella liability insurance policy to protect you from lawsuits that exceed the limits on your auto/renter's or home owner's insurance policies. These policies are relatively cheap, so purchase enough insurance to cover your net worth.

## Other Suggestions

If you don't have the time or interest to research this stuff more and stay up to date on new developments, consider hiring a personal financial planner. This article is a basic introduction and leaves out a lot of important advice, especially in the more complex areas of tax and estate planning. However, this is a relatively unregulated profession with plenty of salespeople masquerading as financial planners or advisors to sell you high-priced investments and insurance products that you probably don't need, so choose wisely. Check to see that the person has the proper credentials (a CFP®, ChFC, or PFS), is compensated in a way that avoids conflicts-of-interest, charges a reasonable fee, has experience working with people in your situation, and has a personality and investment philosophy that you're personally comfortable with. After all, you're going to be a professional. Make sure you work with one.

Erik Carter, CFP® ran a brokerage office for Edward Jones Investments, provided financial advice to members of Congress as the designated independent financial advisor for the Congressional Federal Credit Union, and worked with ultra high-net worth clients as a vice president in the private client division of Charles Schwab in Manhattan. He's currently starting an independent financial planning firm focused on the needs of middle-class professionals and their families.





# FEDERAL SOCIETY BAILOUT

By Jenn Chou, Editor-in-Chief

Vice President of Policy for Citizen Outreach, Doug Bandow and Professor Tom Smith spoke about the financial situation, the stimulus package and bailouts at the Federalist Society Event in February.

According to Bandow, the country is experiencing is a deep recession rather than a depression, and there will likely be improvement by next year. "This does not strike me as being a crisis situation," said Bandow. "It is also important to recognize the importance of short term versus long term, because we are facing some very significant short-term pain, and some of the policies could lead to long-term problems."

Bandow suggests that many of the policymakers creating the problems are the same ones claiming to offer solutions. "Even today, they do not want to own up to those problems; it is not clear that they are the best people to get us out of this."

He pointed to problems in both private sector and public policy. "Greed exists in private sector as well as in public officials. It is not clear to me that anything unique went on last year in terms of greed that did not happen in past years," Bandow observed. He asserts that financial deregulation in the 1990s was not a problem; in fact, the fiscal positives of last year were attributed to the deregulation of the 1990s.

Instead, Bandow posits that inflexible policies regarding the financial system will give rise to more problems. He notes that any set of regulatory structures could cause serious problems, while the deregulation of nineties was supported by Democrats and Republicans alike.

Bandow also addressed the effects of the housing bubble. The median home price increased drastically in the years following August 1998. "The Federal Reserve... kept money cheap with low interest rates, and...a bubble results because people bought when they shouldn't have been buying." In addition, federal financial institutions Freddie Mac and Fannie Mae were being used to back a strong governmental policy that sought to increase home ownership, and resulted in an inflated market price. "FHA and Bush were very active in reducing down payments," Bandow explains.

This problem dates back to the Community Reinvestment Act during the Carter years, which was also vigorously advocated during Clinton's term. Bandow explains the problem with this act – there was "real emphasis in getting money out into poorer neighborhoods." As a result, banks loosened lending requirements, and were more concerned about getting loans out instead of focusing on whether they could eventually be paid back.

The emphasis and encouragement of sub-prime lending resulted in a "sudden disconnect between the quality of mortgages and the people taking out the loans." However, this problem was overlooked as housing prices continued to rise; the government did not question this method of lending until the situation started to deteriorate.

Bandow then discussed how the federal government contributed to the deterioration of the situation. "The bailout of Bear Stearns made things worse because it confirmed the possibility of bailouts, and sent a message that this is a possibility when a company runs into trouble."

Since the various bailouts, some receivers have been criticized for using the funds inappropriately. However, Bandow notes that this should have been obvious to begin with – "if you've been given the money, why do things you don't want to do if you already have the money?" Bandow warns of the danger in trying to keep bad banks alive.

Bandow is also wary of the stimulus package, which he describes as a "grab bag everything... Legislators see this as a great opportunity to do every program they ever wanted, but it has very little to do with stimulating the economy."

"When we look at what is in [the stimulus package], for example, the Smithsonian, nutrition, a magnetic levitation rail line between Disneyland and Las Vegas, they don't have anything to do with stimulating the economy."

Bandow emphasizes that contrary to the government's mantra, spending does not necessarily stimulate the economy. For example, the government could theoretically spend money employing people to dig holes and fill them back up. While this would increase GDP, this certainly would not stimulate the economy, as no



productivity is gained. Another example of such failure is Japan, which tried to bring dead banks alive by spending. (A problem with the "government spending stimulates the economy" theory is that GDP by definition includes government spending; i.e. it assumes that government spending increases GDP – so the logic is circular – that because more spending = higher GDP, and higher GDP = better economy, then more spending must = better economy, even though it is unclear why the assumption that government spending increases GDP exists in the first place.)

