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University of San Diego School of Law Student Bar Association

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# MOTIONS

University of San Diego School of Law

Volume 37, Issue 6

March 2002

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L-R: Assistant Coach Lisa L. Hillan, Emily Burns, David K. Leatherberry, Amy Rose, Matt Beran, Jessica Matulis, Joseph Charles, Krishna Haney, Shaka Johnson, Shauna Durrant, Sam Sherman, Katherine Pasieta, John Elworth, Theresa A. Alldredge, Kevin W. Messer, Samantha Kuper Feld, Ben Benumof, Christopher J. Capalbo, Head Coach Prof. Richard "Corky" Wharton  
 Not pictured: Keith Bruno, Ash Hormozan, David A. Huch, Salwa Adly Issa, Jessica Mitchell, Brett Norris, and Stephanie Sato.

## Looking for a Few Good Lawyers: USD Mock Trial Team

By Tom Ladegaard

Sixteen years ago Professor Richard Wharton, a USD graduate, was asked by the Association of Trial Lawyers of America (ATLA) to enter a trial team at the last minute in the Western Regional Competition. The students, whom he had selected from the hallway, did much more than win the regional competition... they placed second in the national competition.

Since then the team has consistently placed between first and third place in various competitions, including the San Diego Defense Lawyers Competition, the Consumer Attorneys of San Diego Competition, the Texas Young Lawyers National Trial Competition, and the ATLA Competition. Head Coach Professor Wharton, who also teaches the Civil Practicum and Environmental Clinic, is teamed with Assistant Coach Lisa Hillan, another USD graduate.

Team members are chosen during their second year based on their performance in a closing argument competition. Students are selected based on their overall presentation skills and their ability to present a cogent theory of the case.

Beginning this year, the top one or two competitors in the Spring ATLA Chapter Intramural Mock Trial Tournament will be invited to join the team. The tournament will be held on April 5th & 6th. Besides being an alternative forum for making the team, the tournament is a strong resume builder. There is no writing component for this tort competition, and no outside research is allowed, except the Federal Rules of Evidence.

The mock trial team provides a unique opportunity for students to obtain rigorous training in civil litigation. Each student typically competes once in the fall and once in the spring. Preparation begins six weeks before each competition, and practice sessions are scheduled four or five days a week, lasting three or four hours. Case materials can exceed two hundred pages. Needless to say, this entails a substantial commitment on

the part of the student. When asked how team members are able to maintain their substantive courses, Matthew Beran, 3L, says efficient study habits and effective use of time are essential. The competitions typically end about a month before finals. Beran, who plans on becoming a JAG, already has convictions under his belt in military tribunals.

Second-year students do not participate as attorneys in the competitions, but are present throughout all phases of preparation and serve as a witness pool. Sam Sherman had the recent opportunity to serve as a witness for his team, and he said that second-year students learn as much as the third-year students do. Second-year students are not unlike "red shirts" in college sports.

Professor Wharton says students should try out because this is the best way to learn how to be a trial attorney, for it is like being in a flight simulator for two years. There are no prerequisites to join. Past judges have told Wharton that the teams are better than 90% of the licensed practitioners that appear before them. Professor Hillan, who was inspired to attend law school while serving as a juror, says this is the best thing one could do while in school. Besides being a confidence builder, this experience turns students into competent, employable attorneys as soon as they pass the bar.

The ATLA competitions are usually tort cases, including wrongful death, products liability, and malpractice. They tend to be technical in nature. The competitions are broken down into components including: opening statement, direct & cross-examinations, closing argument, presentation of evidence, and objections. Although judges inevitably apply their own subjective experience, they look for universal presentation skills.





# The Dean's Corner



University of San Diego  
SCHOOL OF LAW

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## ADMINISTRATIVE REVIEW

Carrie Wilson  
*Dean of Student Affairs*

From the Dean's Corner:

The University of San Diego is sad to report the death of one of its greatest benefactors and friends. Katherine M. Pardee died on February 17 at her home in Indian Wells, California. She was 69.

The generosity of Katherine Pardee, along with that of her husband, George, is readily apparent to anyone in the Law School community. Our Legal Research Center which bears the Pardee name is a tribute to their commitment and dedication to youth, education, and the betterment of society.

At the dedication ceremonies of the Pardee Legal Research Center in 1990, the Pardees were donors of the single largest gift in the history of the Law School. Former USD president Author E. Hughes expressed the gratitude of the university community for the great generosity which made the renovation and expansion of the law library possible. He stated, "The Pardees reflect the values, the generosity of spirit and the leadership qualities the university strives to instill in each of its students."

Mrs. Pardee will be remembered by a devoted husband, a loving family, a grateful University community, and numerous others as yet unknown who will one day come to this campus or pass through the doors of the LRC and grow in wisdom and knowledge thanks to the special gifts of a special lady.

\* \* \* \* \*

The Law School is hosting a conference on Professor Bernard Siegan's book *Property Rights: From Magna Carta to Fourteenth Amendment*, on Friday, March 15, 2002, in the Grace Courtroom. The all-day conference will bring together law professors, judges, and constitutional experts for a lively debate and discussion of Professor Siegan's book which breaks new ground in our understanding of the genesis of property rights in the United States. Siegan conducts an exhaustive examination of property rights cases decided by state courts between the time of the ratification of the U.S. Constitution in 1788 and the adoption of the Fourteenth Amendment in 1868. His study grapples with the standard interpretation that courts did little in

the way of protecting property rights in the early years of our nation, and provides overwhelming evidence that the American legal system, from its inception, has held property rights and their protection in the highest regard.

The Law School Institute for Law and Philosophy is presenting a Public Lecture on Wednesday, April 17, by Allen Buchanan, Professor of Philosophy at the University of Arizona and Fellow at the National Humanities Center in North Carolina. Professor Buchanan will speak on ethics in the war on terrorism. Public lectures are just one forum of this Law Institute which was established by the USD School of Law to encourage debate among legal scholars and to increase awareness of legal theory within the legal and academic communities. Lectures, judicial seminars, and academic roundtables provide varied fora for scholars, practitioners, academics, and law students to meet and discuss topics in law and philosophy.

Watch for detailed information about these and other events.

Dean Daniel B. Rodriguez



## Give a Day, Make the Dean Pay!

### Loan Repayment Assistance Program Fundraiser held March 11th - 15th

Remember when you applied to law school? You wrote a personal statement that said something akin to, "I want to make the world a more just place for the little people." Then reality set in. You learned that parking tickets are rarely reversed on appeal and the books you need are almost never the ones with the "used" sticker on it. Somewhere along the way, you realized that if you want to have a reasonable lifestyle that includes such luxuries as oh... let's say eating, that money does matter.

Despite these realities, there are students who leave USD and pursue their original passions, all for whopping average salaries of \$38,500. They are public interest attorneys. Public interest attorneys work to empower the underrepresented and advance responsible public policies. They work in areas such as environmental law, immigration law and child advocacy law.

Public interest attorneys are in desperate need of funds to help defray the crushing debt of law school loans. The Public Interest Law Foundation (PILF) works every year to take a little bit of the bite out of this difficult situation that many USD alums are in by raising money for the Loan Repayment Assistance Program (LRAP). LRAP grants are awarded to USD alums with more than \$48K in debt and salaries of less than \$40K.

The annual LRAP fundraiser will be held from Monday, March 11th through Friday, March 15th. A donation can be made at a LRAP table set up in the main lobby of the law school. Students, faculty and staff are encouraged to give generously and help defray the loan debt of USD alums who are working hard for low salaries. If the warm glow of giving isn't enough to convince you that this is a worthy cause, perhaps the fantastic prizes for the highest donations each day will.

Last year, the generous contributions of faculty, staff, and students generated over \$15,000. Dean Rodriguez graciously matched these funds, thus raising the annual total to over \$30,000. Due to this generosity, three recent alumni were awarded grants, totaling almost \$15,000. The Dean has again pledged to match donations made to LRAP during the weeklong "Give a Day, Make the Dean Pay" fundraiser.

Your support goes much further than the actual money that you contribute. It sends a message to your classmates, your professors and the administration that you value the work of USD alums. Please give generously and help make a difference for USD alums who are doing valuable legal work that benefits society.

For Information, please call 619-260-4600 ext. 4343 or email [motions@sandiego.edu](mailto:motions@sandiego.edu)

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, 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. Special thanks to Kathleen, a senior high school student who provided artwork in this issue.

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



# FINANCIAL AID UPDATE

Are you a 1st or 2nd year law student who is currently receiving Financial Aid – scholarships, grants, loans, or workstudy, and are you planning on needing this financial aid for next year (Summer 2002 – Spring 2003)? If yes, have you filed both the FAFSA and the USD Institutional Financial Aid Applications for 2002-2003? If no, contact the Financial Aid Office immediately because March 1, 2002 was the priority date!!!

