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# **USD Print Media Coverage**

**May 2003**

## USD Print Media Coverage May 2003

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**Office of the President**  
**2003 Graduation**



Pamela Brandy  
Neighborhood House



Truth and Lavonnya Fisher  
Neighborhood House



Alice Hays  
USD

## party lines

by Jeanne Beach Eigner  
photographs by Carol Sonstein



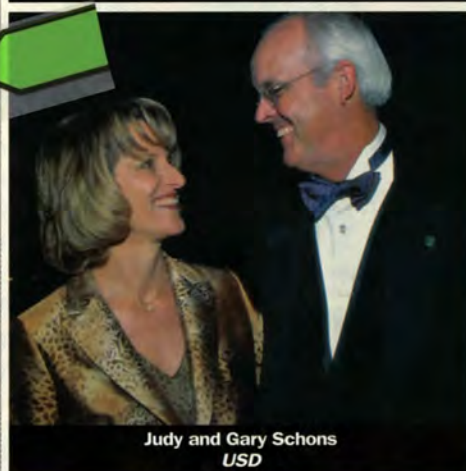
## SAN DIEGO MAGAZINE

SAN DIEGO, CA  
MONTHLY 54,000  
MAY 2003



Lynn Hajar, Kristen Korbacher  
USD

**HITHER AND YON:** The college scene around here is a hotbed of social activity. There are dance floors installed in the groves of academe. After eight years at the University of San Diego, President **Alice B. Hays** retires this summer. She hosted her final President's Dinner at the downtown Hyatt, with a theme of "Alice's Adventures in Wonderland." MFA students read passages from the Carroll classic, and the USD Symphony provided the tunes; dessert was dubbed the Mad Hatter's Tea Party ... That big old school to the east kicked off the first-ever SDSU Month with a presidential reception of its own, featuring radio's *Marketplace* guy, **David Brancaccio**, and wrapped up four weeks later with The Montys. That big do at the San Diego Convention Center—"Celebrating the minds that move the world"—had everybody's college sweetheart, **Marion Ross**, and her pal **Paul Michael** as cohosts. Awards went to alums—like **Leon Williams**, class of '50—and faculty members ... Meanwhile, Cal State San Marcos celebrated its 15th anniversary with



Judy and Gary Schons  
USD



Marion Ross, Paul Michael  
Monty Awards



Doug Myrland  
SDSU



John Decker, David Brancaccio  
SDSU

## **Local boy's golden voice pays off big**

*The San Diego Union - Tribune*; San Diego, Calif.; May 17, 2003; Diane Bell;

### **Abstract:**

S.D. interior designer Susan Sparks was dining at Manhattan's trendy Cafe Europa when she noticed "60 Minutes" senior interrogator Mike Wallace at a nearby table. A longtime fan, she stopped on her way out to thank him for his work and asked to shake his hand. Wallace replied that he would shake only if Sparks would sit down and join him and a business colleague. She did, and they chatted for nearly two hours. . . . Yankees starting pitcher David Wells detoured to San Diego last week to honor his longtime friend Steve Allen of Scripps Ranch, who died earlier this month while jogging around Lake Miramar. Allen, 61, had coached Wells during his Little League days in Ocean Beach. The night before a memorial service for Allen, Wells dedicated his Seattle game to him. The next day he presented his jersey, his glove and a couple of the game balls to Allen's family. . . . Restaurateurs Martin and Cindy Blair threw a party to celebrate their Kansas City Barbeque's 20th anniversary last weekend.

### **Full Text:**

Copyright SAN DIEGO UNION TRIBUNE PUBLISHING COMPANY May 17, 2003

He's only 10. His favorite movie is "Harry Potter." His breakfast of choice is Lucky Charms cereal. He likes to snack on Oreos -- and he just made \$100,000. Mark Mejia, a Lemon Grove fifth-grader, wowed CBS' "Star Search" viewers Wednesday with the Jackson 5 hit "I Want You Back," earning perfect scores from all four judges and prompting judge Ben Stein to tell him, "(You're) better than the Jackson 5 all by yourself."

Mark, whose mom, Gilda, is a nurse and whose dad, Noel, works for a Las Vegas firm, started singing at age 6. For the past two years he has studied with singer Armi Guzman. The young entertainer, who turns 11 today, hasn't yet cut a CD, but there may be one soon. Winning the talent competition brings a three-year recording contract with Sony.

### **Town and gown**

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### **Food for thought**

USD administrator Rudy Spano says he was surprised to hear that the university's president, Alice Hayes, was creatively cooking the books, then relieved to learn she actually was creating a cookbook. As Hayes steps down next month after eight years at the university's helm, she leaves behind "At the President's Table . . ." a collection of recipes for dishes from USD's kitchens served at her official receptions. She also leaves a legacy of campus growth. Students and staff gathered Monday, the last day of the spring term, to bid Hayes farewell. She is moving back to her home in Chicago, although she says she'll keep an apartment in San Diego and return at least one week a month. One gift was a set of gardening tools, for which Hayes has plans -- "if I can still bend."

Diane Bell's column appears Tuesdays, Thursdays, Saturdays. Fax items to (619) 260-5009; call (619) 293-1518; e-mail to [diane.bell@uniontrib.com](mailto:diane.bell@uniontrib.com); or mail to The San Diego Union-Tribune, Box 120191, San Diego, CA 92112-0191.

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# Her graduation has a bittersweet flavor

By Michael Stetz

STAFF WRITER

Law school is tough enough. But try throwing this into the mix: having a husband halfway around the world and at war.

Nicole Hudspeth can tell you all about it. Between tears, that is. She graduated from the University of San Diego School of Law yesterday, and there was just one thing missing from making it a moment of a lifetime.

Her husband, David, a Marine officer, is in Kuwait. He was not able to be a part of this most special of occasions.

He managed to get a call through on Thursday at 3 in the morning, to tell her: "Happy graduation."

It was only the fourth time they've spoken since January, when he was deployed to Iraq.

"I don't ever want to go through that again," said Hudspeth, 33, who is a Marine as well. "I'd rather go through war as one of the fighters than to ever have to go through one as a wife again."

Imagine.

Imagine trying to study, to listen to a lecture, to take an exam — even to brush your teeth in the morning — and not knowing.

Hudspeth did, somehow.

The Marine captain was one of nearly 350 students graduating from the law school yesterday. Today, the San Diego Catholic university graduates more than 1,600 students from the school's arts and sciences and other disciplines, such as the schools of business administration, education and nursing.

It would be a challenge, though, to find someone who went through what Hudspeth did these past months while earning her law degree.

Her husband is a weapons company commander with the 1st Light Armored Reconnaissance Battalion from Camp Pendleton. The only news Nicole Hudspeth got was through the pages of *The San Diego Union-Tribune*. The paper's military reporter, James Crawley, was embedded with the unit her husband, also a captain, commanded.

She found relief, she said, by helping others. She took over a support group made up of wives of the men serving with her husband.

Then there was school. School had its moments. She chaired a demanding law-school appellate court program, as well. Before going to law school, she served as an air defense operator. Now, she will become a military attorney — or, specifically, a judge advocate.

At least she has a job.

More than a few of those

graduating said it was a tight, competitive job market this year.

Dylan Malagrino, 25, another of the graduates, said he sent out hundreds of resumes and had yet to receive a job offer.

"I'm not alone. That's the case for many of my classmates," said Malagrino, one of the more active students. He coached youth swimming and basketball and taught human rights at Garfield High School.

This class also suffered tragedy. One of its members died recently in a diving accident.

This class saw much, noted Alice B. Hayes, the president of the university, who is retiring and is overseeing her last commencement.

This class lived through powerful world events, such as Sept. 11 and the subsequent battles in Afghanistan and Iraq, she said.

"You are witness to history and have an experience and understanding of the world that is different from that of previous generations," she said.

But that's not to say this event was a downer.

Optimism still reigned. Parents hugged their children. They pulled out cameras and camcorders.

Nicole Hudspeth's mother, Marty Jo Kulenic, came all the way from North Carolina to see the graduation.

On this day, she was a picture of joy — pure joy.

"She's a toughie," she said of her daughter. "I'm proud of her."

Michael Stetz: (619) 542-4570;  
michael.stetz@uniontrib.com

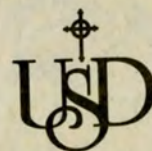
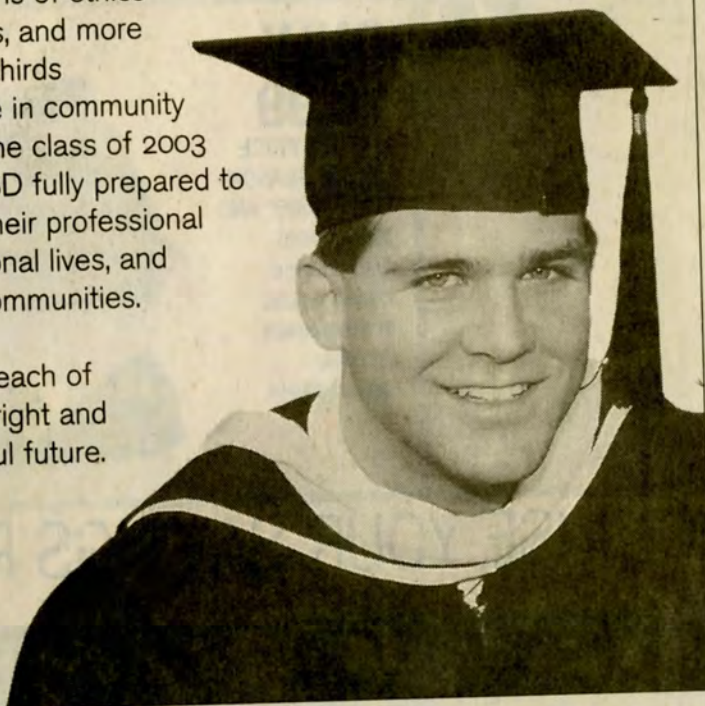


**Marine Capt. Nicole Hudspeth received her law degree from USD yesterday.** John Gastaldo / Union-Tribune

The  
University  
of San Diego  
salutes the  
Class of  
2003

At USD, our students do more than meet a rigorous academic challenge. Here they enhance their education with lessons of ethics and values, and more than two-thirds participate in community service. The class of 2003 leaves USD fully prepared to excel in their professional and personal lives, and in their communities.

We wish each of them a bright and successful future.



University of San Diego

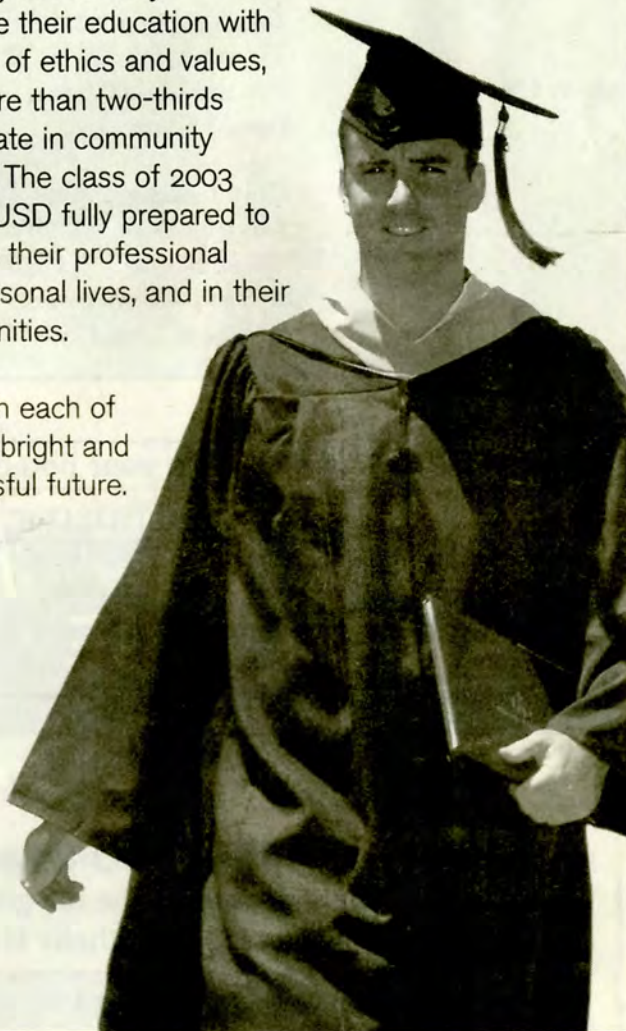
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USD is an independent Roman Catholic university, which welcomes a faculty, staff and student body of cultural and religious diversity.

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## **Office of Alumni Relations**

**SAN FRANCISCO DAILY  
JOURNAL**

SAN FRANCISCO, CA  
MONDAY 6,000  
MAY 19 2003



**Burrelles**  
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**Law School Celebrates Career  
Of San Diego Trial Attorney**

San Diego trial attorney David Casey Jr. received the University of San Diego School of Law's Author E. Hughes Career Achievement award on May 3.

The award, named for the university's former president, recognizes alumni for their professional achievements.

Casey handles personal injury and civil litigation at Casey Gerry Reed & Schenk.

## USD Honors Five Outstanding San Diegans with Hughes Awards

ALCALA PARK — Five outstanding San Diegans, including an attorney who helped set up a compensation fund for the victims of the Sept. 11 terrorist attacks and a Navy health care administrator who has done important research on breast cancer, were honored by the University of San Diego Saturday, May 3.

The Author E. Hughes Career Achievement Awards, named after the university's former president, honor alumni who have achieved outstanding success in their field.

Honorees include David Casey, the San Diego attorney who played a leading role in setting up a victims compensation fund after the 2001 terrorist attacks. Casey, who earned his law degree at USD, is also president-elect of the American Trial Lawyers Association.

Navy Capt. Sandra C. Garmon Bibb, who has done important research on breast cancer, will also be honored. Her doctoral dissertation in nursing looked at higher breast cancer mortality rates among African-American women than their Caucasian counterparts.

"These honorees symbolize a proud tradition of excellence and service to the community," said Jack Kelly, USD's

director of alumni relations. "Our alumni are making a difference in the world."

The honoree from USD's School of Business Administration is Gina Champion-Cain, the CEO of American National Investments Inc. Champion-Cain, who was president last year of the Downtown San Diego Partnership, has played a major role in downtown redevelopment.

John Carrieri, the CEO of a leading web site, *Colleges.com*, and *U* magazine, is the honoree from the College of Arts and Sciences. Recently, he also started another site, *democracy.com*, to promote and educate people about democracies around the world.

Anthony Smith, a managing director of the Leadership Research Institute, whose clients have included the NFL and Walt Disney Co., is the honoree from the School of Education. He earned a doctorate in educational leadership at USD.

For the first time, the Hughes Awards were held on campus at USD's Jenny Craig Pavilion. For more information, visit the alumni Web site at <http://alumni.sandiego.edu/hughesawards> or call (619) 260-4819

*The Southern Cross*

**College of Arts and Sciences**

## ACADEME

WASHINGTON, DC  
BI-MONTHLY 45,000  
MAY-JUN 2003



**Burrelles**  
INFORMATION SERVICES

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### Conference Examines Academic Freedom

Faculty and administrators from across the country gathered at the University of San Diego in March for a conference sponsored by the AAUP. "Unity and Diversity: A Conference on Academic Freedom at Religiously Affiliated Colleges and Universities" explored such difficult issues as the teaching and practice of science at institutions whose religious tenets may disagree with scientific findings, limitations on academic freedom at colleges or universities that require professors to subscribe to a statement of faith, and *Ex Corde Ecclesiae*, the papal decree whose implementation requires that theologians teaching at Catholic institutions seek a mandate from the church.

Among other topics, conference sessions focused on the balance between institutional autonomy and church au-

thority, the degree to which religiously affiliated institutions acknowledge different sexual orientations, and the extent to which science and fundamentalist Christianity can be reconciled when it comes to teaching evolution or conducting stem cell research.

Plenary speakers included Stanton Jones, provost at Wheaton College in Illinois, who spoke about the history of religion and academic freedom; Lee Hardy, professor of philosophy at Calvin College, who analyzed ways in which religious belief can enable, rather than hinder, teaching and research; and Monika Hellwig, executive director of the Association of Catholic Colleges and Universities, who talked about academic freedom as it relates to institutional self-definition.

The conference also featured a showing of the film *Trembling Before G-d*, a documentary about gay and lesbian

Orthodox Jews, after which producer-director Sandi Simcha DuBowski answered questions from the audience.

For more about the conference, see State of the Profession on page 103. ●

# Academic Freedom and Religion

BY MARTIN D. SNYDER

**A**cademic conferences can be wearying. There are inevitably too many talking heads, too little time for conversation and reflection, and too many somnifacient meals and snacks. Nevertheless, when intelligent people of good will convene to grapple with difficult issues, the experience can be immensely rewarding. The Association's third conference on academic freedom at religiously affiliated colleges and universities proved no exception.

Faculty members and administrators from around the country came together in March on the beautiful campus of the University of San Diego to discuss some very thorny issues: the legitimacy of doctrinal limits on academic freedom, the preservation of the identity and mission of faith-based higher education, institutional autonomy and faculty governance, and the perennial hot topics of sex and science. If definitive solutions were hard to come by, at least the participants' understanding of the intellectual complexity and emotional depth of the issues was expanded.

For the Association, the key issue of the conference was the limitation of academic freedom. The AAUP's position was made unequivocally clear. Any limitation to academic freedom must be clearly stated at the time of appointment, and the statement of limitation does not absolve an institution from the requirements of due process. Few participants in the conference took exception to the policy, although many voiced objections

to the Association's rhetoric, finding it condescending and dismissive.

The religiously affiliated institutions continue to wrestle with the issue of their individual and collective identities. They are keenly aware of the trend toward secularization that has characterized the history of many religiously founded colleges and universities in this country. They aspire to educational excellence and they recognize their need to prepare an often diverse body of students for life in a secular society, yet they desire to retain their core values while avoiding parochialness.

Many of the religious institutions represented at the conference maintain strong spiritual, monetary, and administrative ties to their founding churches. Achieving a proper balance between church authority and institutional autonomy remains an evolving and continually nuanced process. How decisions are made and by whom are often complicated questions. In particular, how the faculty carries out its responsibilities in its appropriate spheres of governance (curriculum, subject matter, methods of instruction, research, faculty status, and those aspects of student life that relate to the educational process) can be jeopardized or compromised by the existence of an authority structure external to the college or university. Collegial decision making and ecclesiastical hierarchy are at best uneasy companions.

If the conference participants were prone to deal with abstract topics like academic freedom, mission and identity, or institutional governance with a measure of dispassionate objectivity and historical perspective, they responded rather more warmly to the hot-button

issues of sex and science. In these two areas, the abstract becomes concrete, the general becomes particular, the theoretical becomes political.

If a psychologist at a Baptist institution shows a film to her class sympathetic to the plight of gay and lesbian Orthodox Jews, is she protected from reprimand or reprisal by the administration under the principles of academic freedom? Will the institution defend her right to show the film if external church members or ecclesiastical authorities attack her decision? Does an administrator at a Catholic college contravene academic freedom when he bans a well known prochoice speaker invited by a recognized student group? Does it matter if the speaker's topic has nothing to do with reproductive rights? How does an evangelical biologist present the theory of evolution to his class without violating his institution's creedal requirements or his own scientific integrity? Must a nonbelieving physicist at a religious institution include in her syllabus a discussion of "intelligent design" and creationist theories about the origins of the universe? May she appropriately segregate such considerations as "non-science" and ignore them? What if fundamentalist students in the class complain to the administration? Such questions reveal the tensions inherent in religiously affiliated higher education.

Clearly, the Association's San Diego conference did not settle all issues to everyone's satisfaction. No conference could. But, at the very least, it was able to put a human face on the issues and to deny the possibility of dehumanizing and demonizing those with whom we disagree. Perhaps that is as much as any conference can hope to achieve. ☛

*Martin Snyder is AAUP director of planning and development.*

## TPHS senior earns rare opportunity to compete for chemistry Olympiad spot

A Torrey Pines High School senior is one of just 20 students in the nation to earn a chance to compete for a spot on the U.S. team of



Ross Fu

the International Chemistry Olympiad.

Ross Fu, 17, from Carmel Valley, qualified for the opportunity after completing a

two-hour local screening exam followed by a rigorous four and one-half hour national exam in April at the preliminary competitions hosted by the University of San Diego and the San Diego Section of the American Chemical Society (ACS).

Out of some 10,000 U.S. students who take the local screening exams, approximately 850 are invited to take the national exam. Twenty are invited to attend the U.S. National Chemistry Olympiad Study Camp from June 1-15 at the U.S. Air Force Academy. Four students from that group will be chosen for the U.S. team that will compete in Athens, Greece, in July against teams from more than 50 countries.

"We're very proud of Ross," said USD Assistant Chemistry Professor Deborah Tahmassebi, chair of the Education Committee of the San Diego Section of the ACS. "He represents the brightest of the bright of U.S. students. These students are the scientists of tomorrow."

The exam was difficult but Fu, who will attend the Massachusetts Institute of Technology this fall, said he considered it a "reachable goal" after finishing in the top 50 the year before.

The laboratory portion of the exam is the most difficult, said Fu, who asked his high school chemistry teacher for time to use the school's lab to prepare for the test. "You have to be very fast and accurate with your hands to do the lab work."

Fu has lots of natural ability. "He eats up information," said chemistry teacher Valerie Atkinson. But he also works very hard and has been "focused on the goal" of finishing in the top 20.

USD has hosted the local Olympiad competition for the last seven years and Fu is the first to make it to the Olympic camp, said Tahmassebi. This spring, some 100 high school students from San Diego County participated in a variety of enrichment and laboratory activities, hosted by USD and the ACS, to encourage and promote interest in chemistry education.

Next year the events will be held in USD's new \$47 million Donald P. Shiley Center for Science and Technology. "We're looking forward to an even more exciting and challenging event in our new center."

The University of San Diego is an independent Catholic institution of higher learning overlooking San Diego's Mission Bay. Chartered in 1949, the school enrolls more than 7,000 students and is known for its commitment to teaching, the liberal arts, the formation of values and community service.

More than 30 years ago, psychologist Philip Rieff, warned us in "The Triumph of the Therapeutic" that "psychological man" was beginning to replace "Christian man" as the dominant character type in our society. Unlike traditional Christianity, which made moral demands on believers, the secular world of "psychological man" rejected both the idea of sin and the need for salvation.

Rieff predicted that churches would retain members because psychological man seeks to enlist all institutions in his service. Independent from any god, psychological man is drawn to any faith that lends itself to therapeutic use. "Psychological man can embrace a faith — as long as it imposes no real moral demands and consoles but does not judge.

Although Rieff's assessment may have been true in the past, we seem to be moving beyond psychological man — toward a genuine revivalism and spiritual awakening. With the arrival of Billy Graham, San Diegans can experience firsthand the ways in which this spiritual awakening is occurring. While it is unlikely that psychological man will be attending Graham's Mission San Diego, thousands of believers will hear his simple and loving story of humanity's sin and redemption in the person of Christ.

At 85, Graham promises to speak to the assembled during each program of the four-day mission as he continues to maintain that "My one purpose in life is to help people find a personal relationship with God, which I believe, comes through knowing Christ." Graham's message, which is essentially an explanation of Christian grace, reminds listeners that the sins and anxiety we face today are abiding aspects of the human condition — a result of fallen humanity and the problem of sin. Yet, he offers a message of hope that peace and freedom can be found through grace.

Despite or perhaps because of the chaos of our lives, people still search for meaning and order in their lives and the lives of their families — and many of them seek such meaning in religion. It is revealing that just as nonjudgmental, mainline Christian churches of psychological man continue to lose members, there has been a tremendous growth in the evangelical churches — like the ministry of Graham — whose greatest strength is in offering believers real guidance in how to live their lives.

In fact, data from the Gallup polling organization's most recent "Surveying the Religious Landscape" reveal a dramatic decline in the churches that make the fewest moral demands on believers — Methodist and Presbyterian. Some of the deepest divisions are within the Episcopal Church, much of it concerning the ordination of gay men and lesbian women as priests. Gallup documents a growing trend in denomination switching as people's beliefs and situations change. The evangelical churches are the beneficiaries of these switches in allegiance.

The religious denominations that provide moral guidance and make demands are flourishing. And, people want more from their reli-

gious leaders. Gallup found that almost seven in 10 adults believe that religious leaders must exert a much greater influence in reinvigorating American morality.

Graham has been on the front lines of reinvigorating this morality — as one who unites. He was a pioneer in addressing racial discrimination, and during the 1950s, he was one of the first leaders to oppose segregation when he refused to preach to segregated audiences.

More recently, during a crusade in San Francisco, Graham announced "Whatever your background, whatever your sexual orientation, we welcome you tonight. . . . People need to know that God loves them no matter what their sexual orientation." While maintaining that "there are worse sins" than homosexual behavior, Graham's message of love and hope through salvation and renouncing sin remains compelling.

The response to the evangelizing message has been remarkable. Today, Gallup identifies that nearly four in 10 adults claim to be evangelical believers. They are those who believe that the Bible is the actual word of God, and have undergone some form of personal conversion.