Bandow also counters the popular idea that Roosevelt and the New Deal policies brought the nation out of the Great Depression. "New Deal spending did not fix the economy; instead, the US went into a deeper recession." Bandow cites to two UCLA economists who argue that the 1933 regulations and attempts to fix prices and wages set the nation back several years.

Bandow cites to other looming problems, such as Farmer Mac, a bank that gives agricultural loans, and the public guarantee of private pensions. "The government makes promises, and there is no money behind it. Take for example, Medicare and Social Security. The total unfunded debt behind these programs is 100 trillion dollars – the question is – who is going to pay all these bills?"

Bandow advocates a curb in federal spending, including military spending, domestic spending, and entitlements.

He tells the audience, "these obligations are going to be much more relevant for you than me, since you are much younger and will be paying for this."

Professor Tom Smith emphasized that the current problem is very grave, in contrast to Bandow's prediction that improvement is on the horizon. "My strong suspicion is that the US banking system is deeply insolvent." He suggested that reorganization was the key, and that nationalization may be a solution. "But the problem with nationalizing banks is whether we would ever unnationalize them. But the alternative is zombie banks that are not lending, are insolvent, and are occupying space that healthy banks could occupy if they could be moved out of the way."

## USD NEGOTIATIONS TEAM TAKES CHARGE!

By Jodi McShan, Staff Writer

Over the past year, the Negotiations Team accomplished more than any of its members could have imagined when it all started in August. After an in-house competition that led to the selection of the competing teams, the three teams represented USD in San Diego, Boston, San Francisco, and Irvine. Allison Morris (3L) and Jodi McShan (3L) competed in the ABA Regionals Tournament in San Diego this past fall and went on to become National Finalists, competing in Boston. Douglas Wacker (3L) and Joseph Berriman (2L) placed 2<sup>nd</sup> in the California Environmental Negotiations Competition. Finally, Alex Varond (1L) and Larry Yee (2L) finished in the final four at the BLSA National Tournament. It was great to see students from all three classes be able to participate in the team and do so well in the competitions.

Unlike other teams competing out of USD, the Negotiations Team is run by the students. Professor Snyder, the team's advisor, praises the team for their drive and abilities: "I am proud of the Negotiations Club in their organization and the Team in their competitions. The club is 100 percent student initiated, operated, and sustained." In reality, Professor Snyder is a great help to the club and assists with trainings and preparation; he is an essential part of the process and the Team's success.

After a great year, the team looks forward to more success in the coming year. The new president, Ryan Shera, and the rest of the board will transcend the team to a new level and help promote USD across the nation.

From JCEL, page 3

that clean water was of utmost importance.

Lazarus said if Congress could make the unanimous jump in the early 1970s to protect water, current leaders could make the same jump to act on global warming. The process of making the conversion to a less-carbon-focused society is going to be difficult, but the U.S. has an example in the Clean Water Act of exactly the type of sacrifice and accomplishments that our leaders are capable of.

The Symposium will be held yearly on campus to discuss the pressing climate law issues at the time. While this year the subject was the convergence and interaction of state and federal law, future years will see different topics. To assist in the planning for next years Symposium, get in touch with the Journal of Climate and Energy Law or the Energy Policy Initiatives Center on campus.

## 2009 CLASS GIFT KICK-OFF!

MESSAGE FROM THE SBA PRESIDENT,  
MARSHALL SKALETSKY



Wow, time flies! It all began on August 21, 2006 and will abruptly end on May 16, 2009. In case you were wondering, that is 2 years, 8 months and 26 days ago, which amounts to exactly 1000 days (crazy, but verified), 24,000 hours, 1,440,000 minutes and 86,400,000 seconds ago! In that time, the 3L class has been through at least 85 units worth of classes, various SBA events, internships, externships, law journal articles, moot court competitions, mock trial competitions, bar reviews, networking mixers, and many sleepless nights of studying! It has been a long journey and we have all had interesting experiences and made many new friends through our time at USD Law.

In order to culminate our time in law school, the 2009 Class Gift Committee has been working behind the scenes to make sure that we leave a lasting impression. By the time you read this, the class gift kick-off event on March 19<sup>th</sup> at the Dean's Mixer will have passed. Dean Cole graciously agreed to compete in a golf putting contest against students and to contribute \$5 per student competitor! Considering the difficult economic times, the committee decided that the appropriate class gift for this year would be a Loan Repayment Assistance Program (LRAP) scholarship donation on behalf of the 2009 class to those intending to work in the public interest field. You are probably saying "Wow, that's a great idea!" Yep, we know.