## Summer Off-Campus Federal Workstudy and Summer Community Service Grants

Summer Off-Campus Federal Workstudy and Summer Community Service Grant applications were put in your student mailbox. The applications must be submitted by April 5, 2002. For additional applications or information, contact the Financial Aid Office.

## Are Graduating in May?

All graduating students who received loan assistance at any time while in attendance at USD School of Law are required by Federal regulation to complete and attend an Exit Counseling session. The entire program is approximately one hour in length. The times and dates are as follows:

Monday, April 15, 2002

9:00 a.m. Warren Hall, Room 2A

11:00 a.m. Warren Hall, Room 2A

Tuesday, April 16, 2002

10:00 a.m. Warren Hall, Room 3B

12:00 p.m. Warren Hall, Room 3B

4:00 p.m. Warren Hall, Room 3B

Wednesday, April 17, 2002

9:00 a.m. Warren Hall, Room 3B

12:00 p.m. Warren Hall, Room 3B

Please sign up in the Office of Financial Aid (Warren Hall 203) or call 619-260-4570.

## "Can I afford not to take that job" Workshop:

In cooperation with USD's Career Services office and a prominent speaker on career management, the Financial Aid Office is pleased to sponsor a lively presentation on where to live, work and lifestyle transitions once you pass the bar!! Food will be provided. Please sign up now in the Financial Aid Office. The dates and times are as follows:

Tuesday, April 23, 2002      12:00 – 1:00      Warren Hall, Room 3B

Wednesday, April 24, 2002      12:00 – 1:00      Warren Hall, Room 3B

## Admissions

Campus Visit Days 2002

Help the Admissions Office bring in the Class of 2002 by being available for admitted students during the 2002 Campus Visit Days. Various areas to volunteer include: Continental Breakfast Mingling (8:30a.m. – 9:00a.m.), Campus Tour Guide (sometime between 9:00a.m. and 11:30a.m.), and Room Escort/Lunch Mingling (11:50a.m. – 1:00p.m.). Volunteers are needed for the following Campus Visit Days:

Monday, March 18

Monday, April 8

Monday, April 22

Volunteer Sign-up forms are available in the Admissions Office or contact Trish Hodny at [hodny@sandiego.edu](mailto:hodny@sandiego.edu) or 619-260-6891.



# SPRING 2002 FINAL EXAMS

## USD SCHOOL OF LAW FINAL EXAM SCHEDULE SPRING SEMESTER 2002 (As of 2/28/2002)

<u>DAY</u>	<u>DATE</u>	<u>TIME</u>	<u>COURSE ID</u>	<u>COURSE</u>	<u>PROFESSOR</u>	<u>WRITING ROOM</u>
Tuesday	February 5, 2002	8:00am	381AO1	Fun Rghts in Europe	Scoffoni	
Monday	March 5, 2002	1:15pm	987AO1	Valuation	Laro	
Friday	March 15, 2002	8:30am	104AO1	Acct Securities Lwyr	Devitt	
Thursday	April 25, 2002	5:00pm	707AO1	School of Law	Kemerer	
Monday	May 6, 2002	9:00am	O60AO1	Criminal Procedure I	Kamisar	
Monday	May 6, 2002	9:00am	185AO1	Bankruptcy	Wiggins, M.J.	
Monday	May 6, 2002	1:30pm	110AO1	Administrative Law	Rappaport	
Monday	May 6, 2002	1:30pm	244AO1	Complex Litigation	Schulman	
Monday	May 6, 2002	1:30pm	511AO1	Judicial Lawmaking	Ursin	
Monday	May 6, 2002	6:00pm	290EO1	Crim.Procedure II	Huffman	
Monday	May 6, 2002	6:00pm	753EO1	UCC:Sales	Speidel	
Monday	May 6, 2002	6:00pm	925EO1	Estate Planning	Lilly	
Tuesday	May 7, 2002	9:00am	O10AO1	Civil Procedure A	Martin	
Tuesday	May 7, 2002	9:00am	O10BO1	Civil Procedure B	Brooks	
Tuesday	May 7, 2002	9:00am	O10CO1	Civil Procedure C	Bratton	
Tuesday	May 7, 2002	1:30pm	215AO1	Civil Rts.Litigation	Budd	
Tuesday	May 7, 2002	1:30pm	680AO1	Remedies	Kelly	
Tuesday	May 7, 2002	6:00pm	275EO1	Corporations E	Dessent	
Tuesday	May 7, 2002	6:00pm	975EO1	Tax Litigation	Carpenter	
Wednesday	May 8, 2002	9:00am	O90AO1	Tax I	Snyder	
Wednesday	May 8, 2002	9:00am	330AO1	Employ.Discrimination	Sullivan	
Wednesday	May 8, 2002	9:00am	655AO1	Public Int'l. Law	Schwarzschild	
Wednesday	May 8, 2002	1:30pm	O55AO1	Constitutional Law A	Zacharias	
Wednesday	May 8, 2002	1:30pm	O80BO1	Prof. Responsibility A	Hartwell	
Wednesday	May 8, 2002	1:30pm	351AO1	Envirnmtl. Law Seminar	Mulliken	
Wednesday	May 8, 2002	6:00pm	188EO1	Biotechnology Law	Fuller/Altman	
Wednesday	May 8, 2002	6:00pm	904EO1	Adv. Corp. Tax Problems	Shaw	
Thursday	May 9, 2002	9:00am	O40AO1	Torts A	Nolan	
Thursday	May 9, 2002	9:00am	O40BO1	Torts B	Ursin	
Thursday	May 9, 2002	9:00am	O40CO1	Torts C	Wonnell	
Thursday	May 9, 2002	1:30pm	O80BO1	Prof. Responsibility B	Zacharias	
Thursday	May 9, 2002	1:30pm	354AO1	Contemp/Toxic Torts	Nolan	
Thursday	May 9, 2002	1:30pm	538AO1	Law & Economics	Wonnell	
Thursday	May 9, 2002	1:30pm	653AO1	Public Int. Law/Practice	Fellmeth	
Thursday	May 9, 2002	6:00pm	O40EO1	Torts E	Heriot	
Thursday	May 9, 2002	6:00pm	380EO1	Federal Jurisdiction	Bratton	
Friday	May 10, 2002	9:00am	267AO1	Copyright Law	Abbati/Albert	
Friday	May 10, 2002	9:00am	275AO1	Corporations A	Dallas	
Friday	May 10, 2002	9:00am	480AO1	International Tax Planning	Pugh	
Friday	May 10, 2002	1:30pm	459AO1	Intl. Criminal Law/Hum.Rt.	Pugh	
Friday	May 10, 2002	1:30pm	525AO1	Labor Law	Wolds	
Friday	May 10, 2002	1:30pm	668AO1	Real Estate Finance	Rauschenbush	
Saturday	May 11, 2002	9:00am	O70EO1	Evidence	Devitt	
Saturday	May 11, 2002	9:00am	745AO1	Trusts & Estates A	Spearman	
Saturday	May 11, 2002	9:00am	940EO1	Inc.Tax Trust/Estate	Harris	
Monday	May 13, 2002	9:00am	O55BO1	Constitutional Law B	Alexander	
Monday	May 13, 2002	1:30pm	712AO1	Securities Regulations	Prakash	
Monday	May 13, 2002	6:00pm	720EO1	Sports Law	Adler	
Monday	May 13, 2002	6:00pm	745EO1	Trusts & Estates E	McCouch	



Tuesday	May 14, 2002	9:00am	O2OAO1	Contracts A	Smith
Tuesday	May 14, 2002	9:00am	O2OBO1	Contracts B	Kelly
Tuesday	May 14, 2002	9:00am	O2OCO1	Contracts C	Claus
Tuesday	May 14, 2002	6:00pm	O21EO1	Contracts E	Wonnell
Tuesday	May 14, 2002	6:00pm	O5OEO1	Civil Procedure	Heiser
Wednesday	May 15, 2002	1:30pm	O55CO1	Constitutional Law C	Siegan
Thursday	May 16, 2002	9:00am	O3OAO1	Property A	Minan
Thursday	May 16, 2002	9:00am	O3OBO1	Property B	Alspaugh
Thursday	May 16, 2002	9:00am	O3OCO1	Property C	Wiggins, M.J.
Thursday	May 16, 2002	6:00pm	O3OEO1	Property E	Sherwin
Thursday	May 16, 2002	6:00pm	O55EO1	Constitutional Law E	Schwarzschild

**TAKE HOME EXAMS:**

Professor	Course
Baron/Dalton	Sp. Educ. & The Law
Spidel	Int'l Arbitration
Ferguson	Corp. Reorganizatns
Evans	Cyberlaw
Burke	Tax II