African-Americans exceed the national trends for evangelicalism; 58 percent of them described their spiritual lives as born again. While Protestants outdistance Roman Catholics in number of evangelicals by a margin of 53 percent to 21 percent, the fastest growing numbers of evangelicals are among Catholics. Gallup found that in 1988 only 12 percent of Catholics described themselves as born again or evangelical, yet, eight years later, 21 percent of Catholics claimed to be evangelicals.

Revivalism and religious experience are certainly not new to this country. They date back to the First and Second Great Awakenings of the 18th and 19th centuries.

Contemporary evangelicalism has been gaining momentum among Americans since the early 1970s. With this evangelical movement, more Americans have claimed religious experiences or moments of intense religious insight. Today, three out of five Americans classify religion as "very important" to their lives. This represents a seven percentage point gain since 1988. Two out of three women in this country, and 85 percent of African-Americans regard religion and faith as very important. Three out of four Hispanics in this country hold similar convictions about the importance of religion in their

This revival continues without much notice from the secular world who continue to dismiss the idea of sin and evil as unsophisticated notions of a superstitious past. A recent book

# A search for moral clarity

4154  
By Anne Hendershott

SAN DIEGO UNION-TRIBUNE

SAN DIEGO, CA  
THURSDAY 374,856  
MAY 8 2003

entitled "Love the Sin," published by New York University Press, argues that not only must we reject the idea of sin — rather, "we should celebrate America's promise of freedom for all."

Some church leaders actually embrace this value-free ideology. In

fact, in an effort to avoid alienating members with diverse lifestyles and values, some religious leaders have become hesitant to speak of morals at all.

Likewise some historically religious colleges and universities have lost their religious identity — embracing a commitment to diversity at the expense of their very mission. Yet, *The*

*Chronicle of Higher Education* recently reported that Evangelical Christian colleges have experienced surging enrollments. While undergraduate enrollment has increased by only 5 percent at private institutions in the past decade, there has been a 24 percent increase at the 90 U. S. evangelical institutions. More and more families view Christian colleges as havens from what they perceive as moral problems that plague secular and some historically religious colleges as they search for meaning in their lives and in the lives of their families.

Indeed, in the aftermath of Sept. 11, 2001, President George W. Bush repeatedly called the terrorist acts "evil" and those who perpetrated them "evildoers." This language drew few protests — except from those of the academic and media elite.

President Bush, like Graham, reminds us that life in times of war make us aware of certain hard truths that may have been easier to ignore during times of peace and prosperity. Evil exists: And when we are faced with the problem of repelling evil, we must be able to reach a conclusion on serious moral

Graham's mission in San Diego will do just that.

Hendershott is professor of sociology at the University of San Diego and the author of the recently released "Politics of Deviance" (Encounter Books).

## FORT COLLINS COLORADOAN

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### Applause *4154*

■ **Fozia Mehdi**, daughter of Syeda T. Bukhari and Azhar Mehdi Shah, was awarded a scholarship by the Colorado Masons. She was sponsored by members of the Collins No.



MEHDI

19 Masonic Lodge in Fort Collins. She will attend CSU in the fall to study accounting and computers.

■ At the recent Colorado Federation Convention of the National Association of Retired Federal Employees, the following Fort Collins residents were elected officers. **Dick Driscoll** was elected president and received the Distinguished Service

Award. **Edith Moore** was elected district vice president. **Mildred Weidemann** and **Ralph Kotich** received Meritorious Service Awards. The local chapter was recognized for its support of the Alzheimer's Association and for its 50th Anniversary.

■ **Jason Patrick Smith** of Fort Collins was awarded a bachelor's degree in art at Skid-

more College in Saratoga Springs, N.Y.

■ **Kirk L. Depriest** of Fort Collins received a Doctor of Osteopathic Medicine degree from Michigan State University on May 1.

■ **Matthew Navarro Martinez** graduated from the University of San Diego on May 25. He earned a bachelor of arts degree in international relations.

# Marine industry, environment as economic engines for R.I.

By Laura Ricketson  
Staff Writer

**Name:** Peter V. August  
**Age:** 51

**Position:** Director of the University of Rhode Island's Coastal Institute; professor of natural resource science; GIS facilitator

**Background:** August has been director of the Coastal Institute for three years, and has been a professor at URI for 22 years. Prior to coming to URI after getting his Ph.D., he lived in South America for two years studying bats and in Texas studying rats.

**Education:** Undergraduate degree in biology from University of San Diego; graduate degree in zoology from Texas Tech University; Ph.D. in biology from Boston University

**Residence:** Richmond

**PBN:** What do you do as director of the Coastal Institute, and what is the institute's purpose?

**AUGUST:** The concept of the Coastal Institute is to have a component of the university away from the stovepipes of universities and departments, be able to connect the intellectual community of the university with the outside world, to resolve issues and solve problems in coastal ecosystem management. I represent the academic community, both the bay campus and main campus in the Coastal Institute, and so when issues come up that require an economic assessment, we're able to turn to our colleagues in the Department of Environmental and Natural Resource Economics. When issues come up that require matters of governance or policy I'm able to turn to my colleagues in marine affairs or political science, and when issues come up that require a scientific assessment, we have a ton of very capable scientists at URI. I'm the human that gets the phone call and tries to make these things happen. My role as a facilitator and to convene different groups is really what the Coastal Institute is about.

What are some of the state's biggest coastal problems, and what is the business community's role in solving them?

The environmental problems for the bay and the coast I think are pretty obvious and people know what they are and they're working on them. We have problems of dissolved oxygen and hypoxia and nutrients and the loss of eelgrass and coastal habitats. We have social equity issues of shoreline access. And some of these are brand new interesting problems that nobody anticipated five or 10 years ago, like invasive species, the warming trends in the bay, and this incredibly sudden collapse of the lobster industry in the last couple of years. I think the big challenge before Rhode Island is to institutionally deal with these problems. The issues facing us transcend agencies and institutions, and in my view, if we're going to make any significant progress, our institutions have to partner. There's a terrific partnering happening. To get where we are today on the fishing licensing restructuring required front-line

involvement from every aspect of governance in Rhode Island, but (also) from the fishermen. One thing we need to do is better answer the question, "Is it getting better or worse?" To be able to answer those questions we need a solid, dependable, stable environmental monitoring program.

**How do you think the Bay Trust will help to develop a management policy for the bay?**

I am enthusiastically watching what happens in the Bay Trust and listening to what the debate is and comments on how to make the concept of the Bay Trust work. I haven't heard anybody argue that the core concept of the Bay Trust — which is to provide a vehicle that would allow different components of state government and non-state government work together to achieve better planning and better management for Narragansett Bay and its watershed — is a bad idea. The idea of very close involvement by the House, Senate, the governor's office and other agencies, count me in. The issues are so complex; the more that the state of Rhode Island can do to allow us to pull together the right people to deal with the right components of an issue, I think is a terrific thing.

What are a few of the major things you have done or would like to do as director?

There are things that I'm very proud of that the Coastal Institute has been a player in. The thing that has been the most exciting thing in the past couple of years is the understanding and the appreciation of the need to have a neutral venue, a neutral forum where different people with different ideas of how the world should work can get together and share those ideas and debate in a productive fashion, and the Coastal Institute has served in that capacity. With the institutions and individuals that we have in the state, we have an incredible diversity of very bright, creative, passionate ideas. Some issues that we've been working on, the fishing licensing is a good one. The Partnership for the Narragansett Bay — I'm very proud that the Coastal Institute could play a small role in keeping that moving forward. I'm very proud of how the Coastal Institute has been able to convene elements of the (Army Corps of Engineers) dredge disposal committee.

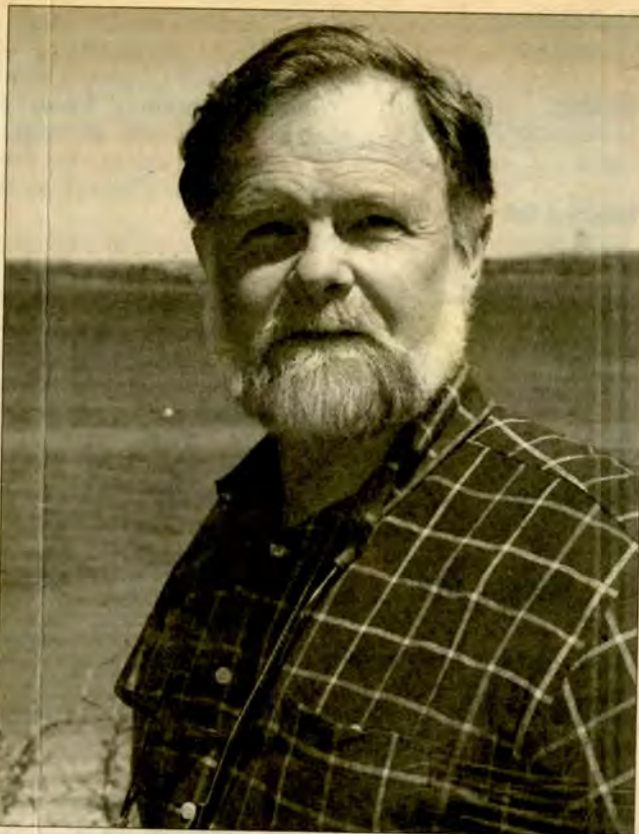
**How can new technology solve environmental issues and benefit the state?**

We have seen how new technology has played a very important role in bay monitoring over the last few years. (URI) Professor Dana Kester was a pioneer in using buoy systems permanently deployed in the bay that continuously monitor temperature, salinity, dissolved oxygen and nutrients. The technology-based data that didn't require day-to-day human intervention has been truly enlightening in understanding what the ecological dynamics of the bay are. One of the most exciting partners with the Coastal Institute is the Naval Undersea Warfare College. They have developed some incredible technology for naval applications but they're very interested in understanding how military technology can serve the civilian community. We've had meetings and great discussions and we're working on some great projects where we can deploy unmanned undersea vehicles that will patrol segments of the bay, not looking for mines or bad people, but for pollutants. We're working with our colleagues at the NUWC and

the scientists here to use some of their technology to measure the sediment loading that's coming through mid-bay from the dredging that's happening in upper-bay. If we let our coastline get developed beyond what it can support, if we pollute the bay, if we lose our fisheries, if we lose the aesthetic qualities that the bay and coast have to offer, this will hurt us economically. So what's good for the environment is good for the economy. Technology that is developed by the Rhode Island academic community or the intellectual community, or built in Rhode Island is of very significant importance to us.

**Should we put more money and time into developing our marine industry? Could it be the next big thing in Rhode Island?**

It's a very exciting opportunity. Studies have been done that look at the question — how extensive economically are some of the various industries in the state? The marine industry is already a very strong one and nicely integrates a whole lot of things: boat building, sailing, competitive sailing, the tourism aspect of the marine trade. If we want a strong, healthy industry that is marine-oriented, we have to be a little sensitive to issues of aesthetics, water quality, fisheries, ecosystem. The boat-building industry supports a lot of the smaller industries that make the parts, the ropes, the components that go into the boats. Missouri can't offer that. Rhode Island can.



**Peter V. August, director of University of Rhode Island's Coastal Institute**

**Does this technology (like the new Inner Space Center) have the potential to lift Rhode Island out of its economic woes?**

Does Rhode Island have something unique to offer industries that integrate economic development, technology and technological development, and the environment and the coast and things like that? Absolutely. We have a tremendous amount of capacity with the Navy and with NUWC; we have the University of Rhode Island, which has a very strong engineering program; we have a very strong Graduate School of Oceanography. We have excellent world-class scholars at Brown University; we have big companies here like Textron and Raytheon who are already leaders in developing technology. We also have little guys who are the world's best at things, like Applied Science Associates. Rhode Island has a wonderful opportunity to examine how it can develop its technology base, how it might develop marine industry and how it might pull together these strengths that are already out there. We don't have to do anything new.

**What does Robert Ballard and his Inner Space Center mean for URI and the state?**

It was a great thing for URI to develop a partnership with Robert Ballard. I think

that Robert Ballard really lucked out by coming to URI. He walked into a world that is already doing a great job of the things he wants to continue doing. Bob Ballard is coming into a great world down here, with some very capable technology people in our ocean engineering department, who understand what his challenges are and his needs are. Sara Hickox and the Office of Marine Programs have been a leader in promoting the JASON Project throughout the state, throughout the country, from day one. The whole world knows Bob Ballard and wherever Bob Ballard goes, he brings positive attention. And if we get new academic programs, if we develop the instruments he's plopping on his ships to go take to the Black Sea, let's take this back to economic development. Bob Ballard's research is not cheap. If the technology that he's pioneering and developing happens here at the URI Graduate School of Oceanography, where is that outside money getting spent? People are getting hired, they're paying rent, buying gas and groceries and they're going to our restaurants.

**Is it a good thing that the mega-port at Quonset is off the table?**

It's a good thing that a whole lot of different people are now asking what we can do with this unique and valuable piece of property in the state? So if re-opening the question of what's the best use of this exciting piece of property, yeah, it's a great thing, if it allows further creative exploration. In many ways the Quonset Port issue galvanized the environmental community, forced people to address the economic as well as the environmental issues and maybe the Rhode Island economic and environmental community is a little smarter, a little bit stronger and a little bit more together because of the Quonset issue. In hindsight, it might have helped us better focus where we want to go and what we want to have.

# Awards & rewards'

Preservationists  
come  
in the most  
unlikely  
packages

By Roger M. Showley  
STAFF WRITER

4154  
**D**emonstrating that historic preservation is no longer only about keeping the bulldozers at bay, the Save Our Heritage Organisation (SOHO) is honoring a dozen people who have acted to retain bits of San Diego County's past.

The winners of the 21st annual People in Preservation awards also represent a wide range of devotees. They include a teacher of at-risk kids; a longtime San Diego modernist architect; a Navy biologist and a software engineer and her husband, who sells portable toilets.

SOHO executive director Bruce Coons said the wide diversity of this year's crop of winners represents a broadening of the preservationist movement.

"They're quite passionate, as if they were veterans," Coons said. "They never thought of doing preservation before but a building captures them and they come under its influence and they're stuck."

The awards program at Scripps Institution of Oceanography next Saturday will cap the local celebration of National Historic Preservation Week that starts tomorrow and coincides with the closing of the American Institute of Architects' national conven-

tion in San Diego, at which preservation will be one of many topics discussed. Understandably, the top two awards are going to old friends of San Diego's preservation movement, teacher and researcher Kathy Flanigan as preservationist of the year, and retired architect Homer Delawie for lifetime achievement.

Flanigan, has been a teacher of mostly at-risk high school students for 23 years and lives in a Bay Park condominium. But her passion is historic research, a specialty she developed as an architectural history graduate student at the University of San Diego.

"What happened before grad school is I'd come home from (foreign) trips and have slides that would always be of buildings," Flanigan said. "How many Gothic churches could you have? Lots! And they're all different. I didn't know who the craftsmen or the architects were, but I could always see differences and how unique they were. I absolutely loved it."

Recently, Flanigan has unearthed the 94-year history of Highway 101 from San Diego to Oceanside and given coastal communities the justification for preserving the many landmarks along its route. She drew much of her original research from microfilm newspaper reels at the Oceanside public library.

"I'd go up there every Wednesday and all day Saturdays for months and go through the newspapers and find out what was going on with the building of the road and what businesses lined the road," she said.

Out of her work came a 250-page report and the formation of the Highway 101 Association.

John Daley, owner of the 101 Cafe in Oceanside and chairman of the association, said Flanigan's work was instrumental in the state's recent historic designation of the route.

"We need people like Kathy," Daley said. "They're the foundation for the

San Diego in the late-1930s modernist architect and a decorator later helped move the Victorian-style Sherman-Gilbert House from downtown to Heritage Park in Old Town, a campaign that launched SOHO as San Diego's premier preservationist organization.

In addition to his residential and commercial architecture work, Delawie served on the San Diego park and planning commissions and currently is a member of the Historical Resources Board that rules on city applications for historic designation.

"It's refreshing to go around and look at some of the various buildings that have been saved and the number

of people that have become aware," Delawie said. "Unfortunately, occasionally, we lose a few, but I think overall it's coming along very well."

SOHO President David Marshall, who specializes in historic preservation projects at Gaslamp Quarter architect Wayne Donaldson's firm, cited Delawie's particular interest in celebrating mid-20th century architectural work.

"As always, Mr. Delawie is ahead of his time," Marshall said.

Mary Platter-Rieger is one of several preservation award winners who are new to the field. A Navy biologist for 26 years, she applied problem-solving skills to saving and restoring some of the buildings and features of the Fort Rosecrans Historic District at the Point Loma Naval Base. Her mentor was preservation consultant Ron May, who has been active in researching Fort Guijarros, the now-buried 1790s Spanish cannon battery at the base's Ballast Point.

"As a biologist I was pretty clueless that we had important cultural resources," Platter-Rieger said. "Ron May and other people educated me. I proceeded to infect other people with enthusiasm, to notice what we had and where."

She sought out Navy craftsmen to help restore some of the early-1900s

SEE SOHO, I-11

buildings at the base and even fought to restore one of the last remaining original street lights.

"To me, the award and reward is getting the job done properly and having people enthusiastic about it," she said.

Also out of their league in preservation were Janet and Kevin Conway. She is a computer software trainer who teaches people how to build Web sites. He sells portable toilets.

But when it came time to buy their first home, the suburban-born Conways focused on pre-World War II neighborhoods and settled on a 1,300-square-foot Craftsman bungalow in North Park.

"We weren't knowledgeable about this stuff," Janet said.

But through extensive reading, exhaustive interviews with prospective contractors and

"To me,  
the award and  
reward is getting  
the job done  
properly and having  
people enthusiastic  
about it."

**MARY PLATTER-RIEGER**

*preservation award winner*

networking with SOHO members, the couple spent two years (and as much as \$100,000) in turning their two-bedroom home into a gem on 29th Street, two blocks from Balboa Park.

"The reward was we got to have a house," she said, adding, "We'll probably be the longest owners. We will never sell. We're going to grow old here."

While the SOHO judges praised the result, they are honoring the Conways for posting the details of the project on their Web site, [www.ournorthparkhome.net](http://www.ournorthparkhome.net), which includes a "Storytellers Page," where visitors are invited to add their thoughts and experiences for others to learn from.

Marshall called this feature "a great use of technology as well as an inspiration to others."

**Roger M. Showley:** (619)  
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[roger.showley@uniontrib.com](mailto:roger.showley@uniontrib.com)

## SOUTHWEST CATHOLIC

LAKE CHARLES, LA  
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# Diana Dudoit Raiche named NCEA Executive Director for Religious Education

WASHINGTON, D. C. - Diana Dudoit Raiche has been named executive director of the Department of Religious Education for the National Catholic Educational Association (NCEA).

In making the announcement, President Michael J. Guerra said, "Diana will bring a high degree of competence and commitment to the position. During the years that she has served as assistant director for assessment, she played an important leadership role in the development, marketing and management of one of our Association's most complex and significant programs."

A native of Lake Charles, Mrs. Raiche earned a bachelor of science in education from McNeese State University and a master's degree in practical theology from the University of San Diego. She is pursuing a Ph.D. in religious education/catechetics at The Catholic University in Washington, D. C. She and her husband live in Sterling, VA and are the parents of three adult daughters.

Mrs. Raiche is presently assistant executive director in the department and has been responsible for NCEA religious edu-

cation assessment programs—Information for Growth for adults and the NCEA Assessment of Catechesis/Religious Education (NCEA ACRE) for students. She guided the revision of the NCEA ACRE assessment instrument that serves more than 100,000 students each year. She will assume her new duties in July, succeeding Robert Colbert, who has been executive director for the 11 past years.

"As her supervisor and colleague for the past six years, I have come to respect and appreciate Diana's many gifts," Mr. Colbert said. "I am confident that she will serve the department as well as executive director and provide wonderful leadership on behalf of catechesis in parishes and Catholic schools."

"It is an honor, a privilege and a challenge to be asked to serve as the department of religious education's fifth executive director," Mrs. Raiche said. "I will work toward advancing a vision of faith formation that understands and values the adage that the whole is greater than the sum of its parts. As the largest professional membership organization in the world edu-

cators from seminaries, universities, parish-based religious education programs and Catholic schools, NCEA offers an ideal diverse environment for promoting comprehensive and collaborative faith formation for all God's children at every age and stage of faith development."

Dr. Joseph Sinwell, director of religious education for the Diocese of Providence, RI, and a member of the NCEA board of directors, said the selection was made after a lengthy, comprehensive nationwide search process. "Diana Dudoit Raiche is a dedicated, energetic, experienced catechetical leader. She will be an articulate spokesperson and advocate for religious education issues in both NCEA's Department of Religious Education and in the United States," he said.

The new director has taught in Catholic schools, parish religious education programs, and diocesan adult formation programs and at the university. As a parish director of catechetical ministry, she was responsible for the catechesis and sacramental preparation of youth in the parish-

based elementary program, youth ministry and Catholic school religion program. As director of the catechumenate in the parish, she guided the formation process for adults and children and served on the diocesan committee for the catechumenate. During her tenure as chairperson of a diocesan education commission, the diocesan policies governing the catechumenate were completed.

Mrs. Raiche has spoken at numerous religious education/catechetical conferences in the United States and Canada and serves as team members for institutes on the catechumenate for adults and children with the North American Forum on the Catechumenate. Her articles and essays have appeared in numerous magazines. She is the author of "Confirmation: Anointed and Sealed with the Spirit—A Journal for Younger Candidates," a sacramental resource published by Living the Good News, and "Children Celebrate! Director's Guide for Liturgy of the Word with Children," published by Pflaum.

## SAN DIEGO READER

SAN DIEGO, CA  
WEEKLY 158,000  
MAY 1 2003

**USD Dance Concerts**, students and alumni of University of San Diego present concerts at 8 p.m. on Friday and Saturday, May 2 and 3, and at 2 p.m. on Sunday, May 4, in Shiley Theatre, Camino Hall. Tickets: \$8 general. USD, 5998 Alcalá Park; 619-260-2280. (LINDA VISTA)

**'Tis the Season of the Spring Dance Concert**, Dance Break 2003, the annual spring dance concert at MiraCosta College Theatre, May 2-4. Performances begin at 7:30 p.m. on Friday and Saturday and at 2 p.m. on Saturday and Sunday. \$10. MiraCosta, One Barnard

Drive. 760-795-6815. (OCEANSIDE)

Student and faculty choreography showcased during University of San Diego's annual Student Dance Concerts, May 2-4. Curtain rises at 8 p.m. Friday and Saturday, 2 p.m. Sunday, in Shiley Theatre at USD, 5998 Alcalá Park. \$7 general. 619-260-2280. (LINDA VISTA)

# **SAN DIEGO READER**

**SAN DIEGO, CA**  
**WEEKLY 158,000**  
**MAY 1 2003**

4154  
"Those Great Bs!" USD Choral  
Scholars present programs featur-  
ing Bach, Bruckner, Bernstein,  
Bartók, Berio, and Berlin, Thurs-

day, May 1, 12:15 p.m.; and Satur-  
day, May 3, 8 p.m., Founders Hall,  
University of San Diego (5998 Al-  
calá Park). \$8 general. 619-260-  
2280. (LINDA VISTA)

would have encouraged Larin to stand up straight. She would not have allowed all those meaningless, lifeless, stereotyped gestures. She would have kept him, in the scene where he

The lighting designer was Joan Sullivan-Genthe, whose

production even lower. ■

## CLASSICAL LISTINGS

*Events that are underlined occur after May 15.*

**HOW TO SEND US YOUR LISTING:** Contributions must be received by 5 p.m. Friday the week prior to publication for consideration. Do not phone. Send a complete description of the event, including the date, time, cost, the precise address where it is to be held (including neighborhood), a contact phone number (including area code), and a phone number for public information to **READER CLASSICAL MUSIC**, Box 85803, San Diego CA 92186-5803. Or fax to 619-881-2401. You may also submit information online at [SanDiegoReader.com](http://SanDiegoReader.com) by clicking on the events section.

**"Words, Music, and Art,"** Bertram Turetzky and La Jolla Symphony members perform for "Images Through Music" series Thursday, May 8, San Diego Museum of Art. Evening begins with

wine and cheese at 5:30 p.m., with the concert commencing at 6 p.m. \$15. Reservations: 619-696-1966. (BALBOA PARK)

**Odeum Guitar Duo** performs Thursday, May 8, 7:30 p.m., in French Parlor (Founders Hall at University of San Diego, 5998 Alcalá Park). \$8. 619-260-2280. (LINDA VISTA)

**"More Great Bsl!"** USD Choir and Choral Scholars present programs featuring Byrd, Borodin, Bizet, Berlioz, Brahms, and Barber, directed by Veny Maldjieva, Friday, May 9, 8 p.m.; and Sunday, May 11, 2 p.m., Shiley Theatre, University of San Diego (5998 Alcalá Park). \$8 general. 619-260-2280. (LINDA VISTA)

**President's Concert,** Palomar Chamber Singers, Chorale, and Orchestra perform Friday and Saturday, May 9 and 10, 8 p.m., in Howard Brubeck Theatre, Palomar College (1140 West Mission Road). Tickets: \$10 general. Reservations: 760-744-1150 x2453. (SAN MARCOS)

**Spring Festival of New Music,** UCSD graduate students in composition, computer music, experimental, and performance appear in free recitals.