In order to make the biggest possible donation, we hope for a 100 percent participation rate from all graduating students and have created some unique incentives to motivate donations. Drum roll please.... Any student that donates \$20 will receive a USD Law key chain (they are glossy) and any student that donates \$30 will receive a key chain AND a fancy blue "USD Law – Class of 2009" t-shirt. Special thanks to the legendary Greg Halsey, 3L, for working on the design! Once a donation is made, you will receive an email as to where and when to pick up your t-shirt and/or keychain.

Donations can be made in person at the Alumni office in Guadalupe Hall 202 with Abbey Stephenson or online at [www.sandiego.edu/law/classgift](http://www.sandiego.edu/law/classgift). People who donate between now and May 4<sup>th</sup> will receive special recognition in the graduation awards program (although gifts will be accepted up to May 16<sup>th</sup>). All 1L and 2L students are welcome to contribute and would also receive these amazing gifts! Our final class gift event will be on April 28<sup>th</sup> from 4-6pm on the back patio so please join us for free drinks and food. Donate \$1, \$5, \$20, \$30 or more...but please donate something so that the class of 2009 can achieve the highest contribution rate in the HISTORY OF USD LAW! Please contact Abbey at [astephenson@sandiego.edu](mailto:astephenson@sandiego.edu) with any questions. Wow, time flies. In fact, exactly 1000 days... ☺



## JUDGE MCKEOWN TO TEACH IN USD PARIS SUMMER PROGRAM



9th Circuit Judge Margaret McKeown will co-teach International Internet Law & Judicial Reasoning with Dean Daniel Rodriguez in the University of San Diego's 2009 summer program in Paris. The course will examine the special issues inherent in the internet's borderless quality, such as problems of personal jurisdiction over internet users not physically present in a country, attempts by different countries to place different controls on internet content and the relationships between service providers and users, protection of the privacy of internet users, and problems of international social networking. Also considered will be special problems of trademark and copyright resulting from unique internet institutions. In addition, the course closely examines judicial techniques and interpretive methods used to decide disputes in a number of countries, including the United States, France, Great Britain, Germany, Japan and China, and whether different techniques are used in statutory interpretation than in constitutional exegesis.

Judge McKeown's 9th Circuit chambers are located in San Diego. She was a White House Fellow, then an associate, then a partner at the Seattle and Washington DC offices of the international law firm of Perkins Coie. Judge McKeown was recently appointed by Chief Justice John Roberts to chair the Judicial Conference's Committee on Codes of Conduct. She was appointed to the 9th Circuit in 1998 by President Clinton.

Co-teaching the course will be USD's former dean, Daniel Rodriguez, now professor of law at the University of Texas, and formerly a professor at Boalt Hall. Dean Rodriguez has also been Visiting Professor at USD and Illinois, and has a visit scheduled at Columbia for next year. He has published extensively, and is frequently asked to speak at conferences.

Both Judge McKeown and Dean Rodriguez have received outstanding student evaluations on their teaching.

A few places remain available in the 2009 Paris program June 28 - August 1.

### From New Constitution, page 1

"These are important positions. We didn't consider it to be too much of an inconvenience to get both forms turned in to us either before that Friday or during the time period we were in the office," stated Brady.

Despite the difficulties, Wait waged his campaign and took the challenge in stride.

"I was disappointed that I was unable to run on the ballot, but I understand and respect the committee's decision," noted Wait.

Students also approved changes to SBA's governing documents. The new constitution and bylaws written by SBA's constitutional reform committee and approved for referendum last month by the council, take effect once the elections are certified.

"I am glad that the students saw this as an opportunity for change," noted committee chair Jodi McShan, recognizing that SBA leaders will be better able to serve instead of "spending hours interpreting the constitution and bylaws." The new constitution replaces confusing language over voting rights and council processes and streamlines the process overall.

Students also chose class representatives to the SBA council, honor court members and an ABA vice-chair. Ric Fukushima, Derek Lee and Muna Amadi will represent the rising 3L class and Ann Harvey, Arianeh Sajadi and Avery Harrison will represent the rising 2Ls. Matt Belardes won as evening class representative. Mehtab Sandhu will serve as ABA vice chair, linking the student body with the professional group.

The honor court, the body that decides academic code violations, will include Anna Phillips, David Israel and Dennis Lee next year with Daniel Shamir and Julie Lam as alternates. Sara Rasmussen will serve as prosecutor and Ehren Duisberg will review alleged violations.

The elections also mark the end of the current year's officers. Marshall Skaletsky, current SBA President, will leave office capping off a busy and eventful year.