## Requests for Spring 2002 Exam Accommodations Are Due in Records by

### FRIDAY, 22 MARCH - NO EXCEPTIONS

#### Included:

- \* Exam conflicts (two exams on the same day or following each other)
- \* Typing on your own typewriter
- \* Using SofTest on your laptop computer
- \* Disabilities
- \* Foreign Language (for some LLMC students)

#### LAPTOP USERS WHO WANT TO USE SOFTEST

Those Who Qualified to Use SofTest in Fall 2001 (whether SofTest was used or not)

- \* Submit Request to Records by FRIDAY, 22 MARCH - NO EXCEPTIONS

#### All Other Laptop Users Who Want to Use SofTest

1. Link to <http://www.examsoft.com/>
2. Read and follow all steps in the "Download and Registration Process" section of <http://www.examsoft.com/> CAREFULLY AND COMPLETELY.
3. Technical questions, if not in FAQ above: [support@examsoft.com](mailto:support@examsoft.com)
4. Confirm that your copy of the software is registered and that you are qualified to use SofTest by WEDNESDAY, 20 MARCH.
5. Submit Request for Accommodation to Records by FRIDAY, 22 MARCH - NO EXCEPTIONS



# EDITORIALS

## Where Were the Lawyers?

### A perspective on Enron

By Watson Branch  
Section Editor

Over a decade before the Fall of Enron, in another celebrated example of the corporate greed and overreaching that have become the hallmarks of American capitalism, federal Judge Stanley Sporkin, presiding over the Lincoln Savings & Loan Association case, asked some disturbing questions about the role of lawyers in the S&L debacle.

The head of Lincoln, Charles H. Keating, Jr., had testified that his strong intention to do the "right thing" had caused him to surround himself with scores of lawyers and accountants to make sure all transactions were legal. This prompted Judge Sporkin to ask,

*Where were these professionals, a number of whom are now asserting their rights under the Fifth Amendment, when these clearly improper transactions were being consummated?*

*Why didn't any of them speak up or disassociate themselves from the transactions?*

*Where also were the outside accountants and attorneys when these transactions were effectuated?*

Judge Sporkin found it difficult to understand why, with all this professional talent involved, "at least one professional would not have blown the whistle to stop the overreaching that took place in this case."

Exactly the same concerns can be expressed today about the role of lawyers in the Enron collapse. And the answers to Judge Sporkin's questions expose a moral void that seems to lie at the heart of legal training and the legal profession.

#### The Best and the Brightest

What better example of the problem than the lawyer whom Keating hired to defend Lincoln against the government's thrift regulators who wanted to examine the S&L. Here was a magna cum laude graduate of Harvard Law School, a former clerk for Justice Brennan, a man who had also been deputy secretary general of the Peace Corps and a campaign aide to Bobby Kennedy, and who had risen to the top of a big New York City law firm. Yet, as Steve France pointed out in a 1991 article in the ABA Journal, this lawyer transformed the oversight process into an adversarial battle, marshalling troops of attorneys to impede the government's investigation, threatening to sue the regulators, and in effect allowing Keating to control the S&L for two years after the regulators had recommended it be taken over.

The criticism of this behavior was widespread among public interest groups, but this man's law partner defended him, saying that his standard was the standard of all lawyers. What he did "was what lawyers should do. It was what he was supposed to do, what society expects lawyers to do — help his client."

"Help his client." Is this, with the emendation of "his" to "his or her," to be the guiding principle for lawyers, especially those who have corporations and other entities as clients? Perhaps so, or at least that could be inferred from an examination of Rule 1.13 of the ABA Model Rules of Professional Conduct, "Organization as Client." Under this provision, a lawyer who "knows" that someone associated with the organization is acting in a manner that is a violation of a legal obligation "to the organization" or a violation of law "that might be imputed to the organization" AND is likely to result in substantial injury "to the organization," such a lawyer "shall proceed as is reasonably necessary *in the best interest of the organization.*" (Emphasis added.) The Rule outlines the allowable measures the lawyer may take, but any of them "shall be designed to minimize disruption of the organization and the risk of revealing information relating to the representation to persons outside the organization."

Who are such "persons"? The government's thrift regulators in the Lincoln S&L case? Or the S.E.C. or Members of Congress (to say nothing of present or potential shareholders) in the Enron situation? It appears that Keating's attorney served him well and very professionally, and the same may be said of the 245 lawyers in Enron's internal law office and those who worked on the Enron matter for the Houston firm of Vinson & Elkins.

#### Protecting the Client's Interests

Of course under Rule 1.13, if the organization's lawyer cannot convince its authorities, including the highest (Charles Keating or Ken Lay, for example), to refrain from an act that is "clearly a violation of law *and* is likely to result in substantial injury to the organization, the lawyer *may* resign" (emphasis added), but only

in accordance with Rule 1.16, under which he or she is required to take steps to "protect the client's interests." Not much room for effective whistleblowing here.

But who would want to resign from Enron? A cadre of 145 lawyers worked in Enron's Houston office, lured there, according to heads of the city's law firms, by competitive pay combined with stock options. In Houston, the starting pay in the big firms is about \$110,000, and, before things fell apart, the offer of stock options in a growing company made Enron particularly attractive. Did any one of those 145 lawyers who happened to be aware of the questionable practices at Enron ever resign or even raise objections concerning the behavior of the officials in charge of the company? Not that we know of.

The record of Vinson & Elkins, hired to look into the financial irregularities alleged by Enron VP Sherron Watkins, a trained accountant, is no better. In fact, in a Forbes article by Dan Ackman, their investigation is characterized as appearing "worthy of Inspector Clouseau." V&E chose to limit its own investigation by deciding not to second-guess the accounting advice from Arthur Anderson, a decision that greatly diminished the chances of discovering misdeeds. Ackman quotes University of Cincinnati law professor Jack Chin as saying, "The problem may be this type of law practice: management hiring lawyers to investigate management. Bulldog investigators who issue hard-hitting reports are not going to get a lot of business." No wonder, then, that V&E failed to ask hard questions or to interview important witnesses or to make unpleasant recommendations. After all, in 2000 V&E billed Enron between \$27 million and \$30 million for its services to the organization. Any rigorous, honest, comprehensive report by V&E might offend the officers at Enron, and they could quickly put an end to all those billable hours.

#### The Lesson Not Learned

At the close of his "Conclusions of Law" in Lincoln, Judge Sporkin wrote, "One of the great attributes of this nation is it learns from its mistakes. It is clear that this case should provide all of us with a very valuable learning experience. If the lessons are learned well, we will have gone a long way in preventing these abusive activities from recurring in the future." It does not appear that we have learned all that much in the intervening decade. Another large corporate enterprise has gone down in disgrace, thanks to deceitful practices of the people at the top. And when such a corporation falls, it takes down with it those who had placed trust in the organization, whether as depositors or shareholders or employees (or as taxpayers, left to clean up the mess). And again we might ask, "Where were the lawyers?"

#### Got an opinion?

Agree/disagree with one of the  
Opinion writers?

Let us know!

Write us at MOTIONS by dropping off a letter or article in the MOTIONS box next to student mailboxes or email us at [motions@sandiego.edu](mailto:motions@sandiego.edu).

You can also reach us through the editor at [cpangan@sandiego.edu](mailto:cpangan@sandiego.edu)



# OPINION

## PETA & Al Qaeda?

By Tom Ladegaard  
Section Editor

Richard Berman, the executive director of the Center for Consumer Freedom, testified before a congressional subcommittee that the government should wage war against "ecoterrorism" the same way it has waged war against Al-Qaeda — by cutting off its financial support. Berman maintained that People for the Ethical Treatment of Animals (PETA) has been providing financial support for such "terrorists."

(Disclaimer: I am limiting the scope of this article because every source I have encountered has yielded ten. To prevent having to write a treatise on environmentalism, many viewpoints and fundamentals have to be left out. In other words, I don't want to begin this article with the first Earth Day in 1970...)

"If you build it, we will burn it." This message was painted in red on one of many homes that were blown up on Long Island last year. The Earth Liberation Front (ELF) proclaims that it will not tolerate destruction of the environment, and proudly accepts responsibility for the explosion. The targeted homes were being built on a former peach farm, an area ELF claimed was environmentally sensitive. ELF also claimed responsibility for arson at the Vail ski resort in 1998, an opposition to its expansion attempts. The homepage of ELF's website shows a picture of a burning building at night, in what appears to be a snowy mountainside. The caption reads, "Every Night is Earth Night."