On Friday, May 9, 7 p.m.: "Picture of a Bird?" by Kueju Lin, "Composition 98a" by Anthony Braxton, "Players" by George Lewis, and other selections, Warren Music Studio A at UCSD.

The festival concludes with a concert Saturday, May 10, 7 p.m., at San Diego Art Institute (1439 El Prado). On tap: "Galaxie Lointaine (Galaxy Reflection)" by Ana-Maria Avram, Derek Keller's "Love...aspiringly," "Six Elizabethan Songs"

## **School of Business Administration**

## Perspective

# Real estate education rising <sup>4154</sup>



By Sanford Goodkin

Education is the only hope for individuals to find achievement toward a better century.

Add to that — humanity, political leaders, the media and each professional field of endeavor.

The good news is that real estate — unfortunately, often a series of statistical indices rather than anything else — is leaping into a new era of education. The practitioners have a choice of a number of universities offering degree programs in real estate studies, as well as community development, the finest of which is Hal Brown's superb San Diego State University community economic development curriculum. This soft-spoken, effective gentleman has brought knowledge into the necessary revitalization of many San Diego communities. He has taught and inspired knowledge and leadership where it can build a legacy of accomplishment within the university's business school.

I was a close friend of Ernie Hahn, the giant visionary of real estate and San Diego. In his name, the University of San Diego's Real Estate Institute was founded. It has been led by the equally soft-spoken gentleness of Dr. Mark Reidy, a noted economist and financial leader. He has built a fine staff and attracted an advisory board of outstanding accomplished professionals, who assist in guiding the program. The board meets quarterly. One highlight is to have two students share their views on the educational and vocational quality they are experiencing. It is a way that the board can meet and evaluate the USD program.

The stature of professional real estate will be elevated by USD's new master of science degree in real estate, within the fine School of Business Administration, headed by its rather remarkable dean, Dr. Curtis Cooke.

Dr. Elaine Worzala, of Dr. Reidy's staff, worked tirelessly for the creation of the master's program. She is also president of the International Real Estate Society and has built a strong reputation in both research and education. She tells me that this will develop socially responsible leaders for the real estate profession.

See Goodkin on 2B

## Goodkin

Continued From Page 1B

For those who feel that real estate is buying something and selling it for a profit, I tell you that it is fast becoming a true profession that requires more than luck, location and timing.

The true master of real estate will need to have good decision-making and technology-related skills, socially responsible values, ethical orientation and conduct, and an understanding of the ever-changing issues facing practitioners in this century; and will have to be good at financial and quantitative analysis, critical thinking and problem solving, all levels of communication and the art of negotiation.

Just review in your mind the incredible swiftness of the past three years of change — when dot coms went from the top to the pits, when terror increased the cost of insurance, when trillions were subtracted from the assets of stock owners, when morality and trust became freshly discovered values in big busi-

ness and Wall Street, when the American dollar reached its apex, when joblessness accompanied "recovery," and when "deflation" reared its ugly head.

Each of these calls for management awareness of product and corporate risk and reward. The volatility produced by change and the constant rapidity of reported news via traditional manner, joined by spam and Internet ambiguity, calls for a truly educated professional who is able to handle the unexpected, as they demand the expected sound returns on investments.

I was involved in the setting up of the University of Southern California real estate program and have lectured at University of California, Los Angeles, the Massachusetts Institute of Technology and Harvard on these subjects. I am pleased by the progress being made in educating the forces that will influence, if not build, our future.

Source Code: 20030528tdd

# Lying on Resume Could Cost You Job

By Michael Kinsman, CNS

The latest victims of the nation's corporate ethics scandals never set up off-balance sheet accounts or overstated profits.

But they did commit resume inflation.

That was enough to disqualify five potential students at the University of California Berkeley Haas School of Business who otherwise would have gained entry to its MBA program.

"They lied about things they didn't need to lie about," says Jett Pihakis, admissions director for the MBA program. "Each of them would have qualified."

There is a lesson here: Your resume is an extension of you and your ethics.

Nobody knows precisely how common resume fraud is. Most estimates identify 30 percent to 40 percent of all resumes as inflated or fraudulent. However widespread,

it appears to have reached the epidemic stage.

If we have learned anything about corporations over the past two years, it is that the people who run them must possess integrity and honesty that show up in everything they do.

Graduate business schools at Berkeley, Columbia University and the University of Pennsylvania have taken it upon themselves to start checking resumes.

"It comes straight out of what has been going on in the corporate world," says Pihakis. "We sort of see ourselves as the gatekeeper for the people entering that world and it makes sense that we do this."

Sadly, most of those disqualified at Berkeley already had considerable experience in the workplace. They should have known better.

Pihakis says all of the disqualified applicants had serious factual violations, including such things as saying they worked at a job eight or

nine months longer than they actually did.

The five violations were found in the first 100 applicants who had qualified for entry to the business school next fall. A second group of applicants is now being processed, but only one person has been disqualified.

"I wouldn't expect to see five in this group," Pihakis says. "I think people are aware now that we are checking facts."

Marc Lampe, a professor of business law and social responsibility at the University of San Diego's School of Business Administration, applauds the move to hold students accountable.

"It's a good symbolic message," he says. "We want to believe that our business students are honest — and most of them are — but statistics tell us that some may not be."

"If nothing else, we might scare off some people who shouldn't be here or convince others that they have to be honest in everything they do. I think it changes the culture and sends that message."

Duncan Mathison, a career counselor with Drake Beam Morin in San Diego, is concerned that we have historically treated resume fraud cavalierly.

"If you're looking for a job and they detect it, you aren't going to get the job, but that's really about all that will happen," he says. "The penalty for doing it is rather small. Nobody gets sued over inflated resumes."

He cautions, however, that an inflated or doctored resume can haunt an individual even years after they've been in a job.

"I was just with some human resources people last week and I can tell you that they don't like resume fraud," he says. "If someone is going to lie on a resume, what else are they going to lie about?"

# Online bookings really click

By Michael Kinsman, STAFF WRITER

4154-500  
**L**ate at night, Carole Pietras sometimes logs onto her computer to go travel shopping. She knows that bargains often pop up in off-hours.

"You never know what kind of good deal you're going to find," the University City woman said. "The airlines put up weekend specials, and sometimes they post reservations cancellations."

All across the country, people are logging onto the Web to look for travel bargains. Few industries have melded Internet technology with commerce as deftly as the travel industry.

More than 39 million Americans booked travel on the Internet last year, or 25 percent more than the year before, according to Jupitermedia, a Connecticut consulting firm.

Another travel consultant, Orlando-based Yesawich, Pepperdine, Brown & Russell, reports that 50 percent of airline tickets and 40 percent of hotel rooms are booked online.

Airlines and hotels view the Internet as a marketing and reservations system that will ultimately reduce their overhead. But to build sales, they have offered deep discounts, causing some in the industry to worry that companies may be strangling themselves financially.

## Travel sites

The fastest-growing travel Web sites in the U.S.

### Cheap Tickets

<http://www.cheaptickets.com>

### Continental Airlines

<http://www.continental.com>

### American Airlines

<http://www.aa.com>

### USATravelpro.com

<http://www.usatravelpro.com>

### Travelzoo

<http://www.travelzoo.com>

### Orbitz.com

<http://www.orbitz.com>

### Alaska Air

<http://www.alaskaair.com>

### Marriott

<http://www.marriott.com>

- Nielsen / NetRatings, Feb. 2003

"Obviously, one person's gain is another person's loss," said T. Somasundaram, a marketing professor at the University of San Diego. "That's Economics 101."

The Internet has become a great equalizer, particularly for airline tickets, hotel rooms and rental cars. Instead of making six or eight calls to airlines, for instance, consumers can quickly summon flight times, availability and pricing of several airlines with a click of the mouse.

Online travel services such as Travelocity, Expedia and Orbitz offer their versions of the best deal in town, often deeply discounting air fares, cruise packages or hotel rooms.

"Prices are now transparent," said Reint Reinders, president of the San Diego Convention & Visitors Bureau. "The customer is totally in control, and we in the travel industry have to learn to live with that."

Some are concerned that online discounts have become so popular that it will be difficult to wean consumers back to regular prices.

"People have become obsessed with the pricing component to an unrealistic level," says Tim Smith, president of San Diego Travel Group. "When someone has flown round trip to New York for \$199 once, how hard is it going to be for them to buy a ticket next time they want to travel and the tickets are \$400 or \$500?"

Like other travel agencies, San Diego Travel Group has had to compete in a world where airlines and hotels offer online-only specials that often undercut the traditional role of travel agents.

"Airlines advertise and promote their cheapest fares," Smith said. "But they may have only five or six seats on a plane at that lowest rate, or they might dangle the fare on the Internet for just a couple of hours. The airlines are experts at changing their fares to meet their needs."

Alaska Airlines, which in 1995 became the first airline to sell tickets over the Internet, now sells about 35 percent of all tickets that way, spokesman Jack Walsh said.

"The Internet has been a real benefit to us," he said. "It has been a cost-efficient distribution network for us, allowing us to cut expenses."

Industry consultant Peter Yesawich said that 58 percent of Americans believe they can get a better travel deal online, according to a survey done by his firm this year.

A year ago, just 38 percent thought they could land the best deal on the Internet.

"The primary reason for people to go online to make travel plans is the belief that they are going to get a better deal," he

said. "We have created this perception by the rates that are offered."

Yesawich contends that bargain shopping is here to stay.

"Cheaper is chic-er," he said. "The concept of brand loyalty is dying and will be replaced with price loyalty. Consumers set a price for their trips — however simple or complex they may be — and then they figure out how to get it."

USD's Somasundaram said the airline industry easily lends itself to comparison shopping.

### A lot alike

"What do you get when you book an airline flight?" he said. "You get a seat that is cramped on an airplane that will fly you safely to a particular location. There really is very little to distinguish airlines today and consumers know that."

Because planes fly every day with unfilled seats, Somasundaram thinks ticket bargains are inevitable.

"If you are an airline, you want to get as many people on that flight as possible," he said. "Sometimes, you may charge less to do that."

Robert Rauch, director of the Center for Hospitality & Tourism Research at San Diego State University, sees it as pure economics.

"It's all supply and demand," he said. "What is happening now is the same thing that happened 10 years ago in San Diego when we were in the midst of the last recession."

At that time, hotel occupancy dropped to about 60 percent, and Rauch said hotels were using regional services for reservations to fill hotel rooms at any price.

"Every night, 40 percent of the rooms were empty," Rauch said. "That's what we call 'distressed inventory.' And, that's exactly what is happening today, but we are using the Internet to market the rooms rather than a telephone reservation system. The only difference is that consumers can see all the rates now."

Alan Farwell, general manager of the Hyatt Regency La

Jolla, said that his chain won't discount rooms on travel sites any more than it does on its own site.

### Brand loyalty

"Just because you can book rooms over the Internet doesn't mean that you'll have a profit," Farwell said. "We adjust our rates, but don't let them go too low. And, we want people to use our site because we see it as a way of building brand loyalty."

If Rauch is right that travel bargains revolve around supply and demand, steep competition on air fares might linger, but hotel prices are likely to rise.

"It's a lot easier for the airlines to turn on and off product, if you will, than it is for hotels," Rauch said. "If an airline is running full, it just adds more planes or flights. We already have a lot of aircraft sitting idle. That ability to control capacity means prices will rise slower."

"But you don't just add hotel rooms. You have to plan and build hotel rooms and then you are stuck with them. You put them out of commission and then use them again. They are always there and no one will build more until they are convinced there is a need for them."

Some shoppers, like Pietras, get seduced by the lure of Internet specials. Pietras says she might spend eight hours at a time surfing travel sites.

"I guess if you look at it that way, it sounds kind of crazy," she said. "But I like it because you find there are so many ways to save money."

Rauch says that pricing transparency due to the Internet is good for consumers.

"If there is a victim in this, it is the old-fashioned way," he says. "We can't do things like we always have. Our distribution network has changed and we need to realize that. New technology has brought new dynamics and the people working in this industry need to realize that and adjust to it."

# Technology

## NEWS AND FINANCE

### The Question: Can Gateway Re-Invent Itself?

#### Technology: Struggling Poway Computer-Maker Wants to Move Into Consumer Electronics

■ BY BRAD GRAVES

POWAY — Can Big Cow do like Big Blue? Gateway, Inc., the San Diego-area company that uses the cow-spot motif, is slowly transforming itself from a personal-computer builder to a company that combines PCs and consumer electronics.

Yet to be seen is whether it can pull off an IBM-like transformation.

International Business Machines was a mainframe builder that got into personal computers, then successfully rebuilt itself to focus on computer services. Even mainframes were not its original business. The company originally dealt in tabulators and other office machines.

Today Gateway, the build-to-order personal computer maker, is casting about for a new identity.

In November, the company brought out a low-priced, 42-inch plasma screen TV. Or-

ders were so high that Gateway had trouble filling them.

Earlier this month, Gateway promised more TVs and other consumer electronics products. It announced plans to launch 50 products in 15 categories this year.

By 2005, Gateway officials said, the company hopes to get 40 percent of revenue from consumer electronics and items other than PCs. This year the goal is 25 percent; next year it's 32 percent.

Shareholders have yet to see whether Gateway will emerge from its cocoon as a beautiful Monarch butterfly or as a dust-brown moth.

The stock, traded on the New York Stock Exchange as GTW, closed at \$3.15 on May 14.

In guidance offered May 8, the company predicts:

- A current quarter loss of 27 cents per share on revenue of \$798 million.
- A third quarter loss of 19 cents per share on revenue of \$893 million.
- A fourth quarter loss of 9 cents per share on revenue of \$964 million.

Two Southern California academics are split over whether Gateway can successfully remake itself.

Robert Phillips, an assistant professor at the University of San Diego's School of Business Administration, wonders if Gateway is playing to its strengths.

"Gateway's competence was its early entry into mass customization," Phillips said last week. "Others simultaneously or subsequently adopted that business model and have executed the strategy far better than Gateway. Gateway has been fairly fumbling for a strategy ever since — as three reorganizations in as many years will attest."

"Clearly, to stay competitive, companies like Gateway have to try different things," said Michael D. Hamlin, an administrator at Pepperdine University's Graziadio School of Business & Management.

And, Hamlin said, this may be a good time to promote devices that speak to one another.

Hamlin said Gateway's push toward the convergence of computers and consumer electronics could be likened to Apple's.

Apple Computer Inc. has promoted its products for digital video and digital music. The company made a splash last month when it unveiled a music-download service — with

*Please turn to TECHNOLOGY on Page 10*

### Technology:

*Continued from Page 9*

the blessing of the record labels — for 99 cents per song. Sixteen days later, the Silicon Valley computer-maker reported customers had downloaded 2 million songs to their Apple rigs.

Hamlin — who is director of academic information and research services at Pepperdine's Graziadio School — said consumers are not exactly beating down retailers' doors to get computer/home-electronics hybrids, or extreme products like refrigerators that tell you when you're low on milk.

"People are still trying to get the VCR to stop flashing '12 o'clock,'" he said.

Yet another reason there is little demand for such products, Hamlin said, is there is no real place for consumers to see convergence in action. Retailers tend to segregate computers, video systems and sound systems into their own departments.

But here Gateway's store network — which some commentators call a liability — could be an asset. Gateway stores could be places where people see computers, video systems and sound systems working in concert.

Gateway said this month it plans to remodel its stores by the holiday period, but it provided no details in a press release.



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# WTC Spotlights China for Trade Visions Conference

## Otay Mesa Maquiladora Trade Show, 'Mexport,' Is Scheduled For June 26

The San Diego World Trade Center has narrowed its focus on China for its annual Trade Visions conference this week.

The May 29 event is titled "Chinese Business in the Changing World Economy."

Last year, Trade Visions looked at China, South Korea, and the Philippines.

Bella Heule, president and CEO of the local trade center, said she wanted the conference to give local businesses more information on China because it is a large and dynamic market.

Heule said the conference will address the hot topic of SARS, or severe acute respiratory syndrome. Fears about the virus, which has infected more people in China than in any

other country, have slowed travel there.

Heule said the trade center wants to alert business travelers to the health risk without overblowing the issue.

"Business is continuing to be done, but it has slowed down," she noted.

Business experts addressing Trade Visions attendees will also touch on best prospects for exports to China, sourcing and manufacturing, China's compulsory certification mark, business relationships, and intellectual property rights.

"Intellectual property rights continues to be a challenge for some companies and individuals in China," Heule said. "But there are more ways to protect companies."

The trade center's Asia Desk helps local

companies answer questions about exporting to China and many other countries.

During the first four months of the year, 60 percent of the companies using Asia Desk have been interested in China.

Heule said the trade center will continue to offer the Asia Desk's services for free through June 30. The prices for services are still being determined, but some may be offered for free.

The World Trade Center is targeting small and medium-sized businesses interested in exporting to Asia through a new program titled "Inside Track for Exports to Asia."

The U.S. Department of Commerce's Market Development Cooperator Program and the



*International  
Business*

Mandy Jackson

trade center fund the program.

The program trains people who speak languages used in China, Hong Kong, Japan, Korea, the Philippines, Singapore, Taiwan, and Vietnam and are familiar with those countries' cultures to be business facilitators. They will work part-time for local high-tech and biotech companies looking to export products or services to Asia.

The first group of 30 facilitators will finish 100 hours training in August. Twenty local companies have already agreed to hire the trainees. Training for a second group will begin later this year.

With the help of the program, San Diego-based Genteon Inc. landed a contract with the Chinese Academy of Agricultural Resources in Beijing.

The academy will use Genteon's Capella 400 genetic analysis system. The product is a fully automated, high-capacity capillary electrophoresis system that does not require the use of expensive fluorescent dyes.

Meanwhile, for companies looking for a one-day lesson on exporting to China, tickets are still being sold for Trade Visions.

The event will run from 7 a.m. to 2:30 p.m. and include breakfast and lunch on May 29 at the Joan B. Kroc Institute for Peace and Justice at the University of San Diego.

The cost to attend is \$95 for members of the trade center and the event's cooperating organizations. Nonmembers pay \$125.

For more information, contact Crystal Cowan at (619) 615-0868, Ext. 110, or e-mail her at [ccowan@sdwtc.org](mailto:ccowan@sdwtc.org).

# SARS economic impacts will be felt outside of Asian markets

By DEAN CALBREATH  
Business Journal columnist

Although SARS seems to have been caged in its original breeding ground of China and Hong Kong, the financial effects of the disease are rapidly spreading throughout the Pacific Rim and threaten to damage the world's fragile economy.

SARS-related travel cancellations, production-line disruptions and trade slowdowns are taking their toll, even in countries with little sign of the disease.

In Japan, which has not had a single verified case of severe acute respiratory syndrome, about 70 percent of major corporations say the disease will hurt their earnings. In Malaysia, Thailand and the Philippines — which have reported fewer than 20 SARS cases — the financial side effects of the disease may clip as much as a percentage point out of the economic growth rate.

Economists warn that those side effects are spreading far from Asia.

"Asia is the strongest region in the world in terms of economic growth at this point," said Alan Gin, an economist at the University of San Diego. "Weakness there caused by SARS could slow the

recovery in the rest of the world."

Wall Street analysts list Qualcomm and Motorola as some of the major Western companies that may be hurt by SARS because retail sales in China, the world's biggest telecommunications market, have dried up.

Qualcomm's technology is being deployed by China Unicom, and subscriber numbers have fallen short of expectations. Motorola was recently forced to send a large number of its 1,000 employees in Beijing home after one employee came down with SARS symptoms.

## Western companies feel pinch

Other companies that warn they may be hurt range from Yum Brands — parent company of KFC, Taco Bell and Pizza Hut — which warns that declining sales in China could affect its global earnings, to the Goodrich Corp., which cites SARS as a reason for a recent dip in aircraft parts sales.

If SARS continues to spread in China through the end of July, which seems likely, it could cost as much as \$17 billion in lost exports and foreign investment, said Gao Huiqing, a government econo-

mist at China's National Information Centre, in a state-run business newspaper.

And those figures don't include the economic losses caused by declines in retail trade and tourism, and increases in health-care costs.

Two out of three hotel rooms in China's major cities are empty. Chinese airlines are cutting between 33 percent and 45

percent of their flights because of lack of business. Restaurant traffic is down as much as 90 percent, which is having a huge impact on Hong Kong, where eateries typically generate nearly \$7 billion in sales per year — the equivalent of 2 percent of the gross domestic product.

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# A Little Pomp ...



Thousands of students will graduate from local colleges and universities this month, facing one of the toughest job markets in decades — much like the one this San Diego State University grad faced after last year's commencement ceremonies.

San Diego State University

## ... But a Lot of Circumstance

### Another Year of an 'Employer's Market' Awaits Class of 2003

■ BY RENE'E BEASLEY JONES

Monica Mincey wanted off the welfare roll. A four-year degree seemed like the ticket.

Mincey, 33, graduated May 17 from San Diego State University with a social work degree. Unfortunately, she hit one of the nation's worst job markets in 20 years.

Mincey hopes to earn at least \$35,000 a year helping abused children. Mincey's resume looks good: a 3.1 grade point average and an internship at Children's Hospital's Chadwick Center. Another plus: She's willing to relocate anywhere in the nation.

"But I might have to give up my dreams of what

I want to do to take something I have to do just to make money. That's disappointing," Mincey said.

She's not alone.

SDSU handed out more than 9,000 diplomas to graduates last weekend. Thousands more will spill out of San Diego's other universities and colleges in the weeks ahead.

Some students — in hot occupations such as nursing, accounting, engineering, and biotechnology — received offers shortly after they enrolled in their senior year, local career counselors say. For others, the search will go on for six months to a year after graduation. Even so, many will settle for stop gap jobs to pay bills.

It's an employer's market. In many professions, firms can choose from the cream of the crop.

Local shipbuilder **National Steel & Shipbuild-**

*Please turn to GRADS on Page 17*

## Grads: Survey Expects Local Unemployment Rate to Hover at 4 Percent

*Continued from Page 1*

**ing Co.** is in a hiring mode, especially in its production department. At a November job fair where the company hoped to fill 400 positions, more than 4,000 applicants showed up, said spokesman Steve Clarey.

A few college grads snapped up Nassco blue-collar jobs, hoping to get a toehold into the company's professional development program for management and engineering, Clarey said.

### Local Outlook

The county's unemployment rate (unadjusted) sat at 4.2 percent in April. That re-

mains stronger than the state's 6.4 percent and the nation's 5.8 percent unemployment rate.

A University of San Diego index of leading economic indicators for the county was down January through March. The index — a survey of local building permits, unemployment insurance claims, San Diego Stock Exchange Index, help-wanted ads, and consumer confidence — has dipped for 12 straight months. However, recent declines have not been as severe as in mid-2002, the survey notes.

The USD study forecasts weak job growth

for the rest of this year. Initial claims for unemployment insurance are down, compared to numbers reported in 2002. But ads to hire new workers are down for the seventh month in a row.

The survey expects the local unemployment rate is likely to stay around the 4 percent mark through year's end.

To blame: the weak national economy and \$38.2 billion state budget deficit.

Greg Locke, who plans to earn his master's degree in entrepreneurship from SDSU in January, felt lucky to land a job earlier this year. Locke attends school part-time and works full-time for San Diego County's real estate division, handling leases with businesses.

"Our whole culture is going through a transformation with people who are extremely educated who are out of work," Locke said.

He attends class with some people who already hold at least one master's degree.

They've been laid off during this economic downturn and are seeking more education to make themselves more marketable.

"It's sad," Locke said.

### What's Hot, What's Not

In coming months, the city of San Diego and the county may cut more than 500 positions combined because of the state's shortfall. Last week, the San Diego Unified School District agreed to lay off 412 non-teaching employees. Also, local companies recently reported plans to reduce personnel.

Among them are **Isis Pharmaceuticals** of Carlsbad; **Corautus Genetics**, a San Diego biotech company; **Applied Micro Circuits Corp.**, a local telecom company; and **Nanogen**, a San Diego biotech firm, to name a few.

Bright spots in the local employment scene exist, however.

Nassco will hire between 600 and 800 blue-

*Please turn to GRADS on Page 22*

# Grads: Engineering, Health Care, Law Grads in High Demand

Continued from Page 17

collar workers this year as the company ramps up to build four double-hull oil tankers for British Petroleum and the first three of perhaps 12 cargo replenishment ships for the U.S. Navy, Clarey said.

In addition, the company will fill 30 to 40 college graduate-level positions during the next year. Some are new positions; others opened through attrition.

Vytec, a global provider of technology solutions that bought out locally based Stellcom, plans to hire engineers and consultants to design and build computer networks. Local defense manufacturer **General Atomics** is looking for a number of engineers, scientists, software developers, and technicians.

Even in this tight market, employers are looking to fill positions in sales and marketing, accounting, and generalized management, local career counselors say.

Barry Garron, a spokesman for the San

Diego Community College District, said the region holds promise for biotechnicians, computer graphics technicians, and nurses. In some cases, biotech companies are hiring students before they complete programs, Garron said.