"It was an honor to serve as the SBA President this past year, and I hope the school got as much out of my service to them as I got from serving them," said Skaletsky.

As of press time, no elections violations were filed, and the elections become official on March 27. On March 30, the new constitution will take effect and all new officers will take their posts.

## LRAP POKER TOURNAMENT

The Public Interest Law Foundation (PILF) invites you to participate in its 3rd Annual Poker Tournament, which will be held on Saturday, April 4th in Warren Hall. A ticket to the event will get you a seat in the poker tournament, where your friendly faculty (and this year, Dean Cole) have agreed to deal cards for Texas Hold 'Em, and free food and drinks will be provided all night. This year's first place winner will walk away with a complete BARBRI bar review course package or a surfboard! Tons of other

prizes will also be available to runner-up players and raffle winners.

LRAP is designed to assist USD School of Law graduates who choose to work in public interest to repay their student loans. As a means of encouraging students to pursue careers in public interest law, loan repayment assistance is available for any graduate who makes \$50,000 or less per year at a non-profit organization (at time of initial application for LRAP assistance) and who has at least \$70,000 in law school loans. Since the program was founded in 1993, with the help of PILF's faculty advisor Julie D'Angelo Fellmeth, LRAP has consistently received the support of the law school administration. Every year, Dean Cole has generously agreed to match all donations to LRAP, and he will continue the tradition this year as well. Dean Cole has promised to match dollar-for-dollar all the money raised up to \$20,000.

Last year, LRAP Week raised roughly \$16,000. In 2007, the drive generated an estimated \$21,000. Last year's poker tournament was also a huge success, drawing in almost 150 competitors. The first-place student winner walked away with a full BARBRI bar review course valued at \$3,150. Other prizes included a flat screen television, Padres tickets, free body piercings, gift certificates to Best Buy, La Jolla Brewery, Peabody's, and much more.

You may also make your donation and/or purchase tickets online. To purchase a ticket online, simply go to [www.usdsba.org](http://www.usdsba.org) and click on Online Services. To make an online donation, simply go to [www.sandiego.edu](http://www.sandiego.edu), click on "Make a Gift" under the "Giving" tab located at the top right of the page, and select "School of Law" under "Areas where you may choose to designate your gift." Once you have filled out the gift form, please be sure to select "Loan Repayment Assistance Program" under "Specify Area of Giving." Alternatively, you may complete a registration form and mail it along with your check to: USD Alumni and Development Office, Attn: Debbi McIntyre, 5998 Alcalá Park, San Diego CA 92110.

### LRAP Poker Tournament Event Details:

**Tickets:** \$20 for USD law students; \$30 for Non-USD law students **INCLUDES FREE FOOD AND DRINKS ALL NIGHT!**

**When:** Saturday, April 4th @ 5:00PM

**Where:** Warren Hall, Main Lobby (2nd Floor)

Questions regarding LRAP Week or the Poker Tournament? Please email [usdpilf@gmail.com](mailto:usdpilf@gmail.com).

## ALL THE WORLD'S A STAGE

By Austin Evans, Staff Writer

So what did we learn these past few weeks?

Who knew you all would react so wildly? When I wrote my column for February's issue, I knew I'd be butting some heads and rustling feathers. I was neither expecting the fallout that came nor the ripple it had at school, and I certainly would not have considered what I wrote tabloid-worthy. However, for the most part, I am happy with the column's effect on our small niche of a community and the role it had in exemplifying free speech. While

it sucked to have a target on my back for days and to have people who I thought were friends not talk to me anymore, I think the column has been an interesting social experiment to say the least.

Originally, I was not going to follow up to the column. I had my chance to say what I wanted, and my readers had their rightful and deserved responses. As one can imagine, I've had some interesting discussions lately. These not only made me want to respond to some points, but also made me want to reassure my colleagues that I was not betraying their trust or friendship.

Many readers were upset over the size of my paintbrush, shall I say. One reader in particular rightfully accused me of taking the puerile actions of a small group of women and tagging the rest of the school with these disappointments. What I believe upset her most is that while she had worked hard as a woman to rise above that level, my words knocked her right off that path.

Her reactions saddened me to a level I will never be able to comprehend. As a man, I do not understand the struggles she or any other woman go through to break down the sexism embedded in our society, but I can at least appreciate her perspective. As a man who values respect, class and honor, I hate it when women lump me in with the tatted-up dude bros that creep up and down Garnet any given weekend. My column unfortunately perpetuated the sexism she referenced, and I was able to see my error and how I needed to correct it.