Frustrated by Earth First!'s unwillingness to resort to crime to protect the environment, a few members broke off and formed ELF. They believe

that the only way to make industry pay attention is to hit it in the pocketbook, by destroying property. ELF and its "elves" have managed to elude law enforcement, despite claiming responsibility for 67 acts of ecoterrorism last year. Craig Rosebraugh, ELF's spokesperson, when subpoenaed to testify before the subcommittee, took the Fifth Amendment. Noting that only victims of ecoterrorism and law enforcement were included at the hearing, and no environmental groups were present, ELF cites this as evidence that the government serves corporations, not the people.

ELF is considered an outlaw not only by its victims and law enforcement, but also by other environmental groups. I believe that ELF has only been successful in shooting its own mission in the foot, and in creating further division in a movement that desperately needs unity. Environmentalists, who were once branded as hippies and tree-huggers, have come a long way in establishing legitimacy. When the public speaks out, legislation and initiatives are passed, and lawsuits are filed, progress is made. When a well-intentioned environmental organization becomes frustrated and starts blowing things up, environmentalism and terrorism become one in the eyes of the government.

Environmentalism and terrorism, I thee wed. Webster's Dictionary defines terrorism as "the use of force or threats to intimidate, especially as a political policy." Here, ELF is clearly using force, and it has sent threats to many a logger. Its policy is clear, it is an anti-capitalist call to re-prioritize the environment over economics. To complete the IRAC, this is terrorism. The policy I don't disagree with. My land ethic is simple: there is tension between the environment and economics. I believe that the environ-

ment must come first because if it is ruined, there can be no such thing as economics. I agree with the objectives but I disagree with the means. I wonder if the founders of ELF took Fight Club a little too seriously?

On the other hand, I find ELF's counterpart, the Center for Consumer Freedom, equally suspect. When I visited [www.consumerfreedom.com](http://www.consumerfreedom.com) the first thing I noticed was the dot com! They maintain an impressive website full of right wing propaganda that would make Rush Limbaugh squeamish. They perceive every attack on corporate America as a libelous affront on "the public's right to a full menu of dining and entertainment choices." Yes, you read correctly. All of the website's contents are one-sided and sarcastic refutations of any criticism that has been made about the food and beverage industry. The website is run by an association of restaurant and tavern owners! And they were called to testify before congress against ecoterrorism! If you want a good laugh, and enjoy reading between the lines of public relations propaganda, I highly recommend visiting their website.

To conclude, I am saddened that some environmentalists feel they must resort to violence, because when they do so, they really are no more than terrorists. True, they have not yet physically injured one human being, but that might be only a matter of time. (I wonder if the leader is a schizophrenic like in Fight Club?) On the other hand, we should hesitate to jump to conclusions about anything, even "ecoterrorists," especially when information is tainted with financial interest.

## Letters

Send letters/opinion articles to MOTIONS at [motions@sandiego.edu](mailto:motions@sandiego.edu).

### There should be 'DARKNESS AT GUANTÁNAMO BAY':

#### An Editorial Response

By Brian Lawler

If one believes our esteemed colleague Mr. Branch and other critics of the War on Terrorism, the conduct of the U.S. military holding the Al-Qaeda and Taliban prisoners at Camp X-Ray in Cuba should be open to public view and, inherently, scrutiny. This opinion is shared by many and is based in large part on the media showing the public some pictures of a few prisoners (or detainees) in various levels of detention at the hands of their guards. They are shackled, handcuffed, blindfolded and placed on their knees, as Mr. Branch correctly has observed. No one disputes this. So the only comment I have in response to this position is, "So what?" They are in captivity for hostile acts against the United States and present a danger to their captors if not secured. No one is suggesting that they are being starved, beaten, or otherwise mistreated so where is the issue?

Do the critics of our handling of the prisoners in Cuba and the war in Afghanistan truly expect that every action undertaken by the U.S. military during a time of war will be made public? One wonders if the term "national security" has lost its meaning when the advocates of free speech and the "public's right to know" begin trumpeting their horns and claiming that the military left unchecked will run amok and take over the

world. There are defined goals in both the theater of operations and at the detention facility in Cuba that have been adhered to from the beginning of this conflict. The public need only know that they are being accomplished, not the specific manners in which they are carried out. I respectfully disagree with Mr. Branch's characterization of the Administration's "appalling arrogance" and "half-truths and double talk" and instead suggest that the government is handling this exactly as it should be by giving out just the right amount of information to keep the people informed... to a point.

Geneva Convention, "prisoner of war," "unlawful combatants" and "detainee" are terms that cloud the issue and hide the one fact that U.S. military forces in a combat situation captured and detained these terrorists before they could bring more harm to American citizens. Under what guise do we "owe" them anything? Morality? Ask the families of the nearly three thousand dead in the attacks of September 11th if we have a moral duty to coddle the prisoners captured during the war on terrorism. Legality? No one has proven the illegality or really questioned the legality of the detentions, but rather the manner in which the prisoners are held. Their fundamental rights have not been taken away from them. They are living and breathing. One cannot say the same for the thousands in New York and Washington, D.C.

Isn't it about time we let the military and intelligence agencies do what they are trained to do and run their show without undue criticism and complaints from those who would seek to undermine their efforts with unnecessary pleas for humanity and justice? This is justice. In its simplest, most effective form, justice is being served by these people being in captivity. I just hope we have room for the rest of them.

### Constant struggle for parking

Is there anything that can be done about parking?! It seems that this has always been a problem, yet nothing is being done.

If some buildings have reserved parking, why can't the law school?

Why can't the law school parking lot be reserved for those in the law school building? It is absolutely ridiculous that we pay money for a parking permit that rarely gets used once undergrad students begin classes.

How many times have I either parked across the street or simply given up on going to a class because I could not find parking?

In my time here at USD, the parking situation has become progressively worse each year. Warren Hall should have its own parking lot (like Caminos and Founders). Maybe then more of us would go to class or get there on time. Some of us have jobs that don't allow us to come to school at the leisurely hour of 7am just to get a spot.

- Disgruntled law student



## The Importance of Being Earnest: The Impact of Meaning What You Say

"...What do you call ten thousand lawyers at the bottom of the sea...A good start"

By Rhonda Moore  
Section Editor

Have you ever left some little detail out of a story because it portrayed a less than flattering image of yourself? Fudged a deadline? "Borrowed" work from someone else? Kept a secret from someone you considered a friend? Told a secret after being sworn to secrecy? How about telling a little white lie to spare someone's feelings? Has that lapse ever come back to haunt you? Made a promise that you failed to keep? Ever desperately needed to ask that very same person for a favor later? What are the chances of them helping you out of your jam? When was the last time you actually considered the words coming out of your mouth? And how long do you think people will remember them?

One of the most puzzling issues of our time is society's attitude toward truth and lying. Not too long ago, answering yes to too many of the questions posed above could cause a person to question your integrity. At the very least, it removed any leeway you had to make a mistake. But somewhere between 1962 and 2002, the appearance of correctness became more important than actually being correct. Many forms of lying are no longer categorized under the heading of falsehoods. Political "correctness" and "spinning" are part of the social interaction standard among lawyers, politicians, activist judges, media, as well as the public at large. As long as everything looks okay, the lie is not considered insidious or malevolent. People accept the lie as necessary and cast few disparaging remarks or looks in the direction of the...storyteller. Everyone always wants to say things nicely, be inoffensive and polite regardless of what they truly feel or think. Yet no one seems willing to deal with the consequences of choosing to live this way; no seems willing to deal with the truth.

The truth is, we lie to be nice, we lie to avoid trouble, we lie to spare feelings, we lie to hide misdeeds, we lie to delude ourselves, and we lie simply because we can. We lie and lie and lie and lie until eventually even the person telling the lie forgets it is not the truth. As a result, no one's word has the strength it once did. Promises are easily made and just as easily broken. People believe that to successfully compete in this rapidly changing world full of conflicts, duplicity, and half-truths, they must either learn the new rules of self-protection in the social game of manipulative interaction or become losers. When people are headlong in pursuit of a goal, they tend to get tunnel vision; as a result, people manipulate others. According to many psychologists and sociologists, adapting through deception, particularly in crisis, is part of our animal

heritage. Our thought processes, protective of our emotions and self-image, are perfectly suitable for the task of lying. If lying is never addressed at all, people function without a clear sense of truth and falsehood, and eventually lose all understanding of the importance of honesty in personal and social relationships.

Duplicity and lying are intentional misrepresentations of reality. Telling a lie is a very effective means of controlling not only the people around you, but their view of the world around them as well. Your words and actions shape their perception. Adults control their children by lying. Withholding information they believe to be harmful or in conflict with what they personally believe. Sometimes, loving parents choose to tell their children out-right lies rather than face the difficulties the truth creates. Thousands of dollars are spent every year by people trying to reassemble their lives in the wake of long-kept secrets and half-truths once buried coming to light. Finding out one's entire life is based on a lie can easily devastate even the strongest person.