Engineering technology students are in high demand. After graduation from a community college, they can expect to start at \$34,000 to \$37,000 annually.

Nursing is another field where opportunity abounds.

"(Community colleges) can't provide enough students for the hospitals because of the demand," Garron said.

Scripps Memorial Hospital La Jolla decided last year to exceed state-mandated standards for patient-nurse ratios. The hospital opened 90 new registered nurse positions, said Kristin Hoeffling, a senior recruiter.

Besides nurses, Scripps Memorial is also recruiting for management level employees, pharmacists, and imaging services technicians.

A new nurse with an associate's degree will earn \$23.54 an hour at Scripps Memorial, Hoeffling said. A bachelor's degree in nursing nets \$24.72 an hour.

To meet the need for new nurses, Scripps Memorial started an "externship" program in which students earn college credits for coming to work at the hospital. With the first round of student nurses, Scripps Memorial retained 100 percent of participants.

Although an estimated 1,000 teachers across the county may lose jobs due to cuts in the state budget, some hard-to-fill disciplines still hold promise. Math, science, and special education teachers remain in demand.

San Diego Unified Public School District's special ed department is recruiting more than usual this year because the district expects to lose more teachers through an early-retirement package. Besides, the division always has vacancies, says Roxie Jackson, director of special education.

Generally, the district hires between 150 and 200 special ed teachers a year, she said.

USD entered into a partnership with the district recently to launch a new program that helps laid-off teachers who may want to enter the special ed field. With a scholarship program, displaced teachers can enroll in a two-year paid internship program.

Recent law school grads who specialize in civil litigation, bankruptcy, insurance, immigration, and workers' compensation may find more job opportunities right now than those who focus on mergers and acquisitions and venture capital, says Lou Helmuth, assistant dean of career services at California Western School of Law.

There has been a national falloff in firm recruiting, Helmuth said, and local competition remains intense. Graduates are finding greater success in smaller California markets, such as Sacramento, Pasadena, Riverside, and Walnut.

Most college students earning an undergraduate degree assume they'll leave college with a \$30,000 position in hand. In the end, many will have to settle for less this year, said Linda Scales, director of career services at USD.

"They're taking less with more grace than they would have in the past," Scales said, "because they know students from last year are still looking for jobs."

## REPORT: CERTAIN INDUSTRIES ARE IN GROWTH MODE

According to the Occupational Outlook Report 2003 published by the San Diego Workforce Partnership, San Diego County's new-job growth has averaged 20,000 to 22,000 in the last two years.

In the late 1990s, that number stood at 30,000 to 35,000.

The region has maintained a lower unemployment rate than the state and nation because of its diversified economy, the report concluded. That diversity is attributed to growth in 16 industries. Among them are biomedical products, business services, communications, computer and electronics manufacturing, defense and transportation manufacturing, entertainment and amusement, environmental technology, military, and software and computer services.

"These industry clusters are projected to create 40 percent of the region's 184,000 new jobs by the end of 2010 ...," the report reads.

Between 1999 and 2006, total growth estimates — new jobs and jobs opening through attrition — in some local professions include:

Accountants/auditors	2,200
Assemblers/fabricators	3,340
Computer programmers	2,420
Financial managers	1,670
Janitors and cleaners	6,940
Receptionists	4,770
Registered nurses	3,580
Salespersons (retail)	17,550

**SAN DIEGO BUSINESS  
JOURNAL**

**SAN DIEGO, CA  
WEEKLY 14,000  
MAY 19 2003**

# S.D. Economy Gets Tied Up By Traffic Jam

FRONT PAGE

■ BY SALLY ARDIZZONE

4154

When a crane toppled over at the Interstate 5 and 805 merge last week, it caused the worst traffic jam in San Diego history and kept thousands of commuters from getting to work.

And whenever a catastrophe hits one of the region's major freeways, it inevitably costs the region's economy millions of dollars in lost productivity.

Because of the May 14 incident, which closed the north and southbound lanes of both freeways for much of the day, including the entire morning commute, bank deals didn't close, some restaurants couldn't open, and surgeries had to be rescheduled.

Please turn to TRAFFIC on Page 14

# Traffic: Massive Freeway Tie-Up Sends Ripples Through San Diego Economy

Continued from Page 1

**Sequenom Inc.**, a San Diego-based biotech focusing on DNA analysis, racked up at least \$300,000 in losses, said Jay Strandberg, the company's director of supply chain management. Sequenom sent 175 employees home after they arrived to work hours late on Wednesday.

"It's a huge loss when you lose 20 percent of your week," Strandberg said. "At our manufacturing office we lost a whole day of capacity and getting our chip manufacturing (done)."

Gridlock on such a grand scale happens so rarely that it's nearly impossible to put a dollar value on the cost to companies, said Alan Gin, a University of San Diego economics professor. Besides, no one tracks the number of employees who were affected and for how long.

The construction crane, which was being operated by Oakland-based Condon-Johnson & Associates, Inc. as part of the I-5/805 merge-widening project, toppled over about 2:30 a.m. as it landed on two parked cars and snapped several high-tension wires, leaving them strewn across the freeway. No one was hurt in the accident.

Traffic, however, snarled virtually every major artery in the county and power outages blanketed the surrounding area, affecting about 2,900 **San Diego Gas & Electric Co.** customers in Sorrento Valley, including Sequenom.

Overall production and manufacturing at the firm was halted for the day because serv-

ers went down. The company used generators but also scrambled trying to find a back up energy source, said Strandberg.

## Total Cost Not In Yet

By Thursday, power had been restored, said SDG&E spokeswoman Anne Silva, but many workers across the region had to arrive earlier for the rest of the week to compensate for time lost. SDG&E hasn't assessed the cost to fix the broken lines yet, Silva said.

Late-arriving workers and the power outage affected schools and hospitals in the area, as well as a number of businesses. Scripps Green Hospital and the Scripps Clinic in La Jolla had to use backup generators for awhile until power was restored at the hospital at 4:30 a.m., and 8 a.m. at the clinic Thursday. All outpatient appointments and surgeries were canceled for the day, and many nurses and other hospital staff went home.

Spokeswoman Cathy Spearnak said the hospitals experienced no financial impact, but with time lost, many patients had to reschedule.

"It was definitely a disruption, but they're dealing with it," Spearnak said.

With traffic at a standstill, San Diegans missed scheduled airline flights out of Lindbergh Field. Southwest Airlines reported a number of passengers missed about 15 scheduled flights departing between 7:30 and 11:30 a.m. The total number of passengers was unknown, said Lourdes White, area marketing manager for Dallas-based Southwest.

"But all were accommodated on later South-

west flights at no additional charge," White said.

The airline employs a staff of 350 in San Diego, but because the first shift of the day starts at 4:30 a.m., most workers averted traffic jams.

## Silver Lining

However, one company was able to make a little profit from last week's mishap. Some commuters who heard about the situation earlier than others decided to find an alternate means of transportation — via The Wave, an Oceanside-based 149-passenger ferry service that travels between Oceanside to San Diego.

"They were actually getting more calls because of the transportation (problems) on the freeway," said Mike Forbush, vice president of operations for **Cloud 9 Shuttle**, which handles the reservations for the ferry service. Forbush said the service had at least a couple dozen more inquiries that morning. Round-trip tickets costs about \$10.

Usually, lots of road construction takes place at night on the region's interstate highways to reduce the impact on daily commuters, said Gary Gallegos, executive director of the San Diego Association of Governments. Gallegos is also the former director of the local office of the California Department of Transportation.

With the combination of construction and traffic — between 200,000 and 300,000 vehicles daily — at the I-5/805 merge, it's amazing more mishaps don't take place, Gallegos said.

"But when it does happen, it's the equivalent of a human having a heart attack," he said.

One clogged artery sends the county's entire transportation system to its knees, he said.

There's a lesson in all of this, Gallegos said.

There's too much demand placed on the system during peak hours. If some employers would offer flex hours to workers, it would help, he said.

"If 5 to 10 percent would do that, it would have a tremendous impact," Gallegos said.

Stephen Starling, USD professor of supply chain management, said last week's gridlock disrupted the local service industry more than manufacturing. Most local manufacturers keep enough inventory on hand to see them through a short delay.

But all sectors saw lower productivity and some down time as employees struggled to get to work.

"In most cases, companies won't be able to make up that time," Starling said.

A bigger issue: If similar incidents start to happen with more frequency, Starling said, local manufacturers may start keeping more stock as a safeguard.

"Increasing lead times increases costs," he said. "And that increases prices to customers."

San Diego Business Journal staff members *Rene'e Beasley Jones*, *Connie Lewis*, *Marion Webb*, and *Lee Zion* contributed to this story.

# Some optimism seen for near-term economic growth

## Local indicators fall, may indicate 'bottoming out'

By Michael Kinsman  
STAFF WRITER

An index of leading economic indicators released yesterday by the University of San Diego showed that the local outlook continued to weaken during the first quarter of this year.

But the decline appears to be leveling off, which could signal an end to the region's slump.

"That's certainly what we are hoping for," said Kelly Cunningham, economist for the San Diego Regional Chamber of Commerce. "We've been

looking for this bottoming out for some time."

Alan Gin, the USD business professor who compiles the index, said that although the regional outlook has been softening for 12 consecutive months, the economy is still in relatively good shape.

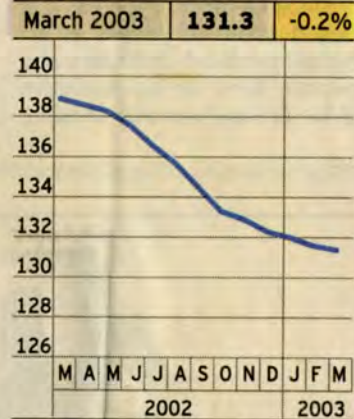
"I think the San Diego economy is still going to have some rough spots," Gin said. "The big question is, what does a rough spot in San Diego mean? It doesn't mean a downturn. A slump in San Diego means a slowdown. It is not a true slump."

The index, which looks at building permits, unemployment insurance claims, local stock prices, consumer confi-

SEE **San Diego, C8**

## Slow going

USD's index of leading economic indicators for San Diego has fallen for 12 straight months.



SOURCE: University of San Diego

DAVID HARDMAN / Union-Tribune

## ► SAN DIEGO

CONTINUED FROM PAGE C1

## Economist expects bounce as troops return

dence, help wanted advertising and national leading indicators, has dropped precipitously since mid-2000. It declined 0.2 percent in January, 0.3 percent in February and 0.2 percent in March.

Out of the past 33 months, it has declined 28 times.

But while San Diego's job growth has declined for four successive years, Gin still forecasts that the local economy will add between 10,000 and 15,000 jobs this year.

"Even though it has continued downward, San Diego still is producing jobs and our unemployment rate is 4.3 percent, which is considerably better than the state or national rates," Gin said.

Only four times in the past 30 years has the San Diego economy failed to increase payroll jobs.

Gin said he expects the region's unemployment rate to remain in the 4 percent range this year. "That's high when you consider where it was two years ago," Gin said. "But it's not very high when you compare it to other regions."

San Diego County's unemployment rate dropped to a historic low of 2.4 percent in December 2000.

The brightest spot in the

USD index was in building permits. A total of 3,105 building permits were approved in the county during the first quarter, up 45 percent from a year ago and the most issued since the first quarter of 1990.

Gin said consumer confidence continues to suffer, even though the region is not faring poorly economically.

"People are still concerned about losing their jobs and the lack of job growth in the region," he said. "They may be comparing it to what things were like three years ago instead of what things are like in other parts of the country."

While the fallout from the decline in consumer confidence will show up in consumer spending, Cunningham said the swift conclusion of the war

in Iraq will likely have a disproportionate impact on San Diego.

"People become conservative in times of war, they are not so sure of the future and just tend to cut back on their spending," he said. "There is a psychological stimulus, whether you are directly involved in the war or not."

Cunningham anticipates a bounce as early as May due to San Diego County-stationed troops returning from the war and a more optimistic outlook by local consumers.

"We've had three years of declines," he said. "Our economy is at a point that it needs to pick up."

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MAY 1 2003

# REPORT: Local economy halts steep slide

By TIM COFFEY

San Diego Daily Transcript

**SAN DIEGO** — The pace of San Diego's shrinking economy slowed in the first quarter of 2003, indicating an end to the declines could be near, according to a report released Wednesday.

The Index of Leading Economic Indicators for San Diego, a previously monthly report that has become a quarterly event because of delayed information, reported stronger local economic activity in the initial three months of this year than in any three-month period since the first quarter of 2002.

The appearance of a leveling-off has the author of the index expressing some optimism but cautioning the index could head south again.

"We have some good news in the sense that construction activity is up significantly, but there's still a problem with consumer confidence," said Alan Gin, an economics professor at the University of San Diego. "It's a little bit of an improvement over much of 2001 and 2001 where we had some severe drops in the index."

economy.

"I continue to believe the economy is positioned to expand at a noticeably better pace than it has during the past year, though the timing and the extent of that improvement remains uncertain," he said.

The economy grew at a tepid rate of 1.6 percent in the first three months of 2003.

The leveling-off of shrinkage in the San Diego economy has not gone unnoticed by area bankers.

Dino D'Auria, head of commercial lending at **San Diego National Bank**, said in the last three months the business community has moved to maximize profit margins by cutting unnecessary expenses in line with declining revenues.

Most of those cuts are being made in non-operating activities, he said.

"People are buying what they use in the normal course of business, but they're not investing in big capital improvements and that really drives a portion of the economy," D'Auria said.

Additionally, few companies are borrowing on their lines of credit, meaning that if the economy improves in the near-term San Diego businesses would be poised to expand.

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Source Code: 20030430tba

## Local economy

Continued from Page 1A

January and March the index closed down 2 percent, and in February it was down 3 percent. While still negative, the first quarter ended a steep slide that took 5 percent to 9 percent off the index in a single month.

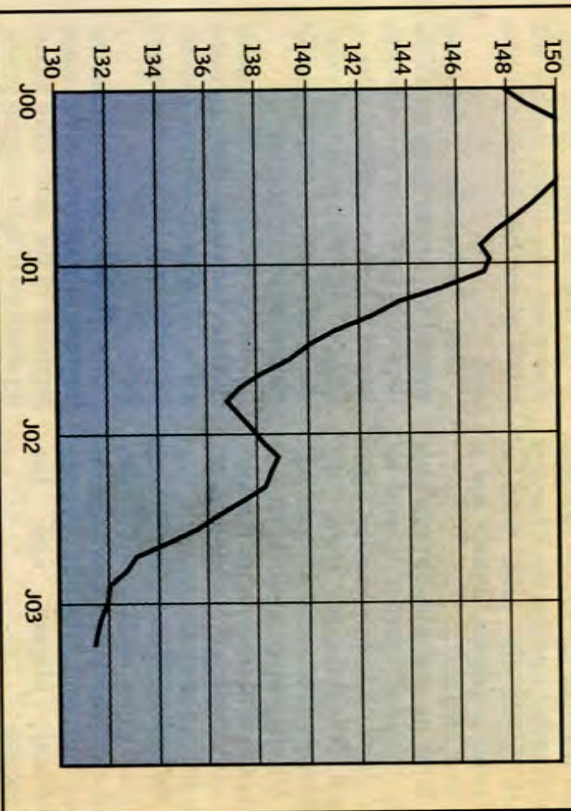
The quarter was buoyed by 3,105 new housing permits, a near 45 percent increase from the first quarter of 2002; lower claims for unemployment insurance compared to 2002; and a San Diego stock market that gained as much as it lost in the last three months.

However, consumer confidence continued to decline, down 40 percent in a year, creating the biggest drag on the index; local help wanted advertising fell for the seventh consecutive month; and the national economic index fell in February and March.

The relatively strong economy coincides with the conclusion of a quick war in Iraq. While Gin said the economy could benefit from a quick return of deployed Marines and sailors based in San Diego, he cautioned that it might not "offset the negatives of a weak national economy and the adverse impact of the huge state budget deficit."

Indeed, in his speech before Congress on Wednesday, Federal Reserve Chairman Alan Greenspan suggested much the same thing for the national

Index of Leading Economic Indicators  
San Diego County, 2000-2003



The San Diego Index of Leading Economic Indicators closed the first quarter at 131.3, the lowest level since December 1996 and down from 138.8 in March 2002.

Source: University of San Diego

"I think leveling-off is a good way to put it, but there's no signs that we'll get spectacular growth this year," he added.

The index closed the first

quarter at 131.3, the lowest level since December 1996 and down from 138.8 in March 2002. In

See **Local economy** on 4A

## **Local economy halts steep slide**

May 1, 2003 4154

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## **SAN DIEGO DAILY TRANSCRIPT**

SAN DIEGO, CA  
MONDAY 15,000  
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**SAN DIEGO DAILY  
TRANSCRIPT**

SAN DIEGO, CA  
MONDAY 15,000  
MAY 12 2003

FRONT PAGE

***Local unemployment  
drops but job growth  
remains sluggish***

4154  
By TIM COFFEY

*San Diego Daily Transcript*

SAN DIEGO — At first glance, San Diego's unemployment report appeared promising, but a deeper look showed a troubling situation.

The region's unemployment rate dropped to 4.2 percent in April, down from 4.4 percent in March and to the lowest level this year. However, just 400 jobs were created here last month, a considerable decline from the 9,200 jobs added to the economy in April 2002.

So for the first time since 1993, San Diego's year-over-year new job growth was negative, according to the state's Employment Development Department, which also computes the unemployment rate. The region has now lost more than 1,300 jobs since April 2002.

"Of course one month doesn't make a trend," said Cheryl Mason, a local labor analyst with the EDD, "but if this continues in the next couple of months it could be a sign that San Diego is really headed for some trouble."

The California unemployment rate was 6.6 percent for April, down from a revised 6.9 percent in March. The national rate was 5.8 in April, down from 6.2.

The drop in the unemployment rate for April was the result of

See **Unemployment** on 3A <sup>B</sup>

# Unemployment

*B* Continued from Page 1A  
fewer people looking for work, a statistic that is difficult to track, Mason said.

San Diego's economy watchers were more concerned with the precipitous drop in the growth of new jobs, since that is one of the primary indicators of a recession.

"Having it go negative like that is a concern, because maybe it is saying or indicating that a recession is going to hit San Diego, that we're actually going to see a downturn in our economy," said Kelly Cunningham, the economic adviser to the San Diego Regional Chamber of Commerce. "One month certainly doesn't make it (a recession) — the national definition is you have to have two consecutive quarters of negative growth. This doesn't necessarily say that we're having a recession, but it does say something very significant."

The local job market for the last 10 years benefited from a healthy, expanding business sector and a plump government, collecting steadily increasing corporate and personal tax dollars. But when the economy, and the technology industry in particular, stumbled in early 2000, few immediately understood the depths to which the economy would fall, and thus were unwilling to part with employees.

The recently concluded war in Iraq also hindered the economy. An estimated 10,000 locally based Marines and sailors shipped half-way around the world severely impacted discretionary spending in parts of San Diego County with high concentrations of pre-deployed military personnel.

Alan Gin, an economics professor at the University of San Diego, said the local job market

drought was likely the result of tough economic times for nationwide customers of San Diego businesses.

"The war certainly had an impact, it took a lot of spending power out of the economy ... but I also think this reflects a problem that we're having in the economy both nationally and locally," he said. "We have weak economic activity now and if you look at the national economy, the national economy lost 500,000 jobs in the last three months. Because we're more tied to the national economy, that's hurting us here."

Business sectors that increased jobs in April were construction, up 1,300 jobs; trade transportation and utilities, up 300 jobs; travel and hospitality, up 200 jobs; and financial activities, and professional and business sectors, both up 100 jobs.

Decreased job numbers were

recorded in manufacturing, down 800 jobs; education and health, down 400 jobs; government, down 300 jobs; and other, non-descript services, down 100.

No changes were recorded in information or natural resources and mining.

tim.coffey@sddt.com  
Source Code: 20030509tbd

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**San Diego Business Journal Forum**

## Will the Returning Troops Have Any Immediate Impact on the Economy?

Now that President Bush has declared combat operations over in Iraq and some of our military personnel are coming home, the *San Diego Business Journal* asks:

*What do you think will happen to the San Diego economy now that the troops are returning to our local bases?*

### BOB PINNEGAR

Executive Director  
San Diego County Apartment Association

"I think it's a positive thing that the military is coming home. It will have a positive affect on the local economy, but in the long-term, we are still dependent on the national economy and the state's budget deficit.

"... We will start to see incredible cuts in things that affect the local economy: Services being reduced by the government leads to people being laid off.

"When the economy's bad, that 18-, 19-year-old worker doesn't move out of mom and dad's house and into an apartment.

Unless our economy picks up, it could have a negative impact on vacancies."

### DIANNE JACOB

San Diego County  
Supervisor

"If only our brave servicemen and women could topple California's unfriendly business climate the way they toppled Saddam! It's



wonderful to have our fighting forces coming home, spending money and investing in our economy. It's not enough to change our state's onerous business regulations, overpriced electricity, and ever-growing workers compensation costs. For San Diego's economy to thrive, the state must address the concerns of business leaders who are crying out for help."

### ALAN GIN

Professor of Economics  
University of San Diego

"The fact that the war ended so quickly and the troops are coming back will be a benefit, but it is not going to be the end of the economic sluggishness that we have in San Diego. There are problems in the national economy that are affecting us here. It will take awhile to get the national economy going again."



### BOB SLAPIN

Executive Director  
San Diego Software Industry Council

"It will be good, until they (our troops) are off to Syria."



As masked security guards kept watch, souvenir stands lining a street in central Beijing were closed yesterday, having been shut down by the outbreak of SARS. *Associated Press photos*

# SARS' financial fallout

Disease's effects cutting swath through Pacific Rim

By Dean Calbreath  
STAFF WRITER

TOKYO — Although SARS seems to have been caged in its original breeding ground of China and Hong Kong, the financial effects of the disease are rapidly spreading throughout the Pacific Rim and threaten to damage the world's fragile economy.

SARS-related travel cancellations, production-line disruptions and trade slowdowns are taking their toll, even in countries with little sign of the disease.

In Japan, which has not had a single verified case of severe acute respiratory syndrome, about 70 percent of major corporations say the disease will hurt their earnings. In Malaysia, Thailand and the Philippines — which have reported fewer than 20 SARS cases — the financial side effects of the disease may clip as much as a percentage point out of the economic growth rate.

Economists warn that those side effects are spreading far from Asia.

"Asia is the strongest region in

the world in terms of economic growth at this point," said Alan Gin, an economist at the University of San Diego. "Weakness there caused by SARS could slow the recovery in the rest of the world."

Sung Won Sohn, economist for Wells Fargo Bank, said SARS is already cutting into California's exports to Asia — especially from Silicon Valley — as well as chipping away at tourist spending.

"SARS will keep more potential travelers at home, hitting both Northern California and Southern California's travel and hospitality industries," he said.

Wall Street analysts list Qualcomm and Motorola as some of the major Western companies that may be hurt by SARS because retail sales in China, the world's biggest telecommunications market, have dried up.

Qualcomm's technology is being deployed by China Unicom, and subscriber numbers have fallen short of expectations. Motorola this week was forced to send a large



A China Airlines employee held a sign directing passengers arriving from Hong Kong to a hotel for quarantine.

## Economic impact of SARS



SEE SARS, C2

## Reduced travel could mean reduced trade

number of its 1,000 employees in Beijing home after one employee came down with SARS symptoms.

Other companies that warn they may be hurt range from Yum Brands — parent company of KFC, Taco Bell and Pizza Hut — which warns that declining sales in China could affect its global earnings, to the Goodrich Corp., which cites SARS as a reason for a recent dip in aircraft parts sales.

So far, the biggest economic costs are centered in China, the epicenter of the outbreak. Of the 6,727 probable SARS cases reported worldwide since November, 6,056, or 90 percent, are in China and Hong Kong, as are 407 of the 478 deaths, or 85 percent.

If SARS continues to spread in China through the end of July, which seems likely, it could cost as much as \$17 billion in lost exports and foreign investment, said Gao Huiqing, a government economist at China's National Information Centre, in a state-run business newspaper this week.

And those figures don't include the economic losses caused by declines in retail trade and tourism, and increases in health-care costs.

Two out of three hotel rooms in China's major cities are empty. Chinese airlines are cutting between 33 percent and 45 percent of their flights because of lack of business. Restaurant traffic is down as much as 90 percent, which is having a huge impact on Hong Kong, where eateries typically generate nearly \$7 billion in sales per year — the equivalent of 2 percent of the gross domestic product.

Although the disease is centered mainly in China, the economic impact is spreading for several reasons:

■ **Lower retail sales.** Chinese consumers are staying home rather than risk catching the disease. That is hurting exporters in Japan, Europe and the United States, many of whom have grown to rely on China as the one steady growth market in a sluggish global economy. Not only is it the world's biggest market for mobile phones, but China is expected soon to overtake Japan as the No. 2 market for personal computers.

But sales in China plummeted in recent weeks because of SARS. Weekly sales of mobile-phone handsets dropped 40 per-



Thermal imaging was used to check railway passengers in China. Associated Press

cent in the last week of April, according to the JP Morgan investment banking firm.