To clarify some things, I do not think every woman at USD is shallow or disappointing; to the contrary, I have met and continue to meet women that exemplify the utmost in intelligence, ability and humor. In reality, I don't think anyone is a bad person—female, male, Dodgers fan even. We all make mistakes and it is unfair to correlate one's mess-ups with a messed-up person. It's what we do with these errors and how we work to correct them that make us the person we are.

I write most of my columns tongue-in-cheek, and I appreciate that many of my readers found that humor in between my lines. However, others did not and took my words differently. As a writer, it is my job to connect what I'm thinking with what you read, and to these readers, I failed you. I'm disappointed in myself if my column left a bitter taste, and I should have worded my thoughts differently to avoid such a mistake. All I ask for now is that you trust me when I say I do not think of everyone at our school so cynically, and also ask for your forgiveness.

We all live in a free country, and we take that for granted all too often. I strongly believe in what's known as the marketplace of ideas; I say what I'm thinking, and everyone else gets to respond. My alma mater could not have put it any better, when in 1894 it said, "Whatever may be the limitations which trammel inquiry elsewhere, we believe that the great state university of Wisconsin should ever encourage that continual and fearless sifting and winnowing by which alone the truth can be found." To stifle speech is the greatest affront to our freedom, and really just keeps the truth buried under lies.

Contrary to what people have been thinking, I appreciate every comment people made about my column, even the negative ones. My point was to start a discussion about the culture we call Warren High, and it did so beyond what I had expected. I anticipated that people would respond negatively, and knew the ensuing discussion would help us better understand who we are as a student community, even if it did turn juvenile. Was everything I said the consensus of our community? Absolutely not, but it is my job as a writer and commentator to start that discussion. Looking back at that aspect, I'm proud that I did.

As I put this all behind us, I'm reminded of a saying I've grown to tolerate: "Don't hate the player, hate the game." Given my personality, I hated how cynical this statement was, but really, all the world's a stage and all the men and women are merely players. Even to this day, Shakespeare had it right.

Our relationships with each other are simply nothing more than games we play. While we play most of these games for fun, some are downright frustrating. As I've learned, nothing we say or do – or write – can change this societal axiom, but we can at least appreciate the awkwardness and hopefully have some fun along the way. There's nothing more important in life than the relationships we build and the friends and family they create. Don't think for a second that I don't value this each and every day.

Until next time, take care of yourselves and each other.



## LAW SCHOOL LAUNCHES IP CENTER

By Jenn Chou, Editor-in-Chief

USD has established a new center on Intellectual Property and Markets, under the direction of USD President Mary Lyons, USD Provost Julie Sullivan, Dean Cole and the rest of the USD School of Law administration. The School of Law decided that the center was a priority and provided the funding needed to launch it.

The center is intended to expose and train students in the basics of intellectual property and serve as a forum for discussion of IP laws and policy.

Professor David McGowan explained that the center just seemed to make sense, due to student interest and the number of technological firms in the San Diego area. "There are a lot of law firms that practice in the area in San Diego, Los Angeles, and Fountain Valley...IP is a field in which there is a lot of potential, and a lot of public policy debate over patent law reform," said McGowan.

The new IP center will expand the curriculum in IP-related classes. Most recently, a patent litigation course has been added. Due to its complexity, the course will be split into two parts. One class will be focused on pre-filing investigations and claim interpretations, while the second class will focus on remedies such as getting royalties and injunctive relief. The remedies class will also prepare students for appearing before the International Trade Commission. "This is an example of something that is really important in practice, but many schools don't teach this," Professor McGowan notes.

McGowan himself will be teaching a patent and copyright anti-trust course. In addition, the IP Center will feature some more academically-oriented events, including a round-table discussion between professors from USD and other schools, policy makers, and corporate representatives on IP law. "We'll use those to provide a forum to people like Qualcomm, HP, Pfizer, or other companies in the region who are concerned with where the law is headed," Professor McGowan explains.

Finally, the Center will bring in people practicing in various fields of IP to talk to students about the practicalities of IP work, and what they do on a day-to-day basis.

## ALAN DERSHOWITZ: A NEW LOW

By Peter Stockburger

On March 17<sup>th</sup>, 2009, famed Harvard professor, renowned lawyer, and controversial commentator Alan Dershowitz represented a client I find repugnant. In short, he served as appeal counsel for Momčilo Krašjinik at the International Criminal Tribunal for the Former Yugoslavia (ICTY). As a scholar who publicly laments the atrocities of the Holocaust and casts dispersion on those involved in atrocity, Alan Dershowitz has stooped to a new low.