The government controls its citizens by shaping not only their current perception of the world through television, books, magazines and newspapers but by vigorously controlling the information widely available through education. How we see ourselves and our place in the world depends upon the words of others. Because honesty is so essential to society, being caught in a lie — especially a lie that impacts others — used to be something squarely avoided. An entire generation of American youth protested vigorously for what they believed — that all people were entitled to the unadulterated truth from the federal government about its actions abroad and among its own people. Their efforts led to the passing of bills like the Freedom of Information Act making it possible for any concerned individual to obtain files and answers throughout all levels of society.

Politicians spend unsightly amounts of time and money rabidly maintaining a pleasing public image because even the hint of impropriety is enough to bring down their house of cards. We expect a certain level of decorum from our public figures, but hardly hold them responsible for their misdeeds unless the discovery of their "sin" is too public to brush aside. The more the line between truth and falsehood blurs, the less the stigma of telling a lie is automatically associated with deceit and untrustworthiness. Telling a lie is punished less severely (or not at all) than getting caught in a lie. The golden rule is "tell the same lie twenty years from now that you tell today and everything will work out fine."

As lawyers, being taken at one's word is imperative not only to a lucrative and long lasting career but also to one free of continuous meetings with the ethics board. As a law student, being a person of your word not only reflects on your trustworthiness among your

peers, but formulates the basis of the reputation you will carry with you into practice. With very little effort anyone with a computer and Internet access can find more than 8000 articles, polls, reports and surveys directly relating to the rising number of suits and ethical sanctions filed against lawyers for malpractice through fraud. There are more than 500 joke cites totally dedicated to bashing lawyers, judges and politicians. In the court of public opinion, all lawyers fit the description of a liar. The public image of lawyers has never been very flattering but in recent history the characterization of lawyers as "oily, greedy ambulance chasers" seems less cartoonish and more like a descriptive phrase.

What do you do if your lack of credibility begins to hinder your ability to represent clients to the best of your ability? Which is easier, changing someone's opinion about what kind of person you are or putting out an oil fire in the middle of the ocean? Which would you rather try? Once someone doubts you, they will doubt you forever. Because of the nature of our society, that person is hardly likely to keep their opinion to themselves. You may have a very different reputation in the community than you believe. When exactly do you think it was formed? The first time you were caught in the act, or the tenth? People do not forget what they hear about other people, especially if it is bad.

As lawyers, it only takes one case to set your image in the legal community. If you renege on deals, show up late, come unprepared, depend more on your personality than your work, it will not take long before the adjective "shady" features prominently in the words your colleagues used to discuss you. Whether you believe it or not, your work is not always what forms your professional reputation. Drinking too much in public, making one too many off-color jokes, treating someone badly or dating just a little too "freely" among your colleagues is the fast and dirty way to destroy your reputation in and out of the courtroom.

There are times when the better part of valor is not telling a lie but keeping your mouth shut. When you are doing business think twice, speak once. You will be surprised at the effect it has. People will see you as solid instead of "slick". Suddenly your words carry weight. People pay attention when you speak. Being an honest and diligent attorney does not automatically put an end to any chance you may have of becoming prominent and influential. People want someone to stand up for them. They do not want their image tarnished by their choice of representation. If you want to be flashy, buy a nice watch. If you want to be a first-rate attorney, build a solid reputation. Then the lawyer jokes won't sound so personal.

### Joke Corner

### Cow Case

The following is yet another lawyer joke.

#### Cow Case

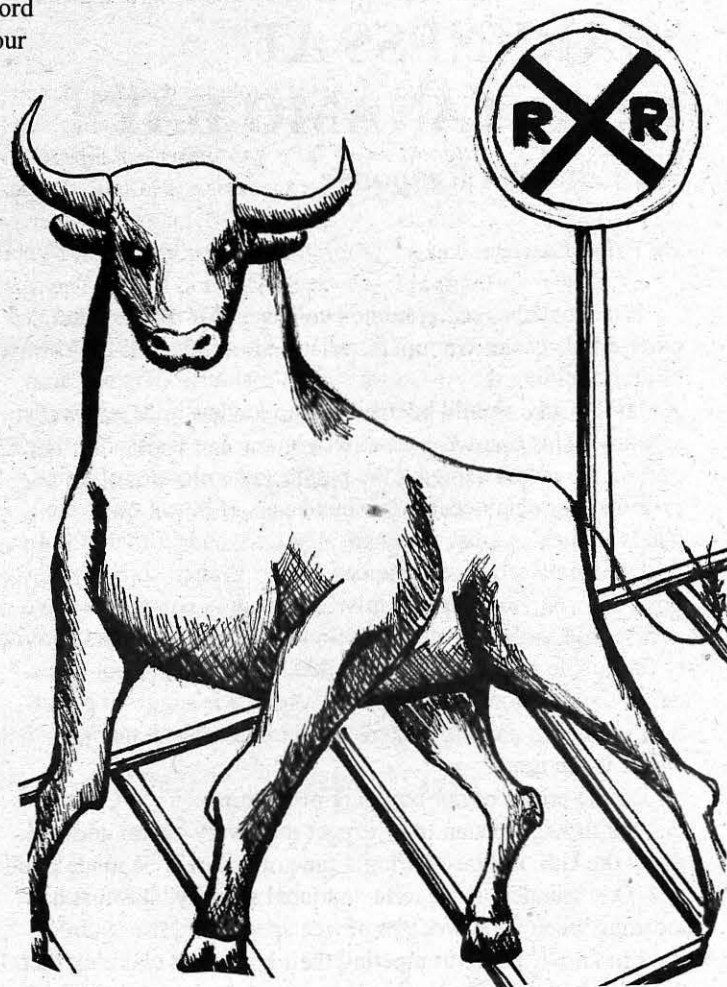
A big-city lawyer was representing the railroad in a lawsuit filed by an old rancher. The rancher's prize bull was missing from the section through which the railroad passed. The rancher only wanted to be paid the fair value of the bull.

The case was scheduled to be tried before the justice of the peace in the back room of the general store.

The attorney for the railroad immediately cornered the rancher and tried to get him to settle out of court. The lawyer did his best selling job, and finally the rancher agreed to take half of what he was asking.

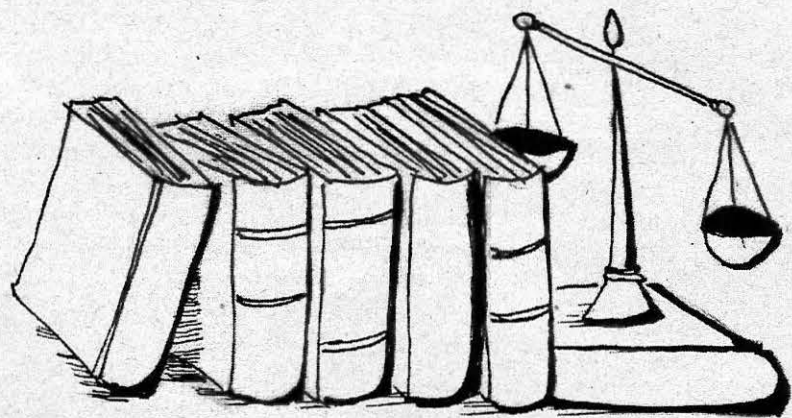
After the rancher had signed the release and took the check, the young lawyer couldn't resist gloating a little over his success, telling the rancher, "You know, I hate to tell you this, old man, but I put one over on you in there. I couldn't have won the case. The engineer was asleep and the fireman was in the caboose when the train went through your ranch that morning. I didn't have one witness to put on the stand. I bluffed you!"

The old rancher replied, "Well, I'll tell you, young feller, I was a little worried about winning that case myself, because that durned bull came home this morning."





# News from the LRC



\*\*\*\*\*  
 The law school recently added a wireless hub in the Writs. Students who purchase a wireless card can connect to the Internet without plugging into a data jack. The bookstore sells these wireless cards as well as the traditional Ethernet cards. If you have questions about purchasing cards or configuring your machine, please stop by Electronic Services in the Legal Research Center and speak with Owen or Robert.

\*\*\*\*\*  
 Financial Aid forms are almost as much a rite of spring as filing taxes. Be sure to keep in mind you can quickly access the FAFSA Internet site on the Legal Research Center's lab computers. It is a selection under the "Research" desktop icon. Again, contact Robert or Owen if you have questions at 260-4759.

## GOLF: The International Dispute Resolver?

By John Adkins  
 Head of Public Services, Legal Research Center

As Joanna Weiss wrote recently about getting the leaders of countries to end their conflicts: "If only sending the two sides off on a golf course... would work, the world would be a much more bearable place." (From "It's time already, it seems, to look back at Generation X," Boston Globe, page g5, 2/27/2002, © Copyright 2002 Globe Newspaper Company.)