"We would expect the SARS issues to have an adverse impact on sentiment toward all handset-related stocks, particularly Nokia and Motorola and Qualcomm, and to a lesser extent infrastructure vendors such as Ericsson," a recent report from Lehman Bros. stated.

■ **Disrupted supply lines.** A large number of multinational manufacturers have shifted their factory work to China because of its cheap labor. But now they fear they may have to close their production lines if a worker catches SARS. Factory-wide quarantines could strangle production of electronic goods, textiles, toys and other Chinese products.

Many companies operating in China are spending money on preventive measures: disinfecting factories, distributing masks and medicines to workers, screening workers' health and putting up signs encouraging them to wash their hands and gargle. Since factories typically employ several thousand workers, the health costs can be substantial.

Some companies, including Microsoft, are reportedly urging their suppliers to consider alternate production sites, such as Mexico or Eastern Europe. But analysts say it is unlikely that a mass exodus will occur.

"There would be major costs involved (in shifting production lines), and the labor

costs would be much higher," USD economist Gin said. "So SARS would have to last a long time in China to justify incurring those costs in a move."

■ **Reduced tourism.** "SARS could not have come at a worse time for the region's services and tourism industries, many of which were struggling with the global economic slowdown and the war with Iraq," Wells Fargo economist Sohn said.

Reduced travel also brings with it the potential of reduced trade. More than 60 percent of Japanese businesses told Nikkei pollsters that they have noticed a drop-off in business travel from outside the region. One-quarter say they are having fewer business negotiations.

Ed Yardeni, the perpetually optimistic chief investment strategist for Prudential Securities, sees a silver lining to the SARS outbreak.

"The good news is that China's political leadership has been totally embarrassed by this, and it is going to require them to think about how they run their country in terms of health care," he said. "We may find that over the years, even the amount of influenza that comes out of the region diminishes. With the Summer Olympics coming to China in 2008, Beijing cannot afford to have people have doubts about their health."

Dean Calbreath is on special assignment in Japan.



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# Fallout of SARS crimps economy

KNIGHT RIDDER NEWS SERVICE

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## TRAVEL ANXIETY

### World tensions, risks shutter travelers

Pleasure and business travel is being deferred as SARS, terrorism and the aftermath of war combine to increase the anxieties of those going abroad. The U.S. Department of State issued travel warnings which recommend avoiding these 32 countries.



SOURCES: U.S. Department of State; Associated Press

AP

which cites SARS as a reason for a recent dip in aircraft parts sales.

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Two out of three hotel rooms in China's major cities are empty. Chinese airlines are cutting between 33 percent and 45 percent of their flights because of lack of business.

## PROFILS

*une rubrique pour faire mieux connaître nos membres et leurs activités*

**Nous accueillons avec plaisir : THE UNIVERSITY OF SAN DIEGO SCHOOL OF BUSINESS ADMINISTRATION et L'EDHEC.**

*Bienvenu à nos deux nouveaux membres, et à leur alumni. Grâce à ces nouvelles présences, que nous espérons actives au sein de notre Cercle, nous remplissons pleinement notre mission de rapprochement et de renforcement des liens d'amitié franco-américains.*



The University of San Diego School of Business Administration (SBA) is celebrating its 30th anniversary in 2003. San Diego was recently ranked by FORBES magazine as the #1 city in the U.S. in which to do business.

Industries as diverse as biotechnology, telecommunications, healthcare, tourism and homeland security make up the region's vibrant economy. San Diego is also a city with global connections given its proximity to Mexico and the Pacific Rim.

In this global environment, partnerships connect the SBA to leading international

business schools in Asia, Europe and Latin America. Graduate and undergraduate students actively engage in study abroad programs in collaboration with affiliates on four continents.

The SBA offers a robust menu of degree programs ranging from an International MBA to Masters programs in Global and Executive Leadership and Information Technology Management.

Undergraduate programs include economics, accounting, business administration and engineering. International students - comprising approximately 18% of students studying in the SBA - are attracted by a tradition that combines academic excellence with the entrepreneurial skills needed to prosper in a global economy. All of these programs are incubated in an intimate educational environment where students and faculty learn together.

In sum, the School of Business Administration at the University of San Diego is committed to developing socially responsible leaders and improving global

business practice through innovative, personalized education and applied research.

Our membership in France Amériques is a logical step for the University of San Diego to provide additional value to our alumni who live and work in the European Union. The programs and services provided by France Amériques offer our alumni access to the personalities and organizations that drive the European and world economies. We are pleased to join the distinguished ranks of American colleges and universities who are members of France Amériques.

Christopher M. Redo  
Assistant Dean



# Financial fitness for the family firm

By PEGGY EDDY  
On Family Matters columnist

4154

Before embarking on the succession-planning process in a family business, it's critical to complete a personal financial plan for the senior or founding generation or departing shareholder.

Ideally, families who own businesses do well to plan early and often for the financial fitness of all its members and shareholders. However, the long-term survival of the family business is ultimately based on the founding generation and subsequent shareholders knowing that they will be financially comfortable after they "leave the building" and transition their ownership to another family member or key employee.

If the topic isn't addressed adequately while discussing how the founder will gracefully exit the family business, planning for adequate cash flow for the founder or other shareholders and still allow the business to thrive and meet business financial obligations can be an extremely frustrating experience. From my more than 25 years of working with family-owned businesses, the future financial security of the founder inevitably becomes a focal point and sometimes the stumbling block to "letting go."

A founder will not be very favorably disposed to transiting the ownership of the business to a child until their personal cash flow and long-term financial well being is fairly certain. For example, if a younger son is offering to buy the founder's stock using an installment note, the parent could be a bit

concerned about the dependability of their future cash flow if this same son could not even find his allowance money in the sixth grade.

If all of the personal balance sheets of San Diego's more mature business owners were displayed, one would see similarities among most of them: high net worth concentrated in illiquid real estate (normally leased by their business), their (debt-free in most cases) primary residence, and, overwhelmingly, their very valuable, but still very illiquid business interest(s). There is not sufficient space to adequately forecast what the balance sheets of junior family members would look like. Suffice it to say that the "liabilities" column most likely would have many more entries, which is a primary reason for the younger generation to get debt under control and become more financially fit, too.

Without a well-diversified balance sheet, founders can be held "financially hostage" by the business until their deaths if there are no additional income sources, other than the family business. In addition, without having assets outside of the family business, it is rare that founders will ever leave the corporate payroll, much less the executive offices. From a tax-planning standpoint, without founders having well-diversified assets, there is little flexibility available for designing appropriate income tax and estate tax efficient ownership transition plans.

See **Financial fitness** on 8C

## Financial fitness

*Continued from Page 6C*

Sound personal financial planning goes hand-in-hand with successful business succession planning. Knowing what the founders or parents need for their long-term financial security is the starting point of this process. What will it take in today's dollars, inflated by at least 3 percent per year until age 90 or 95, to cover normal expenses for the founder and spouse? What additional expenses will founders need to underwrite once the business no longer provides pre-tax benefits such as a car, medical insurance, entertainment expenses for business purposes and other similar items?

Next, identify what sources of income are available to replace the founders' salaries or distributions from the business. Estimating a reasonable total return from an investment portfolio and future distributions from a qualified plan are good starting points. In addition,

there may be rental income from the business/tenant in the founder-owned real estate. Can the first generation receive consulting fees on an as-needed basis? Can a private annuity be arranged with other family members to transition the business to them? Is a deferred compensation plan appropriate to consider instituting? What kind of compensation will be paid to the founder if he or she remains as chairman of the board? How can benefits such as health care be maintained for the founder's benefit when he or she leaves full-time employment of the company? Is the founder's balance sheet going to still be used to collateralize the present financial arrangements of the business? Can a fee be paid for this collateralization arrangement? Has the founder loaned the business any personal funds that can be repaid, with interest, as part of the initial cash flow planning?

These inquiries about personal spending and sources of income are just a few of the important questions to answer when completing a personal financial plan for the senior family members. Once done, it is the personal financial plan that will be the foundation on which to structure appropriate financial arrangements to effect the transition of ownership to the next generation.

By not relying indefinitely on the operating business for income and a continuing return on investment, family members have more life choices available to them. For the family firm, financial fitness is every bit as important as physical fitness. The time to start is now.

*Eddy, a certified financial planner, is president of San Diego-based Creative Capital Management Inc. and co-founder of USD's Family Business Forum. She can be reached at [peggy.eddy@sddt.com](mailto:peggy.eddy@sddt.com).*

SAN DIEGO DAILY  
TRANSCRIPT

SAN DIEGO, CA  
THURSDAY 15,000  
MAY 8 2003

# Former soccer player scores goal as e-marketer

FRONT PAGE

4134  
By ANDREW DONOHUE  
*The Daily Transcript*

SAN DIEGO — At first, Andreas Roell tries to downplay his past as a soccer player, preferring to focus on the present and the future.

But he realizes soccer is as much a part of his story as the city he grew up in, the Black Forest region of Germany, the blazing lights of Las Vegas and the e-marketing firm he started three years ago on \$5,000 of regular old credit-card credit.

It was soccer, after all, that gave him his first winks of a vision that looks an awful lot like the American Dream.

"I was trying to keep soccer out of my life to prove myself at other things, but then I realized it is very complementary in certain elements. Not that I really kick the ball around anymore, but just sort of that desire and motivation and fire that I have," Roell says.

He first came to the United States as a member of the German youth national team and went on to play a year of college soccer at the University of Nevada, Las Vegas.

He returned to his hometown of Karlsruhe afterward but found a restricted life.

"In Germany, you have to go through a certain social structure. ...If you don't have a doctor title, you are pretty much limited," says the blond-



Andreas Roell

haired, blue-eyed Roell.

He says he always had ideas and was always trying to seize opportunity, and the narrow ways of German life frustrated him.

"I felt like my whole world had fallen apart and was closing in around me," he says.

Roell, now president of **Geary Interactive**, headed back to Las Vegas to finish his degree, and then moved on to the **University of San Diego** to get his master's degree in business.

While working toward his degree, Roell co-founded **Prime Player LLC**. It was through this sports medicine information

company that he met John McKusick.

The two founded Geary Interactive, an e-marketing firm, three years ago.

"We were working on really tight deadlines. We just realized there was a good connection and we could work together under stress," says McKusick, who directs Geary's creative work.

Together, McKusick and Roell have spun Geary from a Web development company into a full e-marketing firm with 12 employees.

While McKusick handles the creativity, Roell is the businessman.

"He's someone who can go into a big corporate meeting with 50 people and he can really impress

A See Roell on 2A

A Continued from Page 1A

them," says McKusick, who adds that the two share "a nice mix of skills."

Geary Interactive was born from The Geary Co., a Las Vegas advertising firm.

Roell and McKusick originally thought they'd just do Web development, but Roell says they soon realized a client's needs stretch beyond the initial Web site design.

Now, they call themselves an advertising agency. It's just that they only do the Internet.

That includes services like online media planning and buying, surveys, e-mail marketing and digital public relations.

They originally relied on The Geary Co.'s client list but have steadily built their own group, which includes the American Cancer Society, LandGrant Development, KPBS San Diego and the Sahara Hotel and Casino in Las Vegas.

Roell says it is key to directly show the client what they are getting with their money, which can be easily displayed with Internet monitoring.

And he believes in the business model enough to have big plans for the future.

He's begun guest lecturing at USD and is doing public speaking. Roell hopes to fully staff the company's Las Vegas office by the end of the year and open up a new office in a new city in 2004 and 2005. After that, he's got designs on going international.

His former professor-turned-good-friend Dennis Zocco says Roell's done everything right with his business.

"He really stood out as a student who had great insights into entrepreneurship, he was very creative and very intelligent," says Zocco.

andrew.donohue@sddt.co 46  
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SAN DIEGO DAILY  
TRANSCRIPT

SAN DIEGO, CA  
THURSDAY 15,000  
MAY 29 2003

**SAN DIEGO DAILY  
TRANSCRIPT**

SAN DIEGO, CA  
THURSDAY 15,000  
MAY 29 2003

# BUSINESS CALENDAR

4154

## FEATURED EVENTS

### THURSDAY, JUN 5 - SYMPOSIUM

#### Wi-Fi LA JOLLA 2003

Wi-Fi La Jolla 2003 is a one-day international symposium celebrating the next generation of Wi-Fi(wireless) technology. Space available for "presenting companies" & "attendees." We aim to uncover the "next generation" wireless pioneer. Developers, distributors, and investors in Wi-Fi technology should plan to attend. **Organization:** La Jolla Concierge, Inc./S.D. RTA **Information:** Phil Cenedella (858) 488-9000 phil@lajolla-concierge.com **Cost:** \$65.00- \$1,950.00 **Where:** La Jolla Cove Suites Conference Center, 1155 Coast Blvd, La Jolla, 92037

### SATURDAY, JUN 7 - SEMINAR

#### LEADING IN THE NEW GLOBAL ECONOMY-INAUGURAL SEMINAR

This session examines the new complex and dynamic international marketplace from business, economic and political perspectives. This session inaugurates the University of San Diego and San Diego World Trade Center's certificate in Global Strategy and Management (GSM). Courses integrate practical techniques and current research in a manner that will help you compete more effectively in international commerce. To celebrate the inauguration of the certificate program there is no charge, (June 7 only). Other event dates are: June 21, July 19, Sept. 6, Nov. 15 and Dec. 13. **Organization:** USD-Ahlers Center for International Business **Information:** Diana Colangelo dianac@sandiego.edu **Cost:** \$75.00 **When:** Hours: 9:00 AM - 1:00 PM **Where:** Joan B. Kroc Institute for Peace & Justice, USD, 5998 Alcalá Park, San Diego, 92110, Venue Phone - (619) 260-7873

### WEDNESDAY, JULY 9 - BUSINESS

#### INTERNATIONAL MARKETING SEMINAR, CERTIFICATE IN GLOBAL STRATEGY & MANAGEMENT

This course is part of the University of San Diego and San Diego World Trade Center's certificate in Global Strategy and Management (GSM). This four-session course focuses on the selections of international markets, the development of product strategies, effective price setting, the selection of distributors and agents and the promotion of products in foreign markets. Additional dates include; July 16, July 23 and July 30. **Organization:** University of San Diego, Ahlers Center for International Business **Information:** Diana Colangelo dianac@sandiego.edu **Cost:** \$75.00 **When:** Hours: 6:30 PM - 9:30 PM **Where:** Joan B. Kroc Institute for Peace & Justice, USD, 5998 Alcalá Park, San Diego, 92110, Venue Phone - (619) 260-7873

### WEDNESDAY, AUGUST 6 - BUSINESS

#### INTERNATIONAL FINANCE SEMINAR, CERTIFICATE IN GLOBAL STRATEGY & MANAGEMENT

This course is part of the University of San Diego and San Diego World Trade Center's certificate in Global Strategy and Management (GSM). The mechanics of international finance are vital to those dealing in international commerce. This course addresses the principal aspects of financing international trade. Emphasis is placed on letters of credit, government programs and foreign exchange management. Additional course dates include; August 13, August 20, August 27. **Organization:** University of San Diego, Ahlers Center for International Business. **Information:** Diana Colangelo dianac@sandiego.edu **Cost:** \$75.00 **When:** Hours: 6:30 PM - 9:30 PM **Where:** Joan B. Kroc Institute for Peace & Justice, USD, 5998 Alcalá Park, San Diego, 92110, Venue Phone - (619) 260-7873

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#### Information Session with Ken Blanchard

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## **Office of Corporate Relations**

# Save the Date

*Saturday, June 28, 2003*

*6:30 pm*

*for a*

**GALA EVENING**

*celebrating the*

**GRAND OPENING  
AND DEDICATION**

*of the*

**Donald P. Shiley  
Center for Science & Technology**

Science

To be held at the University of San Diego

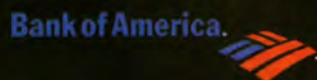
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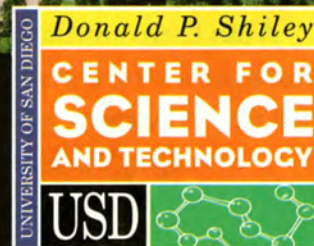
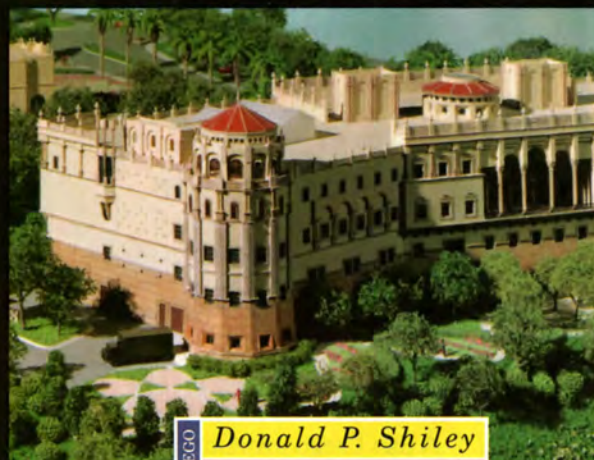
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**SAN DIEGO BUSINESS  
JOURNAL**

**SAN DIEGO, CA  
WEEKLY 14,000  
MAY 12 2003**



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# New Science and Technology Center Opens

By Coreen Petti

On June 28, 2003, The University of San Diego will celebrate the grand opening of the new Donald P. Shiley Center for Science and Technology with an elegant black-tie gala honoring local philanthropists Donald and Darlene Shiley, who donated the \$10-million naming gift to the project.

The gala offers the San Diego community an opportunity to participate in the building's dedication, and to be among the first to see the 150,000-square-foot facility. The event also includes a farewell tribute to commemorate the retirement of USD President Alice Bourke Hayes, who has been the university's president for eight years. Proceeds from the gala will establish new science scholarships named in honor of Hayes' presidential legacy.

The Center for Science and Technology is the largest building on the USD campus, and is expected to become a major training ground for Southern California's biotechnology industry. With an emphasis on hands-on instruction and research, the facility features 70 state-of-the-art laboratories, including facilities for electron microscopy, nuclear magnetic resonance imaging, lasers and chemistry computer modeling. The building also houses aquariums, an astronomy deck, a greenhouse, and areas to accommodate visiting scientists and technology meetings.

A highlight of the four-story Spanish Renaissance building is a permanent lobby art installation that depicts an interdisciplinary experiment combining biology, chemistry and physics. These three disciplines, along with marine and environmental sciences, are the cornerstones of USD's science curriculum.

The name to be engraved on the building

carries a legacy of discovery. During his long career in science and technology, Donald Shiley invented the Bjork-Shiley artificial heart valve, designed an endotracheal tube used to maintain the airway in unconscious patients, and created aircraft fuel booster pumps that significantly advanced the abilities of U.S. military planes.

The Shileys are longtime supporters of USD, where Darlene Shiley is a trustee. Through their foundation, the Shileys have supported medical research, the arts and education. They recently funded an orthopedic research chair at San Diego's Scripps Clinic, sponsored two Scripps neurology fellowships and launched the UCSD Shiley Eye Center, a world-renowned eye-care center whose staff has pioneered sight-saving surgical techniques. They also funded The Globe Theatres artist-in-residence post, and have been major supporters of local public television programming.

The June 28 gala begins with a 6:30 p.m. reception, followed by a 7:30 p.m. dinner and program. Individual tickets are \$200 per person. Golden Patron tables of 10 are available for \$5,000, which includes four VIP invitations to a private pre-event reception with the Shileys and Hayes, prominent seating for dinner, and a full-page ad in the commemorative program. Silver Patron tables of 10 are available for \$2,500, which includes two VIP invitations to the private pre event reception, preferred seating for dinner, and a half-page ad in the commemorative program.

Congratulatory messages may be submitted for inclusion in the commemorative program. Pricing is \$1,000 for a full page, \$500 for a half page, and \$250 for a quarter page.

*Coreen Petti heads the partnership marketing campaign for the Donald P. Shiley Center for Science and Technology. For more information call (619) 260-4690.*

**SAN DIEGO DAILY  
TRANSCRIPT**

SAN DIEGO, CA  
MONDAY 15,000  
MAY 19 2003



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**Pacific Coast provided architectural accents**

*Pacific Coast Foam* has provided the ornate custom exterior architectural shapes and accents for the Donald P. Shiley Center for Science and Technology, located on the campus of the University of San Diego.

*Pacific Coast* partnered on the building with *Plastering Specialties* (plastering contractor and foam installer) to manufacture a number of architectural foam details, including molding details, columns, spires, finials, decorative arches and interior moldings.

Additional team members for the project included *Carrier Johnson*, the design architect; *Rudolph and Sletten Inc.*, the general contractor; *Hope Engineering*, the structural engineer; *Latitude 33*, civil engineering; *Michael Wall Engineering*, electrical engineering; *Van Atta Enterprises*, landscape architect; *GEM Engineering*, mechanical plumbing; and *Johnson Consulting Engineers*, telecommunications.

**School of Education**

## EDUCATION WEEK

BETHESDA, MD  
43-TIMES/YEAR 54,000  
MAY 21 2003

### Teaching Character Is Not 'Intervention'

4154 p 36  
To the Editor:

Your article reporting on the growing research base in character education ("Nice Work," *On Assignment*, April 30, 2003) should help convince reluctant educators that character matters. And for that we thank you.

But the article addresses only one aspect of schools' character education efforts, what might be called "intervention programs." A comprehensive character education program includes much more than that.

As noted in the 1992 Aspen Declaration on Character Education, "effective character education is based on core ethical values which form the foundation of a democratic society, in particular, respect, responsibility, trustworthiness, caring, justice and fairness, and civic virtue and citizenship." These and similar values are the foundation of such efforts in schools.

A second component is the integration of these values into the curriculum. Then come efforts to create a school and classroom culture that is caring, civil, and challenging. Next is the array of activities promoting the school's core values. A fifth and essential component is service-learning opportunities, for students to practice the values they are learning about. (It was surprising that those you quoted missed the rich and informative research coming from this field.) Partnerships that teachers and administrators form with parents and the community make up the sixth component of a comprehensive program.

Add to these the findings of James Leming, a leading researcher in character education missing from your article. He has synthesized the research and reported that character develops within a social climate, and that effective character education programs include: clear standards and fair enforceable rules, orderly school and classroom strategies, mutual respect between teachers and students, shared governance, meaningful two-way communication, support by stakeholders (particularly students and parents), and cooperative-learning strategies.

Daniel Goleman noted back in 1995 that a small investment in emotional- and social-development programs in schools will have a significant influence in reducing antisocial and high-risk behavior. So the class meetings, conflict-resolution strategies, and violence-prevention programs mentioned in your article confirm his hypothesis. But most students are not in these two categories. We should be careful not to imply that these programs are what character education is all about. They are not.

Character education is about helping the young learn what it takes to be good human beings, to make ethical decisions, to solve problems rationally and peace-

*D Continued on Page 36*

*b*

*Continued from Page 35*

fully, and to develop positive personal and civic behavior.

Edward DeRoche  
Co-Director  
International Center for  
Character Education  
School of Education  
University of San Diego  
San Diego, Calif.

**SAN DIEGO UNION-TRIBUNE**

**SAN DIEGO, CA  
TUESDAY 374,856  
MAY 13 2003**



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**ON THE MOVE**

*Personnel moves in San Diego County*

4154  
**Anne M. Donnellan** has joined the University of San Diego as professor of education and associate provost for graduate studies. As associate provost, she will have responsibility in providing leadership and coordination for the development of graduate programs.

**Craig Jacobs** has been named general manager for the Hotel del Coronado.

**Randy Frisch** has joined the *San Diego Union-Tribune* as finance director. Prior to joining the newspaper, he was the chief operating officer of *The Salt Lake Tribune* where he also was the general manager and later treasurer for the joint operating agreement organization.

**Dana F. Kopper** has joined



**Anne M.  
Donnellan**



**Randy Frisch**

Lockton Insurance Brokers as senior vice president and western region director.

**Fred Sagheb** has joined Tucker Sadler Noble Castro Architects as project manager.

Send items for this column to:  
Darlene M. Allilain, On the Move,  
The San Diego Union-Tribune,  
P.O. Box 120191, San Diego, CA  
92112-0191, or e-mail them to  
darlene.allilain@uniontrib.com.

# People

## KEY HIRES AND PROMOTIONS

### EDUCATION



**Donnellan**



**Darrish**

**Anne M. Donnellan** has joined the University of San Diego as a professor of education and associate provost for graduate studies. Previously, Donnellan was a professor at the University of Wisconsin. **Jim Darrish** has joined the San Diego State University Foundation property development team as a project manager. Darrish has more than 24 years of real estate development project management experience and will take the lead on The Paseo, a \$210 million mixed-use redevelopment project.



**Institute for Peace and Justice**

# Caldicott says threat of nuclear disaster still looms

Activist has 5-year disarmament goal

By **David E. Graham**  
STAFF WRITER

Despite the end of Cold War enmities, the threat of destruction from nuclear weapons

hangs over the planet, warns a longtime opponent of nuclear weapons, Helen Caldicott.