Momčilo Krašjinik is a war criminal on trial at the ICTY. He served as a member of the Bosnian Serb leadership during the Balkan wars of the 1990's. He was a member of the National Security Council, the Expanded Presidency of the "Serbian Republic of Bosnia and Herzegovina," the Main Board of the Serbian Democratic Party of Bosnia and Herzegovina (SDS) and President of the Bosnian Serb Assembly. He also was a part of a joint criminal enterprise that aimed to ethnically recompose the territories under his control by expelling Bosnian Muslims and Bosnian Croats. He has been held responsible for the murder and extermination of nearly 3,000 Bosnian Muslims and Bosnian Croats.

He has also been held responsible for the forcible removal of more than 100,000 Bosnian Muslims and Croats from a large area of Bosnia-Herzegovina. Beginning in April 1992, he authorized forces to attack Muslims and Croats living in towns, villages and small settlements. Men were often arrested and taken to detention centers where they were held in intolerable conditions without food, water, medical care or hygiene facilities. Many were beaten,



A man prays among graves near Srebrenica. About 8000 Bosnian Muslim men and boys were killed near the town in July 1995

raped, and killed. The women and children were often forced to leave their homes, which were subsequently looted and destroyed. This reign of terror spread over 37 municipalities.

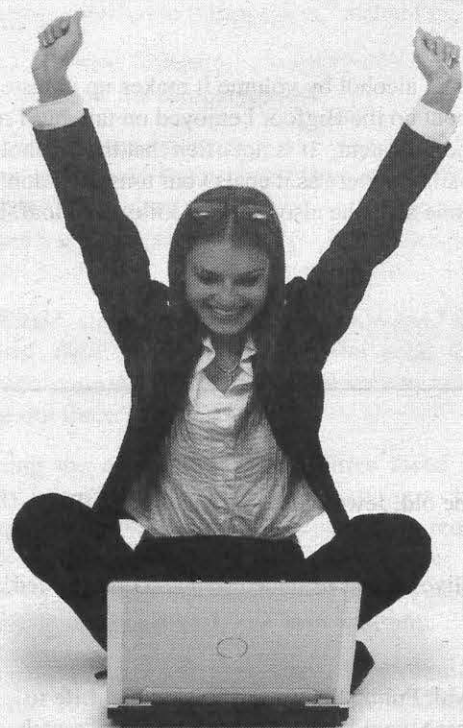
On September 27, 2006, the Trial Chamber of the ICTY found Momčilo Krašjinik responsible, pursuant to Article 7(1) of the Statute of the Tribunal, for persecution as a crime against humanity, extermination as a crime against humanity, murder as a crime against humanity, deportation as a crime against humanity, and inhumane acts as a crime against humanity. The Trial Chamber found Krašjinik not guilty of the crime of genocide, complicity in genocide and murder as a violation of the laws or customs of war. The Trial Chamber imposed a single sentence of 27 years of imprisonment. On March 17, 2009, pursuant to a crafty defense by Mr. Dershowitz, the Appeals Chamber, including such international scholars as Fausto Pocar (President) and Mohamed Shahabuddeen (Nobel Peace nominee, former ICJ Judge), reversed the Trial Judgment on several grounds and reduced Momčilo Krašjinik's sentence by 7 years.

Alan Dershowitz is a criminal appellate lawyer. He is the Felix Frankfurter Professor of Law at Harvard Law School. He once served as the appellate advisor for the defense of O.J. Simpson. He now has, as a notch on his belt, the successful appellate defense of Momčilo Krašjinik, a recognized joint-mastermind behind the atrocities of Srebrenica and Sarajevo. Was it for the money? Was it for fame? Was it to show the institutional weakness of the ICTY?

My only explanation for such representations is ego. During my time at the ICTY this past summer, I spoke with several defense counsels. One in particular told me this: it's all about ego. International defense attorneys don't believe their clients are innocent. In fact, most know these men (and women) are responsible for the killing, rape, torture, expulsion and extermination of millions. However, what better way to boost the ego than getting one of these known criminals off the hook, or even reducing their sentence? Call me naïve or idealistic, but I believe this level of ego, self-serving representation, and disregard for human dignity is the absolute lowest form of legal representation. I know I can speak individually, and I hope I can speak collectively, when I say I will not stoop to this level. Mr. Dershowitz, you should be ashamed of yourself.