Though far-fetched, the statement is probably all too true. Many legal, business, financial and personal problems are resolved during a game of golf. And although the *traditional* Rules of Golf govern how the game is played, Professor Jack Minan's *Golf Law: The Real Rules of Golf* has nothing to do with those rules.

As Minan writes in his preface to the work:

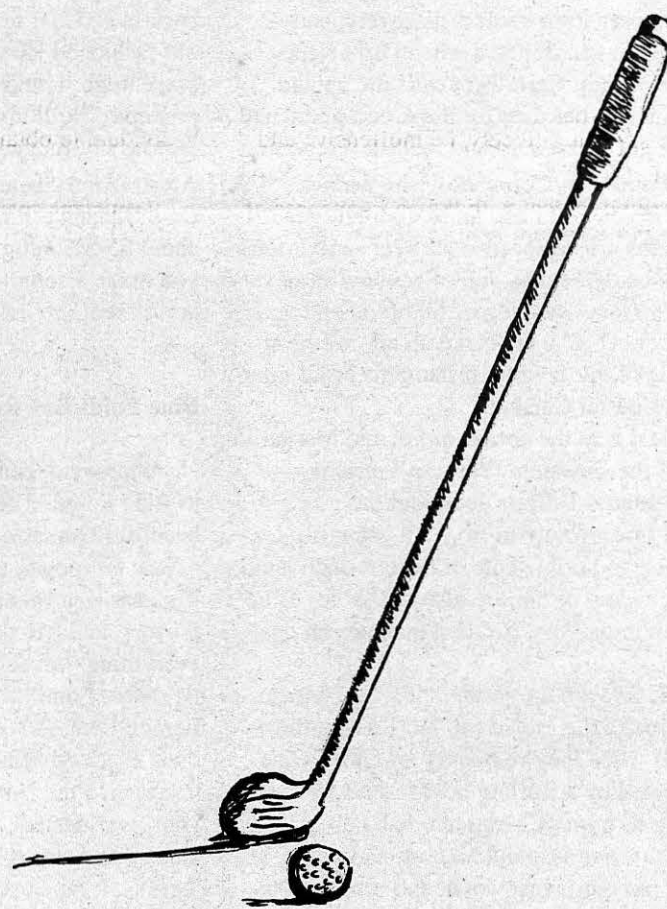
"Although this book deals with golf and the law, you do not have to be a lawyer or have legal training to enjoy "Golf Law..." My goal is to entertain and to enlighten the reader. All that you need to enjoy this book is a general interest in the game of golf and law..."

The chapters in the book are based on actual legal disputes that involve golf in one way or another. Each chapter is based on a different set of facts and presents a different legal issue. As you will discover, there are cases dealing with personal injury, contracts for cart rentals, damage to property... hole in one contests, endangered species golf course liability, fights with the Internal Revenue Service and more. The final chapter will be of special interest to any golfer who has hoisted a drink or two after finishing a round of golf." *Golf Law* at 2.

As an avid golfer and law professor, Minan was the perfect author for this entertaining, interesting, and fun book. Though he cautions the reader not to substitute it for legal advice, the situations are chosen so that anyone who knows about golf can easily put themselves in the players' situations.

So while golf may not yet become the chosen procedure for resolving international disputes, Minan's *Golf Law: The Real Rules of Golf* can help settle less grandiose — though still important — legal squabbles.

Check out Professor Minan's *Golf Law: The Real Rules of Golf* from the LRC Reading Room at KF 3989 .M56 2000.

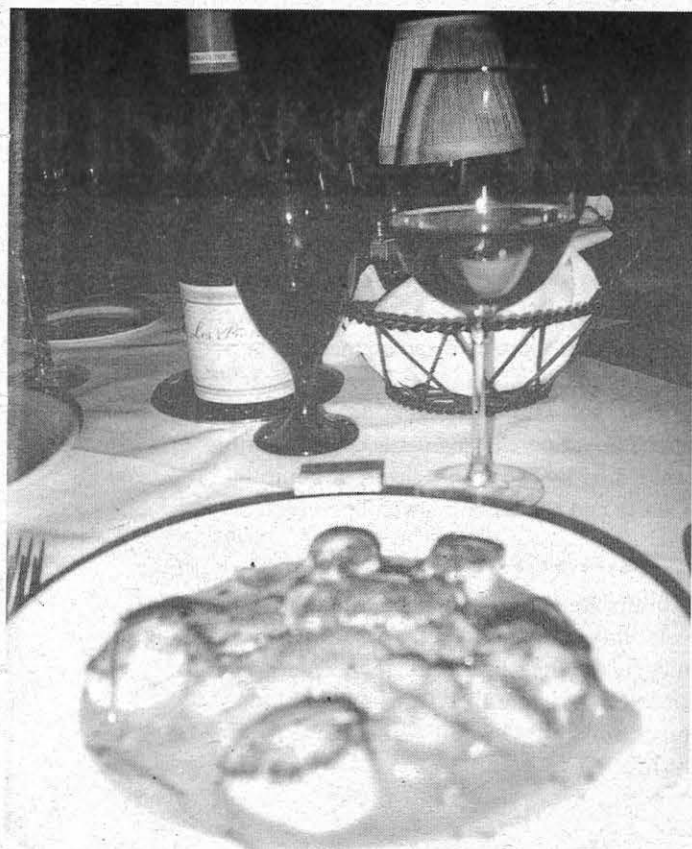


MOTIONS is hiring the new  
 Board for the 2002-2003  
 school year.

If you are interested,  
 please email  
 motions@sandiego.edu for  
 more information.



# FOOD



## Dining in the GASLAMP

By Two Chicks With A Visa

### The Sob Story

So I'm at work writing Answers to Complaints, preparing endless discovery, and putting together trial binders when Girl Friend With Large...Credit Card Debt calls me up and says that Adam\*, her date for the evening, ditched her. "But I got dressed up and made a reservation at Azzura Point\*\* in Coronado!" she whines. "I'll cancel it and you and I can go to dinner instead!" She's been my friend for over 15 years and I don't want her to be depressed, and of course I'm never one to say no to an evening of fine food and wine, so sure why not? She picks me up and we head down to one of my favorite restaurants of all time, Blue Point Coastal Cuisine.

Blue Point is at the corner of 5th and Market in the heart of the Gaslamp. You can't miss it — it's catty-corner to Buffalo Joes, and has a bright yellow and blue awning in front. It primarily features seafood and prime cuts of beef, though lamb, duck, and chicken dishes are also available. Blue Point has an impressive bar, and includes an oyster bar.

We walk through the restaurant's doors, push our way through the crowd (do NOT get in the way of girls when they're hungry and need wine), and are greeted by a smiling host and hostess who are standing in front of a massive fish tank. They tell us that the wait is about an hour and a half, so we eagerly put our names down and turn back to the streets, heading down 5th Avenue in search of a distraction from our rumbling stomachs.

### The Point of No Return...

We walk down the street and, lo and behold, we just happen to stumble upon Ghirardelli Soda Fountain & Chocolate Shop, located at 643 5th Ave., about one block away from Blue Point. We go into the little shop area (of course just to look around), and are immediately asked if we'd like a sample of their chocolate covered caramel squares. Like you even need to ask! It all went downhill from there. We couldn't help it, we were drawn to the scent of ice cream and chocolate and just had to ask ourselves this extremely important question: "Should we have dessert first?" Hmmm...let me think about that one...

Before we know it, we're being dragged to the counter by some unknown magnetic pull and are forced to order ice cream. My friend had two scoops of a new chocolate chip cookie dough flavor, and I had a scoop of butter pecan ice cream with caramel sauce, whipped cream and a cherry on top. The whole thing came out to about \$10,

and they were worth every delicious sweet mouthful. If you've never been to Ghirardelli's, definitely check it out. Founded in San Francisco way back in 1852, it maintains the look and feel of an old-fashioned ice cream parlor. It's the perfect place to go with friends, on a date, even with your grandpa. He'll love it, I promise. Try their world famous hot fudge sundae, the Cable Car or Alcatraz ice cream sundae, or even the Golden Gate Banana Split. They'll probably run you about \$5-\$7, but every bite will convince you that you made a sound, or at least sinfully delicious, investment.

### Blue Point Bar Review

After we devour our ice cream, we head back to Blue Point. The beautiful people in front of the beautiful fish tank tell us that we need to wait just a little bit longer, so we head over to beautiful bar. This bar is gorgeous! It's dark wood, lined with mirrors, and has shelves and shelves of practically everything you could imagine that comes in a bottle. Blue Point has eight house martinis. Try the Lemon Drop (\$9) or the Cosmopolitan (\$9) or their Black Martini (\$11). Or, if you don't like those, then the bartenders can make you whatever your liver desires. Just know that they'll be delicious...and strong! Keep in mind though that there isn't much seating available around the bar area. But you never know, you might luck out like we did! Don't be discouraged if you walk in and see the crowded bar. Push your way through, grab a drink and enjoy. Remember — standing leads to mingling and mingling leads to meeting people and meeting people leads to phone numbers and phone numbers can lead to...but I digress.