Caldicott, a doctor who founded the advocacy group Physicians for Social Responsibility, said the United States and Russia have the weapons armed and ready, making the risk of use — even by accident

or miscalculation — too great. "It really sends chills down my spine," she said in an interview yesterday. "We need the abolition of nuclear weapons."

She operates the Nuclear Policy Research Institute, based in San Francisco and Washington, D.C., with analysts who study nuclear weap-

onry, waste and power plants. She makes speeches and gives media interviews in hopes of reawakening in the U.S. public what she called a seemingly forgotten urgency about the potential for nuclear disaster.

Caldicott will speak at 7 p.m. today at the University of San Diego's Joan B. Kroc Institute

for Peace & Justice. The event will be open to the public; admission is free.

The goal of her advocacy, she said, is the abolition of all nuclear weapons within five years. If the United States and Russia were to agree to that, other nations with smaller arsenals — from European nations to Israel to Pakistan and India — could be persuaded to follow, she said.

That the United States continues to build nuclear weapons encourages smaller countries such as North Korea to develop them also, she said.

And U.S. pursuit of a missile shield program to defend against incoming nuclear missiles also is perilous, she said. It encourages nations with larger arsenals, such as Russia and China, to build yet more bombs that might saturate and overwhelm the defense, she said.

"That's the nuclear cross that we may all well be crucified on," Caldicott said of the potential for proliferation.

She said the United Nations could employ a strong inspections regimen to assure that no nation, or even rogue individuals, would have nuclear weapons.

She said the U.S. military establishment seems inexorable in its desire for the weapons. She criticized former President Clinton for not striking a deal with former Russian President Boris Yeltsin in the 1990s to abolish nuclear weapons when the two had an apparently warm relationship.

She said the fact that former President Reagan and former Soviet President Mikhail Gorbachev once talked extensively about such a possibility in a meeting in Iceland encourages her to believe such a goal can be met.

"It's not naive to think we can," Caldicott said.

She advocates closing nuclear power plants because they are attractive targets for terrorists wanting mass casualties.

Caldicott has been talking and writing about the nuclear threat since the 1970s, when she argued against French nuclear testing in the Pacific.

She said she regards herself as "a physician making a diagnosis." Her most recent book is "The New Nuclear Danger: George Bush's Military Industrial Complex."

**David Graham:** (619) 542-4575;  
david.graham@uniontrib.com

16733

Subject: Interview: Interfaith leader Bob Edgar  
Date: Thursday, May 01, 2003 1:07:17 PM EST  
Message-ID: <WWN-UPI-1-20030501-13071700-bc-us-interfaith-edgar-Text>  
4154 Joan B Kroc Inst. for Peace & Justice  
Interview: Interfaith leader Bob Edgar

The Rev. Bob Edgar, general secretary of the National Council of Churches USA, warns against post-war euphoria after the fighting is over in Iraq. An elder of the Methodist Church, Edgar served six terms as a Democratic congressman from Pennsylvania from 1974 to 1987 and has headed the 50-year-old council since Jan. 1, 2000. The NCC, an organization of 36 Protestant, Anglican and Orthodox communions with more than 50 million congregants, held a two-day Interfaith Summit on Iraq with Christian, Muslim and Jewish leaders in Chicago. United Press International's Al Swanson asked Edgar what happens now.

Q. I heard you on the radio this morning and you referred to one of your favorite sermons, "In a dark time the eye begins to see." Do you feel that we're in a dark time now as we approach this post-war reconstruction?

A. Absolutely. I think that the euphoria of winning the war is misplaced. There's never been an issue of whether we were going to win the war or not. I think the euphoria ought to come when we've met the humanitarian needs of the children of Iraq. When we've seen religious freedom in Iraq. When we've seen institutions that take time to be built emerge. In Afghanistan, where we think of ourselves as victorious, many aid workers are leaving Afghanistan because out in the countryside there isn't control.

Q. Who should direct the humanitarian relief, the U.S. military?

A. Never. Militaries are good at doing what militaries do, and that is affect outcomes in war. Militaries are never good at giving humanitarian aid. And in fact there's been a long, long, tradition religious NGOs (non-government organizations), and religious humanitarian agencies, insist that when humanitarian aid is given, (that) it's given through an international agency, a multi-national agency and given not with proselytizing, but given with non-vocal love and affection for the people. It's our concern that not only is our military giving out humanitarian aid, but equally and perhaps more seriously, is that Turkey said: 'we're not going to let any international agencies come into Turkey to give aid to the Kurds, we're going to provide that through our military.' I think that the Armenians learned back in the last century, and others have learned, that the Turkish military often gives more bullets than bread. We think that military aid is given with a prejudice and we need international humanitarian aid to be given in a non-prejudicial way.

Q. Do you think the average American citizen will forget our responsibility to Iraqis?

A. I'm fearful of that. We as Americans have a very short attention span. In Afghanistan we think that war is over. Yet many of our young men and women who are over there are still dying and being attacked. We think the war in Iraq is over, but a friend of mine said maybe that war hasn't begun yet because as people faded into the population there's still anger and hostility. It may be more difficult for the United States to win the peace, and I think the euphoria should occur when the children of Iraq are cared for, when humanitarian aid is delivered freely and openly and when the community of nations around the world come together to help to rebuild, reconstruct this important part of the world. And let's have euphoria when we stop the violence between Palestine and Israel, the Middle East. The unintended consequences of this war may be disastrous if we don't pay attention to try to lower the rhetoric, lower the violence, work collaboratively. That's why it's important for an interfaith group domestically to meet. But it's also important for an international

community. Some of our extremist colleagues have already started a religious war. Those of us in the moderate to progressive views in each of these faith traditions need to say 'wait a minute this is not another crusade.'

Q. When do you and your interfaith colleagues plan to meet again?

A. We'll be meeting probably in the next four or five months. But we'll be meeting by e-mail and by list serve, and by Web site and by telephone on a daily basis. This is an extraordinary gathering.

Q. Twice now. Rep. Dennis Kucinich of Ohio has proposed a Department of Peace to be funded at 1 percent of the defense budget. Are you optimistic at all that it will ever be created?

A. Well I think Congressman Kucinich's plan, which is one that is not new, it's in fact been around at least since I was serving in Congress and co-sponsoring that kind of legislation. We have three military academies. We need several academies that focus on non-violent, peaceful reconciliation, on conflict resolution, on non-violent civil disobedience and other tools and techniques for our society. I think it's unlikely in the short term that we'll see that happen. I think by posing the legislation he gives real opportunity for philanthropists to give money to colleges and universities to set aside funds. For example, at San Diego State University, I spoke at inaugural lectures of the Joan Kroc Institute for Peace and Justice. There's one at Notre Dame. What if every major university had a full department of conflict resolution and peacemaking and justice? It would give us a battery of diplomats moving into the field who understood the principles of peace and peacemaking and who would be prepared to move into government positions as negotiators. Because in the end I agree with what Jimmy Carter said. He said: 'not only is war rarely the final answer. It's rarely the solution.' It should be used as last resort but it often doesn't solve the underlying problems. Was World War II a victory because of the (allied) bombing or because of the Marshall Plan?"

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Message: WWN-UPI-1-20030501-13071700-bc-us-interfaith-edgar-Text  
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UNITED PRESS  
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**You Are Invited To Attend**

**Joan B. Kroc Distinguished Lecture Series**

**“The New Nuclear Danger”**

Helen Caldicott, M.D.

Physician, Peace Advocate and Scholar of Nuclear Technologies  
President, Nuclear Policy Research Institute



Dr. Helen Caldicott has been a leading spokesperson for the antinuclear movement for more than 20 years. This lecture offers a unique opportunity to hear Dr. Caldicott's views on how to prevent the manufacture and use of weapons of mass destruction — nuclear weapons — in these volatile times. Her lecture will address U.S. nuclear policy after 9/11, the Iraqi conflict, and U.S.-North Korea relations.

**Thursday, May 8**

**7:00 – 9:00 p.m.**

**Joan B. Kroc Institute for Peace & Justice  
University of San Diego**



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INSTITUTE FOR  
PEACE & JUSTICE

Reception and Book Signing to Follow  
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University of San Diego

NORTH COUNTY TIMES

**TUESDAY, MAY 6, 2003**

LaJolla Light  
Thursday, May 1, 2003

**You Are Invited To Attend**

**Joan B. Kroc Distinguished Lecture Series**

**"The New Nuclear Danger"**

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University of San Diego

## SAN DIEGO READER

SAN DIEGO, CA  
WEEKLY 158,000  
MAY 1 2003



**"The New Nuclear Danger"** discussed by Helen Caldicott, Thursday, May 8, 7 p.m., Joan B. Kroc Institute for Peace and Justice at University of San Diego (5998 Alcalá Park). Free. Call 619-260-4236 for reservations by May 5. (LINDA VISTA)

**Acclaimed 19th Century Photography Historian** Larry Schaaf speaks on "William Henry Fox Talbot" Thursday, May 8, 7 p.m., Museum of Photographic Arts. Three of Schaaf's books on Talbot have won international book awards. \$9. 619-238-7559. (BALBOA PARK)

**B4**

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# fyi

San Diego

## Datebook

### **A groundbreaking ceremony**

for The Friends Center, future home of the Peace Resource Center, will take place at 1 p.m. tomorrow, First Church of the Brethren, 3850 Westgate Place. Information: (619) 263-9301.

### **A free screening of "Chinatown**

Files," a documentary by Amy Chen about Chinese-Americans during the Cold War tension of the 1950s and 1960s, will be at 2 p.m. tomorrow, San Diego Central Library, Third Floor Auditorium, 820 E St. A discussion will follow. Information: (619) 236-5821.

### **In celebration of National**

**Nurses Week**, Pippa White of One's Company will perform "Into Possession of Oneself," 6:30 p.m. tomorrow, Scripps Cottage, San Diego State University. Hosted by the SDSU School of Nursing, the one-woman show is about three women, Florence Nightingale, Dorothy Dix and Clara Barton, who changed the profession of nursing. Tickets: \$30; \$20 for students. Information: (619) 594-6384.

### **Anti-nuclear spokeswoman**

Helen Caldicott will present "The New Nuclear Danger," 7 p.m. Thursday, Joan B. Kroc Institute for Peace and Justice, University of San Diego. Reservations are necessary by Monday. Information: (619) 260-4236.

## SIGNINGS, ETC.

**BILLY BEAN** – "Going the Other Way: Lessons From a Life In and Out of Major-League Baseball," 7 p.m. tomorrow, Barnes & Noble Hazard Center, 7610 Hazard Center Drive, Mission Valley.

**GAIL MICHAEL** – "I Am a Thousand Winds That Blow," 7 p.m. Wednesday, Barnes & Noble Mira Mesa, 10775 Westview Parkway.

**ANN PACKER** – "The Dive From Clausen's Pier," 7:30 p.m. Wednesday, Warwick's, 7812 Girard Ave., La Jolla.

**HELEN CALDICOTT** – "The New Nuclear Danger: George W. Bush's Military-Industrial Complex," 7 p.m. Thursday (signing follows a lecture by the author), Joan B. Kroc Institute for Peace & Justice, University of San Diego. Reservations are requested: (619) 260-4236.

**LEAH CUTTER** – "Paper Mage," 6 p.m. Thursday, Mysterious Galaxy, 7051 Clairemont Mesa Blvd., San Diego.

**JOHN RINGO** – "Hell's Faire," 7 p.m. Thursday,

Mysterious Galaxy.

**DAVID BRIN** – "Tomorrow Happens," 2 p.m. Saturday, Mysterious Galaxy.

**MICHAEL CONNELLY** – "Lost Light: A Harry Bosch Novel," 4 p.m. Saturday, Mysterious Galaxy.

**CHARLAINE HARRIS** – "Club Dead," noon Saturday, Mysterious Galaxy.

**LETIZIA ARGENTERI** – "Tina Modotti: Between Art & Revolution," 4 p.m. Saturday, Barnes & Noble Hazard Center, 7610 Hazard Center Drive, Mission Valley.

**JOHN RIDLEY** – "Those Who Walk in Darkness," 1 p.m. Saturday, Mysterious Galaxy.

**EMILY TOLL** – "Murder Pans Out," 3 p.m. Saturday, Mysterious Galaxy.

**ANTONIO F. VIANNA** – "Career Manager Employee Portfolio Tool Kit," 1 p.m. Saturday, Costa Coffee Roasting, Plaza Camino Real, El Camino Real, Carlsbad.



# Three Indiana schools get \$13.8m to wage peace

## Church colleges have record of promoting alternatives to war

By Kathleen Schuckel

GLOBE CORRESPONDENT

INDIANAPOLIS — Three small colleges in Indiana are engaged in a multi-million-dollar collaboration called Plowshares to bring national renown to their studies about peace and justice.

The Indiana collaboration — named after the verse in the Old Testament's Book of Isaiah that calls for people to "beat their swords into plowshares" and abandon war — is funded by a four-year \$13.8 million grant from the Lilly Endowment, which is based here.

"We have this big and audacious idea that three small colleges in Indiana, each associated with an historic peace church, will take our peace studies work and spread it across Indiana, the United States, and around the world," said Douglas Bennett, president of Earlham College.

Earlham, a Quaker school in Richmond, Ind., is working with a Mennonite school — Goshen College in Goshen, Ind. — and a Church of the Brethren school, Manchester College in North Manchester, Ind. All three denominations are pacifist, and in some sense there is nothing new to their cooperation. During World War II they established Civilian Public Service, a national system of work camps for conscientious objectors to do volunteer work rather than join the military.

In the latest collaboration of these peace churches, Plowshares plans to bring

famous speakers to Indianapolis to discuss peace topics, build a world-class peace-studies online library, and establish a Peace House in a low-income Indianapolis neighborhood by fall 2004. There undergraduate students will study for a semester and live out their peace convictions by working with victims of violence, perhaps at a women's shelter or in an impoverished school.

"Action becomes the basis for what you believe," said Goshen senior Tim Nafziger, who said he appreciated most that the Lilly grant will allow students to have more real-life opportunities outside the classroom.

Perhaps befitting peace-makers, there was no competitive struggle for the Lilly grant. It was Lilly Endowment officials who first approached the three schools early in 2001, suggesting they come up with a peace-studies collaboration for Lilly to fund.

For decades, each liberal arts school has quietly taught courses on peace in their small towns. Many graduates have gone on to prestigious careers in which they have put peace studies to work.

For example, Andrew Cordier, who helped found the United Nations and later became president of Columbia University, was a Manchester graduate.

Manchester College is also home to the nation's first peace studies program, established in 1948, about 20 years before similar programs were established. Today there are about 300 such programs at 250 US universities.

Lilly's gift isn't the largest for peace studies in recent years. In 2001, philanthropist Joan B. Kroc gave \$25 million to establish a peace center at the University of San Diego.

Each of the three Hoosier colleges has a long tradition of sending students to study abroad and work for peace in places like Colombia, Israel, and Northern Ireland. The Lilly grant will help more students afford such trips abroad, as well as bring more international students to Plowshare events. And the grant will allow each college to hire an additional professor of peace studies, buy more peace literature, and enhance technology so that more work can be shared among the three schools.

A major portion of the Lilly grant will boost the colleges' peace efforts in Indianapolis through the Peace House. Those working in the program want to reach out to people of various faiths and to the business community, with Peace House perhaps providing workshops on workplace conflict resolution or hosting discussions about curtailing anti-Islamic sentiment.

Parker Marden, president of Manchester College, envisions reaching out to organizations like the American Legion, which has its headquarters in Indianapolis, and listening to its members' opinions about war and peace. Even though some on campus objected, his school posted blue-star banners it was given by the Legion Auxiliary to signify that it had staff members fighting in the war in Iraq.

While the schools may all have pacifist

traditions, not every faculty member, staff member, and student is a pacifist, Marden pointed out. He is not even a member of the Church of the Brethren. He grew up in a Baptist Church in Sterling, Mass.

"We want to connect with all the different interests in Indianapolis," he said. "So much of what we do transcends the political. We work in reconciliation in all its many forms, such as in race relations, too."

Earlier this year, one of Goshen's peace-studies professors did something that left a lasting impression on Nafziger and other students, he said. Carolyn Schrock-Shenk, who had long led antiwar demonstrations in the community, approached one of her critics in town, a mother whose soldier son was serving in Iraq. The two talked about their differences and came to a better understanding of one another, Nafziger said.

"We need to be engaged with people who disagree with us," said the 22-year-old. "For many Mennonites this comes slowly. We're in the world but not of it."

Nafziger will soon begin a career with the Chicago-based Christian Peacemakers Team, another collaboration of the three peace churches.

Earlham's Bennett and others say that outreach efforts like Schrock-Shenk's and Plowshares are key to establishing peace in their communities.

"If we don't come to peace until the moment violence is about to erupt, we will always believe violence is the door to change," Bennett said. "At the moment an explosion goes off, we don't yell, 'Where are the chemists?' to stop it."

**For decades,  
each school has  
quietly taught  
courses on  
peace in their  
small towns.**

BOSTON GLOBE

BOSTON, MA  
FRIDAY 478,735  
MAY 9 2003

## **Kyoto Laureate Symposium**

## Sigma Xi Sponsors Kyoto Laureate Event

Sigma Xi was a supporting sponsor of the Kyoto Laureate Symposium in March at the University of San Diego. More than 1,500 attendees contributed to the discussions and related events in the three-day celebration.

The Society, the Southwest Region and the San Diego Chapter of Sigma Xi all had significant roles in integrating the multidisciplinary and scientifically astute audience of Sigma Xi members and families into the functions of the symposium.

"Sigma Xi and the Kyoto Laureate Symposium are magnificently complementary organizations in that both celebrate honor and achievement in science and technology and both are multidisciplinary and inclusive of diversity in all its aspects," said James Baur, Sigma Xi Southwest Regional director and a member of the symposium planning committee.

Since 1985, Kyoto Prizes have been awarded by the Inamori Foundation of Japan to recognize the lifetime achievements of those who have contributed significantly to the scientific, cultural and spiritual development of humankind.

Laureates are selected annually in three categories and are presented in November in Kyoto with a diploma, Kyoto Prize medal and an award of 50 million yen (about \$420,000).

The Kyoto Laureate Symposium is held each spring for an interactive discussion with a broad and knowledgeable scientific community.

"The Inamori Foundation and the University of San Diego funded the symposium. Sigma Xi members



Lively discussions of DNA sequencing and systems biology followed a presentation by Leroy Hood (right) at the Kyoto Laureate Symposium. Shown with Hood are Donald McGraw (left), associate provost, University of San Diego, and James Baur, director of Sigma Xi's Southwest Region.

were an appreciative, contributing, vital part of the event," Baur said.

Leroy Hood was awarded the 2002 Kyoto Prize in Advanced Technology for developing automated peptide and DNA synthesizers and an automated fluorescence DNA sequencer, which made a substantial contribution to progress in life science and advances in human genome science.

Mikhael Gromov, awarded the 2002 Kyoto Prize in Basic Sciences, has pioneered new disciplines in geometry and analysis and has applied innovative ideas and radical mathematical methods to solve a great many complicated problems in modern geometry.

Tadao Ando was awarded the 2002 Kyoto Prize in Arts and Philosophy. This internationally acclaimed architect has pushed modern architecture to the limits while bringing new stimulation to architectural expression.

"The Kyoto Laureate Symposium provides us with the unique opportunity to showcase the role that social responsibility must have in intellectual advancements in any field," said Sigma Xi member Alice B. Hayes, president, University of San Diego, who facilitated Sigma Xi participation in the symposium.

## News Briefs

### Sigma Xi Exchange

A new Sigma Xi service provides an online venue for exchange of information among Sigma Xi members and between members and the scientific community.

Sigma Xi Exchange at [www.sigmaxi.org](http://www.sigmaxi.org) was created in response to member suggestions.

All users may post and review announcements in a number of categories. Premium posting and viewing privileges are restricted to Sigma Xi members and depend on the topic.

Exchange topics currently include conferences, funding opportunities, internships, job listings, obituaries and publications. Categories to be added soon include summer jobs, resumes, curriculum and course materials, research opportunities, surplus equipment and more.

### 2003 Student Conference

The 2003 Sigma Xi Student Research Conference will be held November 14-15 at the Hyatt Regency Los Angeles at Macy's Plaza. Registration forms will be available online after July 1.

Undergraduate students from North America and abroad are invited to submit abstracts to Sigma Xi for participation in the conference, held annually in conjunction with the Society's annual meeting.

At the conference, students present research posters, attend career development workshops, participate in mentoring and networking activities, panel discussions and other events. Monetary prizes are generally awarded to first place recipients.

Visit the Student Conference page under Meetings & Events at [www.sigmaxi.org](http://www.sigmaxi.org) for helpful hints on creating an effective poster presentation and for summaries of past conferences. For more information, contact [student@sigmaxi.org](mailto:student@sigmaxi.org) or 1-800-243-6534.

**School of Law**

# Wall Street's Shadier Side, From Two Directions

**T**HE stream of business books aimed at explaining the financial excesses of recent years continues unabated. And the books come in a variety of flavors.

One that is arousing debate is "Born to Steal: When the Mafia Hit Wall Street" (Warner Books, \$24.95) by Gary Weiss, a senior writer at Business Week. The book, which argues that organized crime may have played an important role in the spectacular run-up of financial markets in the late 1990's, reflects deep knowledge about how Wall Street works. Yet it is written in an almost novelistic style that will allow even financial know-nothings to understand what happened — and may still be happening in one form or another.

Another is "Infectious Greed: How Deceit and Risk Corrupted the Financial Markets" (Times Books/Henry Holt, \$27.50). Written by Frank Partnoy, who formerly sold derivatives on Wall Street and is now a professor at the University of San Diego School of Law, it argues that the complex financial instruments called derivatives are at the heart of all that has gone wrong — and may still go wrong — in financial markets.

He traces the abuse of derivatives in every financial scandal and market meltdown since Michael R. Milken tried to dominate the market for junk bonds. Derivatives, of course, also were at the heart of the spectacular collapse of Enron. Over all, he estimates that the market for derivatives exceeds \$100 trillion.

The more entertaining, and disturbing, tale is that of the mob.

It starts in the early 1990's, when the six Mafia families active in the New York area and Philadelphia began to establish footholds on Wall Street by taking advantage of a demographic and socioeconomic transition in the kinds of people who were being hired.

Mr. Weiss writes that M.B.A.'s and Ivy League credentials were no longer necessary tickets to success on Wall Street. So unscrupulous brokerage firms, or "chop houses," could thrive by exploiting younger people from New York City's outer boroughs, even if "the Manhattan snobs" — some of whom would later be accused of wrongdoing themselves — sneered at the newcomers as "white 'ethnics.'"

Mr. Weiss writes that mob-affiliated financial fraudsters "discovered" Louis Pasciuto at the age of 20, when he was pumping gasoline in his native Staten Island. They recruited him to push stocks to unsuspecting buyers, Mr. Weiss adds, because he lacked any moral compunction about stealing — hence the title of the book.

Mr. Pasciuto, who would eventually be accused of trying to cash bad checks and of committing securities fraud, began cooperating with the F.B.I. and federal prosecutors in 1999, helping them make dozens of arrests of Mafia-affiliated brokers and the extortionists who preyed on them.

While he has pleaded guilty to three counts of securities fraud and conspiracy, Mr. Pasciuto is free on bail while working with the F.B.I.

After he became a cooperating witness, Mr. Pasciuto approached Mr. Weiss to tell his story because Mr. Weiss had written a Business Week cover article about the mob on the Street in late 1996.

Author and subject first met around Christmas 1999, and Mr. Weiss interviewed Mr. Pasciuto, his wife, his parents and his in-laws over a period of almost three years. He also took advantage of court records

and interviews with authorities to verify their stories.

Mr. Pasciuto used many techniques as he worked for a series of chop houses, according to the book. The one that is unfamiliar to many investors was called rips. Hanover Sterling, Mr. Pasciuto's first employer, had a way of buying a stock at \$5 and then selling it to customers for \$8, a 60 percent markup — or rip. Mr. Weiss writes

that it avoided detection by regulators by timing the trades in a way that the ill-gotten gains were not considered commissions, but rather a trading profit.

"Rips performed several functions," Mr. Weiss writes. "They were motivators, without which brokers would not have been willing to push stocks that had all the appeal of wet tree bark. They kept the conscience quiet. They kept stirrings of the phony emotion called 'guilt' from wafting out of the toilet bowls of their souls."

The mob was involved in "protect-



ing" young brokers, according to the book; Mr. Pasciuto had to give a percentage of his income to his Mafia baby sitter. The "Guys," as Mr. Weiss calls them, also helped protect top management of the chop houses and helped adjudicate disputes — all for a piece of the action. In effect, they controlled at least some chop houses.

**M**R. WEISS argues that there is a connection between the mob's penetration of the Street in the early 1990's and the sorts of abuses that permeated the market in the late 1990's. The author contends that the chop-house abuses of the early 90's helped set the stage for much broader manipulations during the bubble era.

"Brokerage and stock exchange executives, men of patrician backgrounds, who held chop house brokers in contempt, turned a blind eye to the insane overhyping of stocks by analysts, and the web of conflicts of interest that would become a full-blown scandal in 2002," he writes.