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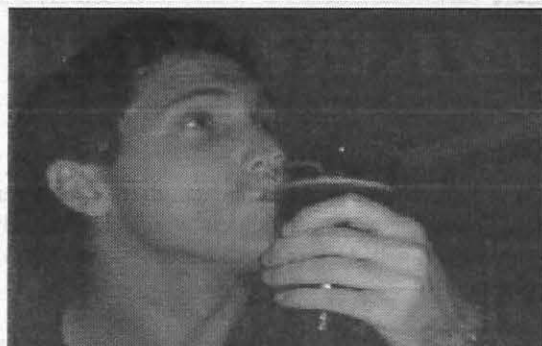
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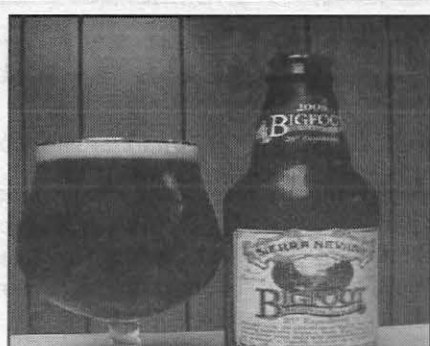
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The writer and his beer



Sierra Nevada Bigfoot barleywine



Double Arrogant Bastard



Affligem Blonde

## WORLD'S GREATEST BEERS 2008

By Joseph Koller-Nielsen

Let me start by saying I am a beer snob, a hop-head, but that was not always the case. Five years ago I was 19 and tried my first non-"light" beer, a Sierra Nevada. I could barely finish it. The taste was too much, so I retreated to my staples of Keystone Light and Coors (if I had the extra dough). They had that stuff called drinkability. Wait, I think that's Bud Light? Indeed we have been lulled to sleep by the Siren song of million-dollar ad campaigns.

But the following beers have *true* drinkability and can usually be found at one of San Diego's real gems: Toronado. Toronado, located in North Park, is a bar devoted to beer and to those who appreciate its nuances. Stocked with nearly every fine bottle of beer and over 40 of the world's greatest beers on tap, you would be hard pressed to say you have even heard of half of them. The bartenders will take care of you and are quick to offer tasters of anything you want. The following were enjoyed on location and each for less than \$5. They have a killer happy hour from 11 AM to 5 PM, when all beers are a dollar off - a ridiculous deal if you consider that you are getting a pint of 10% beer for as cheap as \$3.50. Stay thirsty my friends.

**Double Bastard- Stone Brewing Co., ABV. 10.5% (Strong American Ale): Rank: 63 \***

The brewers warn that this is one "lacrative of a mother" and indeed it is. The aroma is intoxicating as your snifter is filled with a blend of caramel malts and burnt sugars. Sweet yet roasted, floral but piney. It has a somewhat syrupy feel but it finishes like a rich hot chocolate that is softened by the smooth malts and hints of grapefruit and pine blend. It drinks very well but kicks like a mule. The perfect nightcap. Enjoy it while you can - they only distribute it from mid-November through March.

**Pliny The Elder- Russian River Brewing Co., ABV. 8% (Imperial India Pale Ale): Rank: 6**

Not to be confused with Pliny the Younger, this is unequivocally my favorite beer. The 2008-09 batch failed to meet its high expectations. I was lucky enough to enjoy the 2008 a year ago on tap and it was a rumored 11 percent. Unfortunately, this year with its new market in 22-ounce bottles, brewers toned down the gravity (gravity is the ratio of the density of sugar to water in the beer). A higher ratio yields a higher alcohol content. Simply put, the more fermentable sugars you have and the less liquid you put it in the quicker you will be on the floor. But back to the beer. It pours a burnt orange with a two finger off-white head. The nose is dominated by a bouquet of hops, with a mouthful of tropical flavors each doing their best to grab your attention. The initial bite is both sweet and bitter. The hops are complemented by a near-perfect malt presence. This is what an IPA is all about.

**Sanctification- Russian River Brewing Co., ABV 6.5% (Belgian Style Blonde Ale): Rank: 57**

This beer was the first in many years to completely knock me off my bar stool. It felt like Chuck Norris punched every taste bud in my mouth because my tongue exploded. The beer is brewed with 100 percent brettanomyces which is a wild yeast that is common to Belgian beers and even red wines but generally in only modest amounts. In common lambics, they are balanced with saccharomyces to cancel out the extremely bitter flavor. That's not the case here. The taste is tart and the brett is doing its job. It is thick-laced with a funky straw and citrus blend. There are lots of lemons and sugars which are balanced by flavors of green apple and wheat. The beer is highly carbonated and this adds to the assault on your taste buds. It is well advised to let it sit awhile. Like a porter or a stout it might be better if not so cold. The beer takes on a slightly different profile at a warmer temperature.

**Speedway Stout- AleSmith Brewing Co., ABV. 12% (American Stout): Rank: 29**

Stouts are an offshoot of its big brother the porter, whose roots are in England. The first stouts were born from porters, when a porter brewer would just pour all the different porter beers in the same barrel. This would produce a highly alcoholic "stout" beer. I prefer my porters and stouts at about room temperature served in an extremely cold glass. The Speedway Stout pours like used motor oil - turbid and black. The head was three fingers thick and tan. The taste was a veritable dervish of flavors dancing on the front of my mouth and then receding to the back. The roasted malt is balanced by a fudge-like chocolate and a hazelnut espresso. There is a hint of dark cherry and toffee. The real surprise is the black licorice taste that the beer finishes with. This is the result of a perfect hop balance. The next time you fire up your grill for a juicy steak, keep this beer in mind. There is no greater beer to accompany a filet.