This evening, however, we chose not to partake in the martinis. Rather, we chose to enjoy a fine wine selection instead. Blue Point has an extensive wine list, including a wide selection under the heading of "Proprietor's Reserve," a term that generally speaks to wines that are much harder to find. This list is where you'll see the more expensive wines offered, such as the 1985 Silver Oak "Bonny's Vineyard" Cabernet Sauvignon (\$450) or the 1997 Opus One (\$297). But rest assured that the majority of Blue Point's wine list offers bottles of wine that even those who aren't on Hollywood's A-List can afford! Almost as soon as we sat down, Dave, a gorgeous man in a bright blue shirt, brought us the wine list and helped us pick out a beautiful wine, a 1999 Les Pierres Chardonnay from Sonoma Valley (\$55). It's very light in body, perhaps even gentle

in taste. It features fruit flavors, such as apple and pear, and also carries with it the flavor of toasted oak and just the slightest hint of vanilla. It's a beautiful wine, but so light that it may not be for those who prefer a more crisp, more intense Chardonnay. However, it's delicious nonetheless.

If a whole bottle isn't your style, or no one wants to share, then about 30 different types of wines are available by the glass. DON'T BE INTIMIDATED BY THE WINE LIST! AND DON'T BE EMBARRASSED TO ASK YOUR SERVER FOR RECOMMENDATIONS! Too many people choose not to enjoy wines simply because they don't know how to pick one out of an extensive list. You don't need to worry about that here — the people who work at Blue Point are incredibly knowledgeable about their wines. We had the opportunity to meet Dave (the cute guy) and Kent, who happens to be the wine buyer for Blue Point (he's cute too). Both were very helpful and such nice people to talk to. Just say what flavors you like and ask for a recommendation. They'll help you out in a heartbeat!

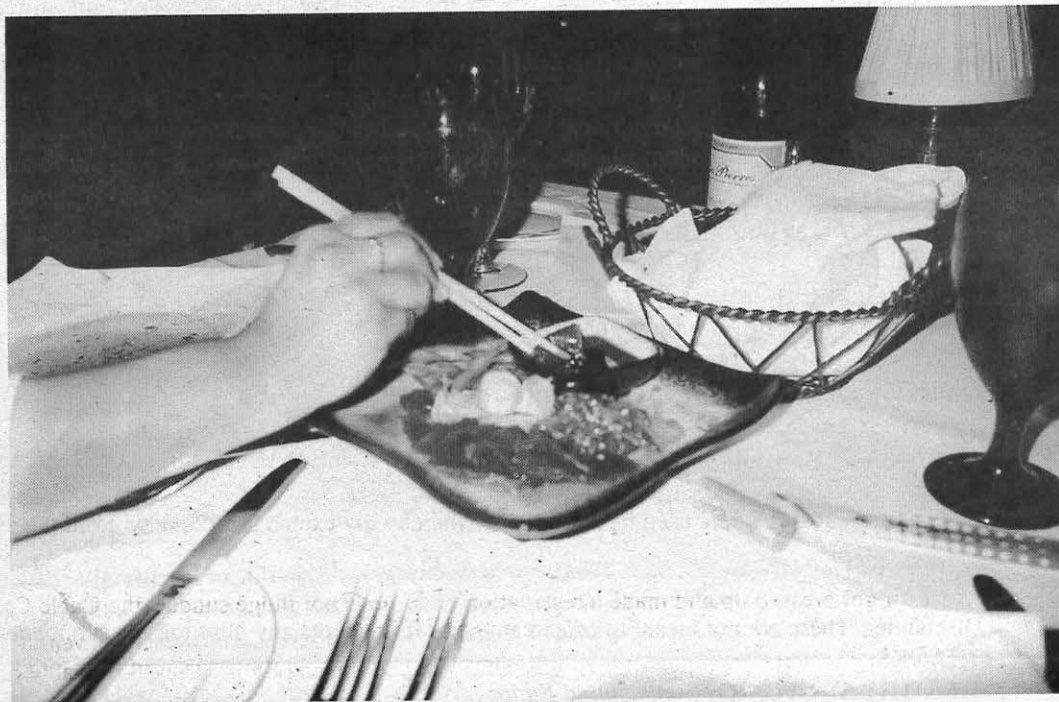
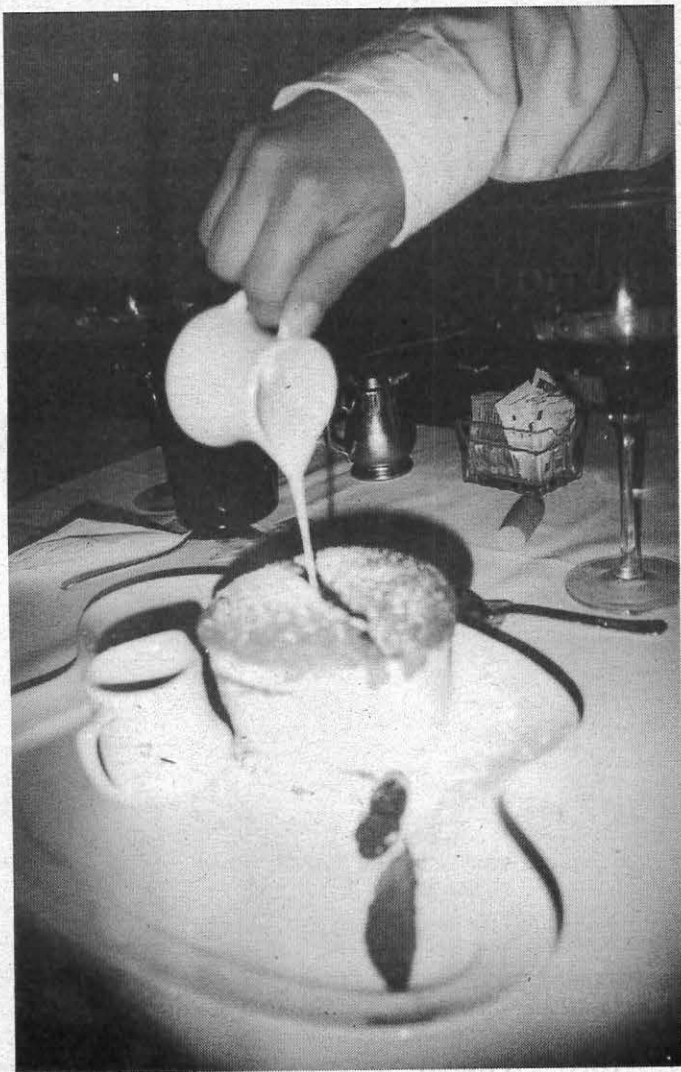
### The Atmosphere

After sitting in the bar for just a few minutes, our table was ready. We were led to a booth that faced windows looking out onto Market Street. This booth was interesting. Its back is very high, at least a foot and a half above our heads, so you can't see over the back of it. It enables a feeling of privacy in the midst of the hustle and bustle of a busy restaurant. With the restaurant's dimmed lighting and beautiful decor, it's quite an intimate setting. Wonderful for a date, but also perfect for business meetings and for friends meeting to talk. This is a busy and popular restaurant, you don't get a quiet environment here. These booths, however, ensure that you will never feel like you can't be heard or that you're completely exposed to the whole room.

\*Name has been changed to protect the schmuck who canceled his date with my friend. (I don't want to name names, but you may have seen him at Bar Review at Martini Ranch last semester.) His reason was something like, "Oh, well, I have to fix my car because I'm flying to Vegas tomorrow." Yeah. That makes sense.

\*\*To be reviewed at a later date. If one of us ever gets there.





### Tantalizing Appetizers

Finally. The food. Oh my, the food. As appetizers, we shared two of Blue Point's specialties, their lobster bisque (\$10.50) and sashimi of fresh ahi tuna (\$11.50). This lobster bisque is without a doubt the best lobster known to (wo)man. It's made with fresh Live Maine Lobster (chunks of this fresh lobster in the bisque), port instead of sherry, and rosemary! A definite must-try, it's creamy, but not clog-your-arteries-creamy. The sashimi was also excellent. The plate has slices of the ahi tuna, ginger, seaweed salad sprinkled with sesame seeds, edamame, wasabi and soy sauce. Grab your chopsticks, pick up a piece of the ahi, add some of the seaweed salad, and swish the whole thing around in the soy sauce. Oh my. Oh my, oh my, oh my. If you like sushi you'll like this. Even if you don't like sushi, be adventurous and try it anyway. The ahi neither tastes nor smells fishy, but it is raw! It's soooo good though...and light! For those of us who are counting those darn calories and grams of fat, this is a nice healthy appetizer.