Mr. Pasciuto became involved in his first Internet stock in 1997. His employer was Ralph Daniel Torrelli, whose company, TYM, was pushing the stock of a company called Internet Holdings with the stock symbol HTTP. Mr. Weiss obtained one of the

company's filings with the Securities and Exchange Commission, which acknowledged that Internet Holdings had no operations and did not maintain any offices. Mr. Pasciuto was able to sell \$1 million of the worthless stock to one of his "whales," or rich, dumb investors.

Federal prosecutors eventually indicted Mr. Pasciuto. That, combined with increasingly violent extortion threats from his mob protectors, led him to cooperate with authorities. That helped set the stage for Mary Jo White, the United States attorney in New York, to crack down on the mob's influence on Wall Street in 2000.

Many people believed that "the mob was dead," Mr. Weiss writes. Multiple prosecutions, "such as Mary Jo White's June 2000 indictment-fest, were credited with destroying the very core of organized crime, forever, everywhere," he adds. But Mr. Weiss says he doesn't believe that the mob has been eliminated, and he argues that its corrosive influence was visible after the arrests.

The story line of "Infectious Greed" is not nearly as compelling, but the book tackles a hugely complex subject that any investor should understand more about. Mr. Partnoy, who once sold derivatives, seeks

to portray them as at the heart of greed on Wall Street. Clearly, they have played a major role in a \$200 million settlement that Bankers Trust reached with Procter & Gamble, in how Long-Term Capital Management nearly self-destructed and in how many rascals have rigged a market.

What Mr. Partnoy does not explain adequately is that many kinds of derivatives, like currency hedges, are essential lubrication for how the international economy functions. It's not until his epilogue that we understand the author's reform ideas. They include some positive proposals, like one to improve the regulatory system's ability to oversee derivatives, but also some questionable suggestions, including encouraging more investors to short, or bet against, stocks. The reader is left with the knowledge that derivatives are big and important, but uncertain as to whether Mr. Partnoy's solutions are solid.

So, no matter your taste, there is an account of financial skulduggery awaiting you. Millions of investors are asking whether the markets have been cleansed of impropriety or are merely awaiting the fools who rush in. These two books suggest that America's financial markets are still deeply flawed. □

# The wrong way to prosecute fraud

By Frank Partnoy *4154*

**T**he recent arrest of Frank Quattrone is the second round prosecutors recently have fired at alleged financial market villains — from the wrong gun. Like Arthur Andersen, Quattrone has been accused, not of any financial fraud, but of obstruction of justice. And like the Andersen prosecution, which the government narrowly won on questionable grounds last year, the Quattrone prosecution is being brought under the wrong laws, for the wrong crimes.

## Holiday file cleaning

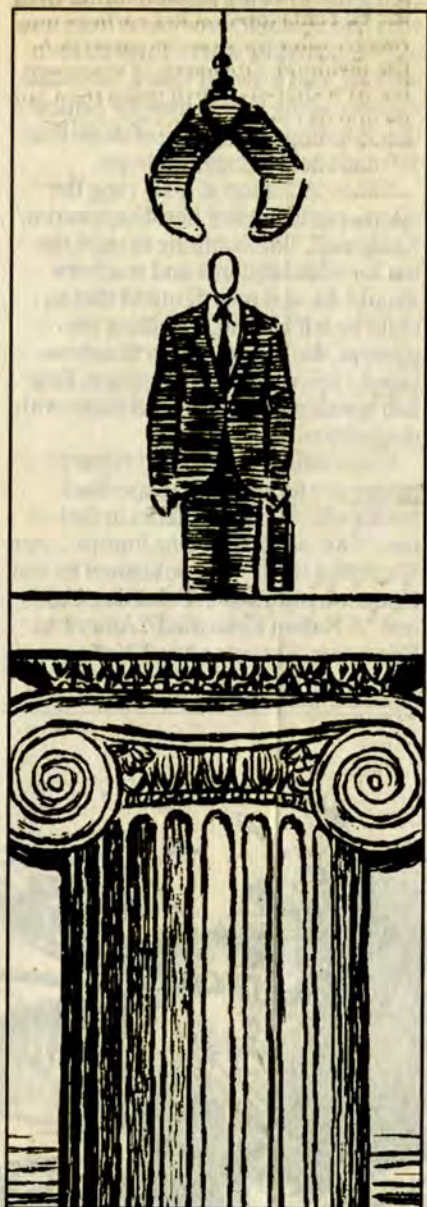
Quattrone is alleged to have caused other unnamed employees of his investment banking firm, CSFB, to destroy evidence. The facts don't look great. Richard Char, a CSFB banker, sent Quattrone and others an e-mail eerily similar to the one Andersen's Nancy Temple sent in 2001 telling employees "it would be helpful" if they were in compliance with the firm's document retention policy. Char's message was similar, but more colorful: "Today, it's administrative housekeeping. In January, it could be improper destruction of evidence."

Quattrone, who is known for outrageous gags (he once brought a mule to visit a client), wasn't amused. He admonished Char that, "You shouldn't make jokes like that on e-mail!" and forwarded to CSFB employees a tamer version of the e-mail, which said, "We strongly suggest that before you leave for the holidays, you should catch up on file cleaning." The criminal complaint alleges that some of those employees destroyed documents during December 2000, after they received the e-mail.

The key questions in the case will involve timing and intent. It seems clear what Quattrone knew and when he knew it. He was informed of three separate investigations by regulators into his technology group's practices of allocating shares in Initial Public Offerings to favored clients. But it isn't clear whether he had the necessary criminal intent to obstruct justice as of early December 2000. Just the day before the key e-mail flurry, Quattrone asked a CSFB lawyer, "Are the regulators accusing us of criminal activity?"

## A flawed case

In addition to some legal and factual weaknesses, the government's case against Quattrone has a more serious flaw. Although U.S. Attorney James



Dean Rohrer

Comey for Manhattan has said he brought these charges to signal the importance of voluntary compliance with regulatory inquiries, any document destruction was irrelevant to the government's investigation of CSFB.

For years, prosecutors have had ample evidence of CSFB's practice of "spinning" IPOs to favored clients who then kicked back a portion of their instantaneous profits after the IPO price shot up during the first day of trading. The government didn't need a few more notes, e-mails and "pitch books" as proof. Key facts establishing the IPO kickback scheme were set forth in a detailed settlement of a civil case the Securities and Exchange Commission brought against CSFB, which the firm quietly settled for a \$100 million fine (paltry, relative to the IPO profits). *CSFB v. SEC*, No. 00-11, 2001.

Whatever the legality of "spinning" — and if it was illegal, it certainly was

widespread — there wasn't any cover-up, certainly not an effective one. The Quattrone criminal complaint describes two IPOs, involving VA Linux and Selectica, Inc. But there are mountains of documents proving CSFB received kickbacks for allocations of other IPOs, too. Even if CSFB had destroyed all of the documents related to VA Linux and Selectica, there still would be plenty of fodder for cases against the firm, as plaintiffs' lawyers suing CSFB will happily point out.

Consider Gadzoox Networks, for example, an Internet company that hired CSFB as the lead underwriter for its IPO. On July 20, 1999, CSFB sold shares in the Gadzoox IPO for \$21. By the end of the day, the shares had more than tripled, and the lucky clients who bought at the IPO price (and made \$180 million in all) were trading frenetically in stocks unrelated to Gadzoox (Allstate, Coca-Cola, Conoco, and Philip Morris) at sky-high commission rates of \$1 per share or more, in order to kickback one-third to two-thirds of their profits to CSFB. Investors who bought at \$76 that day were left holding the bag.

The barrier to a "spinning" prosecution isn't document destruction or lack of evidence. Instead, prosecutors have shied from bringing such a case for the same reason they often avoid complex financial prosecutions: they fear being outmatched by clever defense lawyers and bankers who can credibly argue, like a shrewd teen-ager, that everyone was doing it. Why devote a dozen lawyers to case you might well lose?

## The wrong signal

Is "spinning" criminal? No one knows, and the prosecution of Quattrone won't lead to an answer. That is why it is the wrong case. Nabbing Quattrone Al Capone-like (Capone committed every crime in the book, but was nailed only for tax evasion) for causing another person to obstruct justice won't affect the financial markets, except possibly to send a signal that bankers should destroy documents more systematically, and earlier. And if prosecutors really want to pursue obstruction of justice cases against bankers, there are better ones. Quattrone was the central, and highest-paid, player in the technology investment banking mania. If prosecutors indeed want to try to vilify him, they should fight fair, with more than an obstruction of justice prosecution.

If prosecutors believe IPO kickbacks violated the law, they should prosecute willful violations as crimes, with Quattrone at the head of the pack. But if they can't muster such a case, they shouldn't complain that Quattrone caused someone to destroy evidence they never planned to use.

**Partnoy** is a professor at the University of San Diego School of Law and author of "Infectious Greed: How Deceit and Risk Corrupted the Financial Markets" (Henry Holt/Times Books, 2003).

SAN DIEGO UNION-TRIBUNE

SAN DIEGO, CA  
SUNDAY 444,216  
MAY 11 2003

# Only a few bad apples?

## Despite reforms, investors haven't seen the last of corporate greed

By Craig D. Rose  
STAFF WRITER

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Feel better now?

After the latest step in the crackdown on white-collar crime — the \$1.4 billion settlement last week with 10 Wall Street firms — does anyone feel safer about investing in stock markets — or better protected from corporate crime?

Or does anyone remember the white-collar crime wave?

There have been regular reminders. From Peregrine Systems to Enron and Tyco, stories of corporate crime continue to surface.

With Iraq less of a preoccupation, the nation's white-collar crime wave is pushing back to center stage. But despite a year-long effort to rein in corporate abuses, some experts say there's little reason for the public to feel better protected.

The past year has seen the passage of Sarbanes-Oxley, hailed as the first major piece of securities legislation in decades, and the appointment of a federal corporate fraud task force, as well as the creation of a new national accounting oversight board.

But William Black, a professor at the University of Texas in Austin and an expert on white-collar crime, says the measures have limited impact and missed what must be a key target for crime fighters.

"The problem is what you do when you get crooks at the top," said Black.

Last week's settlement with Wall Street provides a case in point.

While advocates for investors believe certain provisions of the big settlement may curb fraudulent stock research, the chief executives of Merrill Lynch and Morgan Stanley publicly dismissed notions that their firms had done anything wrong.

In fact, none of the companies agreeing to the settlement formally admitted wrongdoing, although regulators released evidence, including internal e-mails, proving that their analysts lied to investors. Citigroup did issue a public apology, however.

The fines paid by the 10 firms, moreover, were broadly condemned as a pittance.

The \$400 million levied against Citigroup for abuses by its Salomon Smith Barney unit, the biggest penalty imposed, amounted to less than 10 percent of the company's first-quarter profits.

The \$15 million penalty imposed on Salomon Smith Barney's Jack Grubman for authoring misleading reports, on companies

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Before the extent of Enron's problems were revealed, Enron chief executive Kenneth Lay and Dynegy CEO Chuck Watson had proposed a merger of the two companies.



As the corporate fraud panel was launched, President Bush was flanked by Harvey Pitt, former SEC chairman (right), and Larry Thompson, deputy attorney general (left), who last week announced new indictments of Enron executives.



Adelphia Communications founder John Rigas left federal court in Manhattan after he was arraigned on securities and wire fraud charges.

## Corporate crime wave

The problem of corporate fraud erupted in late 2001, when Enron admitted it created phony profits, a disclosure followed by revelations from other major companies. Here are some of the key events:

**November 9, 2001:** Enron Corp. says earnings statement from 1997 onward "should not be relied upon."

**March 28, 2002:** Adelphia discloses previously unreported debt of \$2.8 billion.

**May 6, 2002:** Peregrine first admits overstating revenues. Company later admitted hiding \$2.5 billion in losses.

**June 25, 2002:** WorldCom admits overstating profits by \$3.8 billion.

**July 9, 2002:** President Bush creates a corporate fraud task force.

**July 24, 2002:** John Rigas, Adelphia's founder, is arrested.

**July 30, 2002:** Sarbanes-Oxley corporate reform bill – which establishes a new accounting oversight board – is signed into law.

**October 24, 2002:** With support from the White House, SEC picks former FBI chief William Webster to head new accounting oversight board.



Accounting scandals hit San Diego when Peregrine Systems revealed that it had reported phony profits.



Telecommunications giant WorldCom would eventually admit to \$11 billion in bogus accounting.



The president congratulates Rep. Mike Oxley, R-Ohio (center), and Sen. Paul Sarbanes, D-Md., after signing securities reform legislation they co-authored.



Harvey Pitt's stormy tenure as chairman of the SEC ended over his handling of the William Webster appointment.



Six months and several embarrassments after its creation, the Public Company Accounting Oversight began operations.

**November 5, 2002:**

SEC Chairman Harvey Pitt resigns after it's learned that he withheld information about Webster's role in a company under investigation for fraud.

**November 12, 2002:**

Webster resigns from accounting board post.

**January 1, 2003:**

The Public Company Accounting Oversight Board holds its first meeting.

**February 2, 2003:** Bush agrees to bigger increase in funding for Securities and Exchange Commission.

**April 16, 2003:** Matthew Gless, the former chief financial officer for Peregrine Systems, pleads guilty to conspiracy and securities fraud.

**April 28, 2003:** SEC and New York Attorney General Elliott Spitzer announced \$1.4 billion settlement with Wall Street brokerages for misleading investors.



Former FBI chief William Webster stepped down as head of the new accounting board after revelations about his role at U.S. Technologies, itself under investigation for fraud.



Elliott Spitzer is joined by William Donaldson, chairman of the SEC, and Richard Grasso, chairman of the New York Stock Exchange, as he announced settlement.

## Experts say more reforms are necessary

he privately warned insiders away from, was far less than the \$48 million in compensation he earned over just one three-year period.

"After \$7 trillion of losses in the stock market, a billion is one-one thousandth of a trillion," said the University of Texas's Black. "The penalties don't even come close."

More troubling, say Black and others, is that regulators overseeing markets remain seriously understaffed, while gaps in the law leave some types of investments out of view.

It was in March 2002 that President Bush first responded to the growing revelations of corporate fraud with a 10-point plan to protect investors.

Later he appointed a corporate fraud task force and, yielding to congressional initiative, signed the Sarbanes-Oxley Act of 2002, the first major piece of securities legislation since the Great Depression.

Critics say the corporate fraud task force had faded from view, but that was before last week's new round of indictments of Enron executives.

Bryan Sierra, a spokesman for the Department of Justice, which oversees the task force, says it has contributed to corporate crime-fighting by forwarding suggestions to the U.S. Sentencing Commission and accelerating prosecution of corporate criminals.

But no major corporate criminals have been sentenced.

Sarbanes-Oxley, meanwhile, created the new accounting oversight board, placed new requirements on corporate attorneys who know of violations of securities laws, and sought to reduce the incentives for accountants to go easy on audits.

Much of that was hailed by reform advocates, but implementation of the law has been problematic.

The accounting oversight board got off to a rocky start after it was learned that William Webster, the former FBI director named to lead it, chaired the audit committee of a company under investigation.

Attempts to require corporate attorneys to signal regulators of wrongdoing within their companies was also beaten back by those who said it would violate attorney-client confidentiality.

What prompted the corporate crime initiative were the high-profile meltdowns and

scandals at Enron, WorldCom, Adelphia and other companies. But fraud pervaded much more deeply into the corporate world than a handful of high-profile companies, said Barbara Roper, director of investor protection at the Consumer Federation of America.

Roper said one in 10 companies has been forced to restate its earnings over the past five years.

"This is not a few bad apples," said Roper. "This is 10 percent of all publicly traded companies."

Despite the growing awareness of fraud, among high-ranking corporate officials only Pergrine's chief financial officer has been convicted of a crime.

Additional convictions may be a function of time — prosecution of white-collar crimes can be lengthy — or it may be a matter of will.

"It's unclear whether there is an appetite for going after the big hitters," said Frank Partnoy, a professor of law at the University of San Diego and author of the recently published "Infectious Greed: How Deceit and Risk Corrupted the Financial Markets."

Partnoy agrees that the 1990s saw an enormous increase in corporate crime and he continues to hope that regulators and prosecutors will respond accordingly.

"So far, prosecutors have gone after the 'low-hanging fruit,' prosecuting for obstruction of justice rather than the underlying fraud," he said. "I worry that it sends the signal that participants can engage in corporate fraud as long as they don't turn on the document shredder at the wrong time."

Partnoy also noted that the toughest cop on the white-collar beat so far has been Eliot Spitzer, New York state's attorney general.

"But he's not a federal cop," said Partnoy. "We have federal laws and a federal government for reasons, and the regulation of financial markets is one of those reasons."

San Diego lawyer Michael Aguirre, among the few private practice attorneys to have won lawsuits against accounting firms for fraud, believes a major shortcoming in the response to corporate crime has been the failure to create adequate monitoring mechanisms.

Because these crimes are difficult to prosecute, said Aguirre, and because it is difficult to recover losses, preventive measures are key to protecting the public.

He said those mechanisms should include the random audit of corporations, particularly those dealing in volatile financial products, and greater liability for auditors.

"They need to know they will

have financial responsibility and if they really screw up, they will go to jail," said Aguirre.

To be sure, some white-collar crime experts believe the past year has seen at least limited progress in combating business fraud.

John Coffee Jr., a professor of securities and corporate law at Columbia University Law School, says regulatory and legal efforts over the past year have reduced the likelihood of conflicts of interest within corporations and made markets more transparent to investors.

He noted that Wall Street analysts are now barred from contact by underwriters — those who sell stock — within the same firm.

Coffee also noted that Sarbanes-Oxley bars auditors from lucrative consulting contracts. Those contracts diminished the auditor's incentive to perform rigorous audits for fear of losing consulting business from the same company.

The new securities law also requires lawyers to inform management within corporations of legal violations, though it imposes no requirement to apprise law enforcement or regulators of the infractions.

Coffee added that the Department of Justice now has 130 investigations under way related to corporate crime.

But he underscored that the reforms were limited.

"At the end of the day, any analyst with any sophistication will know that his division is not a profit center and his (compensation) depends on subsidiaries from the underwriters," he said. "I am not pronouncing anything solved."

Roper of the Consumer Federation also argues that some progress been made in ensuring that markets are more honest, but says what's been accomplished falls far short of what's needed.

"I hope this does not restore investor confidence because there is not a lot to be confident about," said Roper.

Particularly troubling, she said, were documents produced from last week's settlement that demonstrated Wall Street firms held small investors in "utter contempt." In some cases, the documents showed analysts warning colleagues away from the stocks they were touting to the public.

On the other hand, Roper said a new requirement for firms to provide investors with their record of previous stock picks could be useful. The information could allow investors to assess the quality of research they receive.

She also said the requirement that Wall Street firms distribute independent research could be of value. Of course, the same firms previously ad-

mitted paying for stock reports by others in order to boost interest in stocks they were selling.

But at the bottom line, she said, "Investors should remain critical of Wall Street research because the lack of integrity that has been demonstrated has been staggering."

Roper believes, however, that the new Public Company Accounting Oversight Board — created by the law — has taken promising steps. The steps include the requirement that foreign firms be registered as auditors and the appointment of a prominent accounting reform advocate to a top post.

Black, of the University of Texas, says the SEC remains seriously understaffed and underfunded, despite recent large budget increases.

Turnover at the agency is running at about 30 percent and new hires stay about two years, he said, leaving the agency short of the experienced staff it needs to fight fraud.

Black says regulators have also failed to adopt the mindset required to combat corporate crime.

"Why do we have chief economists almost everywhere, but no position of chief criminologist," said Black. "We need people who understand how crooks think and who think, 'If we deregulate in this manner are we going to have a disaster? We have a corporate crime wave now and systemic problems.'"

And one more thing is needed, he said: "People need to go to jail and not to Club Feds — and they need to go for a lot of years."

USD's Partnoy remains hopeful that the war on corporate crime is in its early stages, with more serious prosecutions to come. But he offered a warning about the growing volume of complex transactions known as derivatives, deals that remain largely unregulated.

These transactions — bets on often-complicated events like shifts in currency values or interest rates — are increasingly used and shift business risk to entities without awareness on the part of the consumers, investors or regulators.

Enron, said Partnoy, was largely a derivative company.

"People think Enron was the exception," he said. "Enron was the norm."

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# Scandals shower \$27.5M on non-profit

4154  
MILWAUKEE (Bloomberg) — As Wall Street firms reached a \$1.4 billion conflict-of-interest settlement with regulators, a non-profit group that has never had a permanent staff or office won a \$27.5 million wind-fall to teach investors to avoid scams.

The Investor Protection Trust, whose budget last year was \$300,000, will get the money from six firms over five years to pay for local conferences, teaching manuals and videos for teenagers. The largest sum — \$12.5 million — will come from Citigroup Inc., the world's biggest financial services company, according to regulatory documents released in the agreement.

"Clearly the number is extraordinary," said Craig Goettsch, 53, Iowa's Superintendent of Securities for 22 years and one of five state regulators who are the group's trustees. "It's a great opportunity for us to leverage our resources and outreach."

Brokerage scandals are the best thing that ever happened to the Investor Protection Trust. It was created in 1993 in the wake of another scandal after Salomon Brothers Inc.'s \$290 million settlement of SEC charges that it placed false bids at Treasury auctions. As part of the settlement, Salomon, now part of Citigroup, agreed to hand over \$2 million to help educate investors about the stock markets.

The money went to create Investor Protection Trust, based 900 miles west of Wall Street in Milwaukee, and run by five unpaid trustees who are the state securities regulators for Iowa, Oklahoma, Washington, Texas and Wisconsin.

## Can't buy 'comfort'

The cash boost for Investor Protection Trust "won't correct the problems that we've seen over the last several years," according to Frank Partnoy, a University of San Diego law professor and author of "Infectious Greed." Institutions must "do the hard work" of scrutinizing accounts, he said.

"The markets are so complicated now that individual investors will never understand complex financial statements," Partnoy said. "We shouldn't get much comfort from a few million dollars being thrown at investor education."

While Citigroup will pay almost half of the funds to the trust, Gold-



Spitzer

man Sachs Group Inc., the third-largest securities firm, will contribute \$5 million. Other firms in the settlement, Bear Stearns Cos., J.P. Morgan Chase & Co., Lehman Brothers Holdings Inc. and UBS Warburg LLC will put up \$2.5 million each, Goettsch said.

The firms will pay an additional \$52.5 million to an education fund directed by the Securities and Exchange Commission.

The six firms were among 10 that paid \$1.4 billion, the biggest penalty ever for violating securities laws, to settle claims they misled investors with stock research written to win investment-banking business. Citigroup is paying the largest amount, \$400 million, equivalent to six days' profit, according to its most recent quarterly earnings report.

## Con artists

Individual investors were particularly vulnerable to being misled, according to New York Attorney General Eliot Spitzer, who led the probe by state and federal authorities.

"We were living in a world where small investors were led astray," Spitzer said in announcing the settlement. "That was a reality that destroyed lives."

Goettsch said one of his first moves will be to transform the trust's Web site, which currently offers investors advice on topics such as "How to Spot a Con Artist" and "Practical Tips for Older Americans" via links to Web sites run by groups such as the National Association of Securities Dealers and the North American Securities Administrators Association.

For most of its young life, the Investor Protection Trust has operated without an office, staff or administrator.

That will need to change, said Christine Bruenn, president of the North American Securities Administrators, a group of state and Canadian stock regulators that picked the Investor Protection Trust after a two-hour presentation by Goettsch.

## Teenagers

The regulators "toyed with setting up a new trust," then chose the Investor Protection Trust because of

its track record in handing out local grants, Bruenn said.

"They're going to have to hire a full-time staff and to come up with a

more standardized grant process," Bruenn said. "It's ironic because on one level it's a welcome influx of cash to fund very worthy projects.

On the other hand, it's a small amount in the great scheme of things."

That doesn't concern Goettsch, who said that "we'll be doing some intense planning" in the next three months.

"We want to continue the outreach to teach teenagers about financial literacy," he said in an interview. "We teach physical education, sex education, drivers' education. We need to teach economic education."


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# Juror Explains Mixed Verdict On Crown Hts.

## Says Old News Reports Influenced Decision

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By ANDY NEWMAN

The jury forewoman in the Crown Heights federal retrial said yesterday that the jury cleared Lemrick Nelson Jr. of causing Yankel Rosenbaum's death not because of anything that came up at trial, but because jurors knew from old news accounts that Mr. Rosenbaum's family has a negligence lawsuit against the hospital where he died.

"Everybody knew that," said the forewoman, who spoke in a telephone interview on the condition that her name not be published. "How can you sue Kings County Hospital for negligence and at the same time tell people this guy stabbed him to death?" She added, "How could you blame two persons for the same death?"

Her account answers a lingering question about the mixed verdict: How could the jury have found Mr. Nelson guilty on Wednesday of violating Mr. Rosenbaum's civil rights by stabbing him during the 1991 racial disturbance in Brooklyn, but not guilty of causing the death itself?

The jury was not allowed to hear testimony about the hospital's mistreatment of Mr. Rosenbaum because the judge had deemed it legally irrelevant. They were told at trial that his wounds were potentially fatal.