**Affligem Blond- Brouwerij De Smedt Brewery, ABV. 7% (Belgian Strong Pale Ale): Unranked**

Let me just start by saying I love blondes, I mean blonds. Whenever a woman has asked me to suggest a beer, Affligem comes to mind. There are just some beers girls like more than others: Blue Moon with orange wedges, Heffs, and Wydmer's Pear Cider (NOT A BEER). Don't ask me why, they just do. I stopped trying to understand them years ago. Just nod your head and smile. It's worked for my dad for 35 years. This beer however is not difficult to understand. It is delicious. It has a big floral nose with a spicy honey smell to it. It's a bright golden beer with a finger thin foam and bright white head. The taste is a sweet honey but the highly carbonated pour allows for the bitterness of the beer to come through. The hops are subdued and provide for only a faint bitterness, mild phenols lend to an herbal quality which follows to the finish.

**Hop 15- Port Brewing Co., ABV. 10% (American Double/ Imperial IPA): Unranked**

This is another prime example of why San Diego is one of the greatest beer cities in the world. Port Brewing Company has locations in Solana Beach, Oceanside, and San Clemente. The Oceanside location is great, because in conjunction with dozens of their beers on tap they serve some amazing pizza. This beer however, is a beautifully balanced amber/orange bomber. This thing is good. Surprising is that the first taste is malt, but it is short-lived as the beer's true character follows with a kick of hoppy bitterness. Typical of IPAs is the citrus, the uniqueness of the beer however is its big, full finish. It leaves the mouth in a Zen-like state. Overall it is an amazing beer. I had a couple of these and a slice of pizza; a nap ensued.

**Bigfoot Barleywine- Sierra Nevada Brew Co., (American Barley Wine): Unranked**

As far as barley wines go, this is a pretty mild beer. Your normal barley wine is in the 13 percent plus level. What this beer lacks in alcohol by volume it makes up in taste. Most people don't know beers can keep and get better with age, provided you store it properly. For the sake of the review, I will comment on the Bigfoot I enjoyed on tap, but I recently opened a 2001 12-ounce bottle of this stuff and it was phenomenal. The tap beer pours a hazy copper-brown with a head that is non-existent. It is not often that the alcohol comes through in a beer's taste, but it certainly does here. It has a full up-front sweet and toasted caramel taste. Sip it slowly and enjoy its silky texture as it coats your tongue. I don't know what it is but the beer sneaks up on you. If you are into rum cakes, barley wine works extremely well. I'll get my mom on this one stat, she also makes a killer meatloaf. Bigfoot complements a nice cigar and makes for a good beer to share with a friend.

A big thank you to Jennifer for letting me usurp her beer review. I enjoy writing about beer almost as much as I enjoy drinking it.

\*The scores are not based on perfection, they are independent, subjective rating of the world's greatest beers.

### From Hatred, page 4

President's Advisory Board on Inclusion & Diversity (PABID) <http://www.sandiego.edu/inclusion>.

Hate is hate is hate. Whether it is directed at women, African-Americans, Latinos, Asians, American Indians, gays, the young, the old, Jews, Mormons, Catholics, the physically disabled, or the mentally challenged -- it is wrong, it is hurtful, and it should be despised and never tolerated.

We need to let everyone know that as a community, USD will not tolerate those who direct hate toward others. Right now, they live among us undeterred and uninformed. This cannot continue. We must strive to make things better.

### FORM A STUDENT OVERSIGHT TASK FORCE

Would law students be willing to form a student task force with undergrads to monitor the hate crimes/bias incidents and work with Public Safety and Residential Life to suggest constructive actions/reactions to such incidents, as well as to follow-up on the results of each investigation? This task force would serve as an on-campus "watch dog" that would make sure that these incidents are not forgotten. If you are interested, contact me! We know the law, and we have the ability to help here. *Because, if we do nothing, we are collaborating in the hate.*

*"Because, if we do nothing, we are collaborating. We are complicit. So we the citizens have to take responsibility. That's why it's important--for our own conscience--that each individual, you can't stand back. And you can't just sit on the couch, let this happen, and say, 'I'm not a part of this, I'm not doing anything.' While you're just sitting there, not doing anything, you're complicit in letting it happen."*

■ Ann Wright, former U.S. Diplomat