### The Main Course

And since I am counting those darn calories and grams of fat, and since I have to somehow make it through my step class the next day, I also chose to go with an entrée that may have a few, but just a few, less calories than the others, the Grilled Ahi (\$24.50). It was seared medium-rare, lightly cooked on the outside and still pinkish in the middle. This came with a bed of basmati rice, garnished with a touch of bell pepper, wild mushrooms, baby carrots and green beans, all over a ginger soy emulsion, coconut milk mixed in with the sauce. Oh well, there goes the calorie counting. (Wait, that probably went out the

door when we got to Ghirardelli's...) Anyway, it was fabulous! The sauce gave so much flavor to the ahi and the rice, the ahi itself deliciously tender, and the entrée as a whole paired so well with the wine.

Not to be outdone, my friend dined on the Pan-Seared Dayboat Scallops (\$28). These scallops were huge, at least an inch and a half in diameter! They came over a caramelized shallot herb sauce and wild mushrooms. Accompanying the scallops were luscious goat cheese and portabello mushroom raviolis, especially made for Blue Point!

### More Just Desserts...

Wow. Look at all that food. After all that, we must have coffee. No room for dessert, right? We had to make room, however, because when we had ordered our entrees we also pre-ordered a soufflé (\$10.50). It was fluffy, with powdered sugar sprinkled on top. And it came with both white chocolate and dark chocolate! Jorge came out with the soufflé and slowly began pouring the white chocolate in the middle. He did it in a slow, tantalizing manner, taunting us with every move of the hand. Then he switched to the dark chocolate, letting it drip down the middle, watching us eye it with both anticipation and angst, finishing with swirling a cute little dark chocolate butterfly over the top. Finally, he left us to the spoons.

It's warm. It's light. It's has chocolate. Survey says? Two Chicks With A Visa say this is definitely worth a try. It's not shockingly sweet, nor is it overpowering in taste, and it goes great with coffee. Guys, impress your date by telling your server that you'd like to pre-order a soufflé when you're ordering your entrees. Ever see The Thomas Crown Affair?

\*\*\*

Blue Point Coastal is one of the most popular restaurants in the Gaslamp, and for definite good reason. The food is spectacular, the drinks are strong, and the wine list is impressive. On top of that, the people who work there are fantastic. They're friendly, helpful, hot...what more do you need? Blue Point is one of the trendier restaurants downtown — everything from the high-backed booths, to the colorful martinis, to the outdoor tables, to the cobalt blue water goblets... definitely trendy. Modern. Popular. Delicious. Worth the money and the wait.

Not a pretentious restaurant, you can go there wearing jeans and a sweater and you won't be out of place. Likewise, you can wear a suit and you'll fit right in. An all-encompassing restaurant, it's not just romantic or just casual, it's everything and anything you want it to be. We spent three hours there talking and eating and laughing and making friends with all the cool people who work there. So go visit. You don't have to spend a lot of money to have a good time there. (Just because our bill was \$155† doesn't mean yours has to be.) Go have a drink and maybe grab an appetizer too, and say hi to John and Kent and Barbara because they're wonderful people who work in a wonderful restaurant that deserves a chance to gain your patronage.

† Not to worry, *Two Chicks With A Visa* really do use credit cards. No SBA funds were harmed in the making of this project.



## More TWISTS ON TERMS BY TIM

Can we be serious for a minute? All through law school, I have been wondering to myself, where did all these legal terms come from? Well, I finally found out. I did a little research and came up with some amazing data. What professors have purported to be "legal terms" are, in fact, just traditional words hidden behind a façade legalese. So, for your benefit, I have decided to reveal to you some of the traditional terms accompanied by their literal definitions. ENJOY!

**Unconscionability:** The act, by the USD powers-that-be, of raising book-store prices and tuition at every opportunity!

**Obstruction of Justice:** Coming to the defense of the class know-it-all as he or she is being grilled by the Professor.

**Minimum contacts:** Term used by the husbands, wives and partners of first year law students to describe their sexual and emotional relationships once law school commences.

**Immunity:** Something I hope applies to me after this smart-ass commentary is published.

**Illicit cohabitation:** Relationship resulting from long hours with same "study" partner. See also Tim's Guide to the Perfect Study Partner (*Motions* December 2001).

**Life Estate:** Estate that Financial Aid Office retains in student until every penny of loan, including interest, is paid back.

**Discharge of Indebtedness:** New bill I am running through the SBA which requires all student debt to be cancelled if a job is not forthcoming within 3 months of graduation.

**Intestacy Statute:** Designed by the loan institutions, it is a method by which they calculate from which relatives they will first seek to obtain loan payments once student has defaulted.

**Content-Based Restrictions:** Restrictions that will be placed on MOTIONS if they publish any more diatribes pertaining to Career Services.

**Overbreadth:** The attempt by certain students to gain the advantage on other students by reading, reviewing, and compiling all documentation written on a particular subject.

**"Low" Value Speech:** Anything from the mouth of George W. Bush.

**Venue:** Location of Bar Review on any given night.

**Discovery:** Process by which third-year students slowly come to grips with the fact that they learned nothing in the last three years and now they owe 100K.

**Exclusionary Rule:** Tactic used by Professors, whereby my exams are excluded from the curve so that it is not pulled too far down!

Disclaimer: These are not meant to offend anyone. If you have any questions or comments, please e-mail me at [tstuart@acusd.edu](mailto:tstuart@acusd.edu).

THANKS,

TIMOTHY M. STUART, *Contributing Editor*

## Alcoholism takes toll on thinking ability

The book *Alcoholics Anonymous* describes one alcoholic who believed that he could drink whiskey safely if he mixed it with milk. This is insanity, notes the author: "How can such a lack of proportion, of the ability to think straight, be called anything else?"

That statement presaged a whole body of scientific research — including the latest studies of alcohol's toll on the brain and the ability to think clearly. Much of this research is described in a report published in 2001 by the National Institute on Alcohol Abuse and Alcoholism (NIAAA).

According to the report, chronic alcoholism typically leads to brain damage. Over the long term, heavy drinking literally shrinks the brain and changes brain-cell activity.

The result is damage to two crucial mental capacities. One is the ability to register and remember the location of objects in space. This ability is central to the tasks of daily life — everything from interpreting diagrams to driving a car.

Second is "higher cognitive functioning" — the ability to think abstractly, organize, plan, and monitor the results of actions. For example, alcoholics who have achieved abstinence after treatment may have no problems filing office documents. When asked to create a new filing system, however, these people may fail.

One of the most dramatic examples of an alcohol-induced thinking deficit is Wernicke-Korsakoff syndrome, a severe loss of short-term memory that affects some of the heaviest drinkers. People with this condition cannot remember new information for more than a few seconds. Someone who developed Wernicke-Korsakoff syndrome in the early 1960s, for example, might believe that John Kennedy is still



United States.

The link between quantity of drinking and loss of thinking ability remains unclear. Some researchers say that thinking ability declines in direct relationship to the severity and length of alcoholism. Others conclude that thinking deficits occur only in people who have been alcoholic for at least 10 years.

Even mild or moderate drinking can impair thinking ability over the long term, however. In one study, light-to-moderate drinkers showed the same thinking deficits found in detoxified alcoholics.

Complicating the picture are risk factors that may combine with drinking to damage the alcoholic's thinking ability. These include malnutrition, liver damage, gender, the age at which drinking begins, and a family history of alcoholism.

Research also points to the benefits of abstinence — including the brain's ability to reverse damage and restore thinking capacities.

This reversal takes time. One study examined recovery of thinking ability in alcoholics who abstained for periods ranging from 4 months to 22 years. "The behavioral evidence suggests that recovery is slow, and at least four years of abstinence seems to be necessary for most functions to recover,"

president of the study. Even so, Berman notes that recovering alcoholics start to regain some thinking ability during the first two months of abstinence.

These gains may result from the brain's ability to actually rewire itself. According to the NIAAA report, "brain systems in alcoholics can be functionally reorganized so that tasks formerly performed by alcohol-damaged brain systems are shunted to alternative brain systems."

This is a key finding for alcoholics and alcohol abusers who are still in adolescence. If the brain can generate new nerve pathways to take over the tasks carried out by damaged pathways, then teenagers with a history of drinking don't have to face a lifetime of learning disabilities.

To learn more about this topic, see Alcohol Alert No. 53: "Cognitive Impairment and Recovery From Alcoholism." Copies of this report are available free from the National Institute on Alcohol Abuse and Alcoholism Publications Distribution Center, P.O. Box 10686, Rockville, MD 20849-0686. You can also find this report at [www.niaaa.nih.gov](http://www.niaaa.nih.gov).

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