The account also shows the difficulty prosecutors face in trying a high-profile case, especially 12 years after the fact. Jurors take an oath to try a case solely on the evidence put before them and to disregard anything they have read or heard about it, but some facts are apparently hard to put aside.

The forewoman, an administrator and part-time anatomy instructor who lives in Brooklyn, said that she wanted to clear up another misconception. The jurors, she said, did not believe that Mr. Nelson had directly violated Mr. Rosenbaum's rights, because they did not think he had stabbed the man because of his religion (he was Jewish) or because he was using the public street, the two main prongs of the federal civil rights law.

Instead, she said, the jury found that Mr. Nelson aided and abetted others in the crowd who were violating Mr. Rosenbaum's civil rights, an offense that is a different form of the same charge.

"We didn't believe he was racist," the woman said. "He just followed the crowd." Mr. Nelson was one of a group of blacks who attacked Mr. Rosenbaum in Crown Heights on Aug. 19, 1991, a few hours after a Hasidic driver ran over a black 7-year-old boy, killing him. The detective who took Mr. Nelson's confession testified that Mr. Nelson had told him he stabbed Mr. Rosenbaum because he had been drinking beer and was caught up in the excitement of the crowd.

The jury's finding that Mr. Nelson did not cause Mr. Rosenbaum's death could make the difference between life in prison and a sentence of only a year or so. If Mr. Nelson

had been found responsible for the death, he would have faced a possible life sentence. The maximum under this finding is 10 years, and Mr. Nelson's lawyers say that counting time served and good behavior, he has only 10 months left to serve.

Mr. Rosenbaum was alert for some time after the stabbing, but at Kings County Hospital Center, the State Health Department determined, doctors failed to notice a four-inch-deep stab wound for nearly an hour, and he bled to death internally. The Rosenbaum family sued the hospital not long after. The suit has not been settled yet, said Isaac Abraham, a spokesman for the family.

Mr. Nelson's lawyers wanted to bring up the hospital's error at the trial, but the judge, Frederic Block of United States District Court, ruled

that because Mr. Rosenbaum would not have died had he not been stabbed in the first place, the hospital's conduct was beside the point.

Mr. Nelson's lawyers did, however, elicit from a medical examiner the testimony that Mr. Rosenbaum's wounds were not disabling, even though two of them were potentially fatal.

The forewoman said that she used to work at Kings County Hospital and knew about the doctors' mistake through her job, but she said she did not share this information with the other jurors.

Although the forewoman's account seems to imply that the jurors violated their oath, Yale Kamisar, a law professor and expert in criminal procedure at the University of San Diego, said there was little chance the verdict could be overturned.

"There's a very strong reluctance on the part of the legal system to

revisit this kind of thing, to really get into what jurors said and what they didn't say," he said. "You can always find something regrettable that was said or indicated how somebody might be thinking. If they really held jurors to this standard, very few verdicts would withstand attack."

The jury would not even have been asked to decide whether Mr. Nelson caused Mr. Rosenbaum's death if not for a United States Supreme Court decision in 2000 holding that any fact that increases the penalty for a crime beyond the statutory maximum must be submitted to a jury.

After Mr. Nelson's conviction at his first federal civil rights trial on these charges in 1997 (a conviction that was ultimately overturned because of a problem with jury selection), the judge determined that Mr. Nelson caused Mr. Rosenbaum's death and sentenced him to 19½ years.

# Interrogation In Sniper Case Is Admissible

FRONT PAGE

## Judge Says Teenager Waived His Rights

By NEIL A. LEWIS

WASHINGTON, May 6 — A Virginia state judge ruled today that most of a long, detailed confession Lee Malvo gave to the police in a six-hour interview about his role in last fall's Washington-area sniper shootings could be used at his murder trial, scheduled for Nov. 10.

The judge, Jane Marum Roush, turned aside the arguments of Mr. Malvo's defense lawyers that he was either manipulated or coerced into recounting to interrogators what happened in some of the killings. Judge Roush said Mr. Malvo, although just 17 at the time, had knowingly waived his right to a lawyer and his right to remain silent.

"Having considered the totality of the circumstances surrounding the police interrogation," Judge Roush of the Circuit Court wrote, "I conclude that his statement was made voluntarily."

The ruling means that when Mr. Malvo, now 18, goes to trial, prosecutors will be able to present to the jury his comments from the session on Nov. 7, 2002, at police headquarters in Fairfax, Va., in which the police assert that he said he had enjoyed killing some of his victims.

According to the testimony of a police detective at a hearing in Judge Roush's courtroom last month, Mr. Malvo laughed when he said he shot Linda Franklin in the head outside a Home Depot store in Falls Church, Va., Oct. 14. The detective, June Boyle, also testified that he described his pleasure after the shooting of James L. Buchanan, who was riding a lawn mower when he was shot in Rockville, Md., on Oct. 3. The detective said Mr. Malvo had been amused by the fact that "after he shot the man, the lawn mower just kept going down the street."

Rulings like today's about what statements are admissible at trial are rarely appealable. Instead, if, after a conviction, an appeals court

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## Evidence in Question

On Nov. 7, Attorney General John Ashcroft transferred John Muhammad and Lee Malvo from federal custody in Maryland to state prosecutors in Virginia, where death sentences would be easier to obtain. Mr. Malvo's lawyers had barred his interrogation in Maryland, but detectives questioned him in Virginia.

**Between 8 a.m. and noon** Federal prosecutors tell a judge in Greenbelt, Md., that they are dropping charges against the suspects, without telling their lawyers or the federal magistrate in Baltimore, Judge James K. Bredar, who had handled all of the court proceedings.

**2 p.m.** Robert Tucker, a lawyer for Mr. Malvo, learns of his transfer and faxes a letter to the U.S. attorney's office in Virginia saying Mr. Malvo should not be questioned.

**5:55 p.m.** After Mr. Malvo eats his dinner, Detective Boyle resumes direct questioning about the crimes and advises him of his constitutional rights. Mr. Malvo says in response to four different questions that he is willing to talk without a lawyer.

**8 a.m.** Federal marshals remove Mr. Malvo from his jail cell in Baltimore.

**About 10 or 11 a.m.** Mr. Malvo arrives at the federal detention center in Alexandria, Va. Later in the day, he is delivered to authorities in Fairfax.

**3 p.m.** Judge Bredar orders federal defense teams kept on the case.

**4 p.m.** Mr. Malvo is interrogated in Fairfax. According to notes made by Detective June Boyle, he asks, "Do I get to talk to my attorneys?" When she answers yes, Mr. Malvo says "because the lawyers told me don't talk until they get here."

**10:40 p.m.** The interrogation ends.

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WEDNESDAY 1,159,954  
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# Judge Allows Confession by Teenager Held in Sniper Case

Continued From Page A1

were to find the ruling in error, it would most likely throw out the conviction and order a new trial without the confession.

But Judge Roush's ruling, with its careful parsing of Mr. Malvo's comments about whether he could see a lawyer and the police responses, seemed to be in line with the direction of recent Supreme Court cases, which have incrementally trimmed back the ability of defendants to have incriminating statements excluded from the record.

The judge also said, however, that comments made in the first hour or so of Mr. Malvo's session with Detective Boyle and an F.B.I. agent could be suppressed because the officers had not yet advised him formally of his right to see a lawyer. But her opinion suggested that Mr. Malvo's comments in that initial period were not seriously incriminating.

The Springfield, Va., law firm Martin, Arif, Petrovich & Walsh, which is representing Mr. Malvo, issued a statement expressing disappointment and a continued belief that Mr. Malvo's rights were violated.

The ruling revolved around the details of the interrogation on Nov. 7, the day Mr. Malvo was transferred from federal custody in Maryland to local authorities in Virginia.

Mr. Malvo faces a capital murder trial in the shooting of Ms. Franklin, an F.B.I. analyst, who was 47. The man accused of being his accomplice and mentor, John A. Muhammad, faces a capital murder trial in October in the shooting of Dean Harold Meyers, 53, at a gas station in Massassas, Va., on Oct. 9 of last year.

Mr. Malvo was held in federal custody in Maryland in October as a suspect with Mr. Muhammad in the shootings that terrorized the national capital area and left 10 people dead. He was charged with 20 counts in connection with some of the killings, but on Nov. 7, all those charges were dropped. He was quickly transferred

to Virginia after Attorney General John Ashcroft decided he wanted the pair tried in a state with a broad interpretation of the death penalty.

The interview with Detective Boyle and Special Agent Brad Garrett of the F.B.I. began at 4 p.m. According to today's opinion, when they told Mr. Malvo they wanted to talk to him, he said, "Do I get to talk to my attorneys?" Detective Boyle said yes. Mr. Malvo then said, "Because the lawyers told me don't talk until they get here."

After Mr. Malvo was served a vegetarian meal that he had requested, Detective Boyle began talking more directly about the shootings, told him he was being charged with homicide and advised him of his constitutional rights under the Supreme Court's Miranda decision, namely that he could remain silent and could demand a lawyer.

She asked him, according to Judge Roush's opinion, "Can we talk about the case now?" to which he responded yes. She then asked, "Do you want to talk without a lawyer present?" He responded yes. She also explicitly reminded him of his earlier query about a lawyer and asked him again if he wanted to talk without a lawyer.

It was at that point, according to Judge Roush's ruling, that everything Mr. Malvo then said became admissible. Judge Roush ruled that his question an hour earlier, "Do I get to talk to my attorneys?" was not an unambiguous demand to have his lawyer present as required by the Supreme Court. She said his question was "at best a clarification of his Miranda rights."

She also said that, "There is no constitutional right for a juvenile to have a parent, guardian or other independent interested adult present during questioning."

Robert F. Horan Jr., the government prosecutor, said there was no difference between the rules for interrogating a juvenile and those for interrogating an adult in terms of whether the suspect waives the right to a lawyer. "The only thing is to

decide if it is an intelligent and knowing waiver of his rights, and that's what the judge determined."

Prof. Yale Kamisar, a leading criminal procedure expert at the University of San Diego law school, said that Detective Boyle's handling of the interrogation was a model of excellence and professionalism. Professor Kamisar, usually a skeptic about police interrogation methods, said that Detective Boyle had erased any doubt about Mr. Malvo's intentions to talk about what happened by repeatedly and explicitly asking him if he was certain he wanted to proceed without a lawyer. "She really went the extra mile," he said, after reading her testimony in the Roush opinion.

Defense lawyers had contended that the confession was also tainted by circumstances they said suggested that the authorities had maneuvered Mr. Malvo into an unusual

window of vulnerability. At the time he was interrogated in Fairfax County, the lawyers who were representing him in Maryland had asked a federal judge-magistrate to ensure that he not talk to any police officials. But because the federal charges in Maryland were dropped, the prosecutors argued and Judge Roush agreed that those lawyers were not representing him on the Virginia charges.

Judge Roush also ruled that an order from the federal judge-magistrate prohibiting any police interrogation of Mr. Malvo was unenforceable because the judge-magistrate had jurisdiction only in Maryland.

Mr. Malvo's lawyers said today that they believed that "the actions taken by law enforcement with regard to Mr. Malvo's detention, transport to Virginia and interrogation were deliberate and designed to circumvent his constitutional rights."

# Crown Heights redux: The best defense is an offense

4150  
BY ADAM LIPTAK  
NEW YORK TIMES NEWS SERVICE

**NEW YORK** — It is hardly the most appealing defense: Sure, I killed him, but because I was drunk, not because he was Jewish.

But legal experts said the unusual strategy could be effective in the second federal civil rights prosecution of Lemrick Nelson Jr. for killing Yankel Rosenbaum during the 1991 riots in Crown Heights, Brooklyn. The argument, put forward Monday, is also a vivid demonstration of the power and limits of the double jeopardy doctrine, which bars some, but hardly all, reprosecutions.

This is Nelson's third trip to court. In 1992, a state-court jury acquitted Nelson of murder and other charges. In 1997, Nelson was convicted on federal civil rights charges. But that conviction was overturned last year; an appeals court ruled that the judge had gone too far in trying to ensure a racially and religiously balanced jury.

In that federal case, and in this one, prosecutors have an extra burden: They must prove not only that Nelson stabbed Rosenbaum, but that he did so because of his religion.

Gerald L. Shargel, a defense lawyer, said that in theory, admitting to the killing could be a good trial strategy. "If a jury understands that this extra element" — the requirement that the prosecution prove religious animus — "is part of the case, it forces the jury to come to terms with it," he said.

In other words, admitting to the killing could make it clear to a jury that Nelson is not being retried for murder.

The strategy may also stop the prosecution from dwelling on evidence that is now uncontested. "It limits the powerful evidence that is likely to stir up a jury, that gets them in a surly mood," said Yale Kamisar, a law professor at the University of San Diego.

Jamie Orenstein, a former federal prosecutor in Brooklyn not involved in the first federal trial, questioned the strategy. "It's

always risky to admit the act and contest intent," he said. "There is a good chance that the contradictory opening statement from the last trial can be admitted in evidence, which would be devastating in that it would show the jury that Nelson is playing games with the justice system."

But a defendant can also be hurt by contesting the undeniable, and the evidence that Nelson killed Rosenbaum is, according to an appeals court decision, strong. There is DNA evidence, and Nelson made damaging admissions to a police detective.

Evidence of religious animus is weaker. Even after telling a detective that he stabbed Rosenbaum, Nelson continued to deny that religion had anything to do with it. This was long before he could have understood the legal significance of the point.

"No, I was just high from the beer," he said, according to the appeals court decision. "I just got caught up in the excitement."

The admission of murder puts him at little legal risk. Nelson did not testify at his earlier trials, so he cannot be prosecuted for perjury. And while the new admission might subject him to liability for damages in a civil lawsuit, he probably has no money. Nor can he be retried in state court for murder, because of the double jeopardy clause.

In one way, then, he is using the clause as a shield. But in another way, exceptions to double jeopardy have put him at risk, forcing the defense to craft this new strategy.

The Supreme Court has read two kinds of exceptions into the double jeopardy clause: reprosecutions on different charges are allowed in general, and the federal government, because it is viewed as a separate authority, is free to retry state cases on the same charges, provided a federal statute applies. That second exception is known as the dual sovereignty doctrine.

In the Nelson case, it is not

clear whether a more direct federal homicide charge might have applied, but in general, the Justice Department has chosen to rely on civil rights charges in reprosecutions.

Dual sovereignty is established law, but it remains controversial. When the federal appeals court reversed Nelson's 1997 conviction, it held that the case presented no double jeopardy problem, noting that it was bound by Supreme Court precedent. But Judge Guido Calabresi, who wrote the decision, had elsewhere questioned such reprosecutions.

"There can be no doubt," Calabresi wrote in an unrelated 1995 decision, that the cases of Nelson and the officers accused of beating Rodney King "involved reprosecutions in emotionally and politically charged contexts. It was to avoid political pressures for prosecution that the double jeopardy clause was adopted." He expressed, he said, "no opinion whatsoever" about the cases themselves or how the double jeopardy clause might apply to them.

The Justice Department's internal policy is to bar reprosecutions in all but the most compelling cases. And some legal experts said Nelson's recent admission now helps justify Attorney General Janet Reno's decision to pursue him.

But Kamisar said the occasional unpalatable result is no reason to abandon the double jeopardy clause. "On the merits, I'm in favor of convicting this guy," he said. "But you have to accept the fact that the principle cuts against you sometimes."

Acceptance may not come easily. Orenstein said that the atmosphere, if not the law, was entirely changed by Nelson's admission. "It's now a lot harder to complain that the retrial is unfair," he said. "The constitutional objection remains the same, but it's probably harder to sell people on the idea that you have the right to get away with murder."

JOURNAL - NEWS

HAMILTON, OH  
TUESDAY 22, 912  
MAY 6 2003

Book Review

CP (16) 3+5

Overcoming the Constitution

4154

IMPLEMENTING THE CONSTITUTION. By Richard H. Fallon, Jr.\* Cambridge, Massachusetts: Harvard University Press, 2001. Pp. ix, 186. \$37.50

SAIKRISHNA B. PRAKASH\*\*

INTRODUCTION

Constitutional law is tough to get your hands around. The Constitution itself is short and sweet and can be read in a jiffy. However, if you want to know how the Constitution is interpreted and implemented in modern times you need to know so much more. As taught by most law professors, constitutional law consists of examining the Supreme Court's constitutional opinions. The constitutional law that emerges from these opinions sometimes bears only the slightest resemblance to the Constitution itself. These opinions often pay a great deal of attention to other factors (such as precedent or value judgments), which the untutored might have thought irrelevant. In its darker moments, the Court seems to regard the Constitution as something that may easily be overcome by reference to these seemingly extraneous considerations, rather than as the supreme law of the land to be interpreted and implemented faithfully.

*Implementing the Constitution*<sup>1</sup> is Professor Richard Fallon's sophisticated, fair-minded, and engaging attempt to disabuse those who mistakenly believe that the written Constitution is the only legitimate source of our constitutional law. Fallon claims that descriptively and normatively, constitutional law is not just about reading the Constitution, discerning its meaning, and then applying that meaning to concrete situations. Instead, he argues that contemporary constitutional law more accurately consists of "implementing" the Constitution by considering various factors that do not emerge from the Constitution's text (hence the book's title). Fallon asserts that when we describe the constitutional law that emanates from the courts, we should not overlook the significance of seemingly "incorrect" precedent, entrenched historical practices, and other adjudicative norms such as the use of value judgments.<sup>2</sup> Furthermore, Fallon notes that judges endeavor to render practical, easily administrable decisions that reflect the reasonable disagreements that exist in society and amongst the government's branches about the Constitution's meaning and how it ought to be

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1. RICHARD H. FALLON, JR., *IMPLEMENTING THE CONSTITUTION* (2001).

2. *Id.* at 8.

# The Sacramento Bee

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## Capitol & California

### Democrats side with lawyers over small-business owners

**T**he state Assembly's dominant Democrats had a choice Thursday: help the thousands of small-business owners who have been clobbered by extortionate lawsuits or lawsuit threats under the state's broad unfair competition law, or stand with personal injury attorneys who are among the Democrats' most reliable campaign contributors.

The attorneys, to the utter surprise of no one, emerged as victors in a showdown hearing of the Assembly Judiciary Committee.

Voting largely along party lines, in what was clearly a scripted scenario, the committee killed three bills that would have imposed some reforms on the unfair competition law — UCL, as it's called — and approved a lawyer-backed substitute that contains only superficial changes and, if enacted, would actually make it easier to collect money in UCL cases.

The scandalous misuse of the UCL across the state to shake down small businesses; many of them owned by

recent immigrants, emerged as a political issue late last year. Typically, owners of nail salons, auto repair shops, restaurants and other small businesses would receive letters from attorneys threaten-

ing suits based on tiny violations of state regulatory laws, but allowing the targeted defendants to buy their way out of the suits with quick payments of a few thousand dollars to attorneys.

The Trevor Law Group, which was the most obvious practitioner of the UCL trade, was hit with a State Bar investigation and a lawsuit by Attorney General Bill Lockyer. However, while those actions put a dent in the practice, other law firms have been pursuing other cases, and several bills changing the UCL were introduced.

It became a firefight in the Capitol's perpetual struggle between personal-



DAN WALTERS

injury attorneys and business- and insurance-backed groups over the rules governing lawsuits. Attorneys often use the UCL as the basis of lawsuits on behalf of consumers, labor unions, environmentalists and others,

and they resisted any changes that would inhibit their activities. But the business groups seized on the small-business owners' plight to demand a broad UCL overhaul, saying that it is often misused to extract settlements from defendants on flimsy pretexts.

Two Republican-authored bills would, in fact, have made major changes in the UCL, but Democratic Assemblyman Lou Correa, whose Orange County district contains many of the immigrant-owned businesses hit by the lawsuits, crafted a measure aimed specifically at the extortionate misuse of the law with the help of

Robert Fellmeth, executive director of the Center for Public Interest Law at the University of San Diego. Then, at virtually the last moment, Assembly Judiciary Committee Chairwoman Ellen Corbett, D-San Leandro, unveiled a measure written by the personal injury attorneys lobby, Consumer Attorneys of California.

The Corbett bill, in conjunction with another lawyer-written measure in the Senate, would impose very mild new requirements on attorneys filing UCL suits, but it would also add a provision, called "disgorgement," that would allow more money to be obtained from UCL defendants and thus increase plaintiffs' leverage. Recent state Supreme Court decisions had barred "disgorgement" in UCL suits.

The Judiciary Committee took up the bills Thursday afternoon at a hastily called meeting, approved Corbett's bill and rejected the other three, including Correa's. "Trevor is just the tip of the iceberg," Fellmeth, one of the state's major authorities on UCL,

warned the committee as he urged passage of Correa's measure. Among other things, it would have required courts to approve UCL settlements.

What happened is not surprising to anyone who knows of the close ties between the trial attorneys and the Democratic Party, but it is instructive nonetheless. It reveals who really counts when a well-heeled special-interest lobby collides with struggling small-business owners who don't contribute to politicians' campaign treasuries — notwithstanding the flowery rhetoric about protecting those on the lower end of the economic scale.

□ □ □

**Clarification:** A recent column described the California Budget Project as being "labor-backed." Although the liberal group often sides with labor unions on political issues, it receives most of its support from foundations.

□ □ □

The Bee's Dan Walters can be reached at (916) 321-1195 or dwalters@sacbee.com.

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Fresno Bee (California)

April 29, 2003, Tuesday FINAL EDITION

**SECTION:** LOCAL NEWS; Pg. B3; DAN WALTERS

**LENGTH:** 561 words

**HEADLINE:** Insurers cashing in on re-fi fees

**BYLINE:** Dan Walters BEE WASHINGTON BUREAU

**BODY:**

As interest rates dropped to levels not seen in generations, hundreds of thousands of California homeowners -- perhaps millions of them -- sensibly took advantage of the once-in-a-lifetime opportunity to lock in lower mortgage payments.

Californians did more than \$400 billion in mortgage refinancing last year, the equivalent of one-fourth of the state's economy. The torrid pace has continued into 2003.

Many economists see mortgage refinancing and equity-backed second mortgages as major bulwarks of an otherwise stagnant economy because they have the indirect effect of boosting consumer spending.

However, as they tackled the formidable task of assembling income tax returns, pay stubs and other documents required by lenders, and coping with blizzards of paper generated by loan officers, homeowners seeking new mortgages and lower payments learned that so-called "re-fis" don't come cheap. A \$250,000 re-fi can generate fees of about \$2,500.

Consumer groups say that's too much to pay when the property isn't even being sold.

The surge in re-fis, and the resulting surge of payments to insurance companies that write title policies, has produced a backlash. Insurance Commissioner John Garamendi has started a six-month investigation of title insurer practices, and the Legislature is weighing a measure that would authorize a cheaper form of re-fi insurance.

Consumer activists believe that Garamendi will find what one critic, former trust-busting prosecutor Robert Fellmeth, has termed "the most obvious antitrust price-fixing conspiracy I have ever seen ... a hornet's nest of rebates, kickbacks and price-fixing." Title insurance firms deny such allegations.

Title insurers are also trying to kill the legislation, sponsored by Sen. Jackie Speier, D-Hillsborough, that would allow a streamlined, less-expensive form of insurance to protect lenders against hidden liens on the mortgaged property, rather than full-fledged title insurance. It's called "lien protection" insurance and is being marketed by Pennsylvania-based Radian Guaranty Inc.

When Radian tried to sell its policies in California, the Department of Insurance, or DOI, interceded with a cease-and-desist order. A DOI judge upheld the ban on Radian, based on current law, but Garamendi has refused to endorse it entirely. He's keeping the order in place while he seeks "additional evidence and testimony." His action was seen within the industries as a plus for Radian.

Garamendi's action set the stage for a legislative showdown on Speier's bill, SB 344, which would authorize "lien protection" insurance as an alternative to title insurance in re-fis.

Fresno Bee (California) April 29, 2003, Tuesday

The California Land Title Association is conducting its own lobbying blitz to defeat the Speier bill, labeling it "special interest legislation" that would authorize a "substandard, unlicensed title insurance product." Title insurers are questioning whether the Radian product would contain the consumer protections built into title insurance and are contending that they can meet Radian's rates.

However you slice it, there's a lot of money at stake. The re-fis are generating at least a billion dollars a year; Californians could be getting overcharged a quarter-billion dollars.

Dan Walters writes for The Bee's Capitol bureau. E-mail: [dwalters@sacbee.com](mailto:dwalters@sacbee.com); mail: P.O. Box 15779, Sacramento, CA 95852.

**LOAD-DATE:** April 29, 2003



Paul Pfingst



Gregory Vega



Charles LaBella

PHOTOGRAPHS BY JOE KLEIN

## Council's Stinky Days Numbered?

By Don Bauder 4/16

**W**hen former port commissioner David Malcolm — long known for mixing business with politics — pleaded guilty to violating state conflict-of-interest laws last week, establishment members sighed with relief, "It's behind us."

*Sotto voce*, they were no doubt saying, "Back to dirty business as usual."

Maybe not. In investigating and nailing Malcolm, the district attorney's office used the very broad Code 1090 of state law, which has been on the books for a long time. It says that a public official can't have a financial interest in a contract entered into by government. By contrast, the Political Reform Act of 1974 "is a checklist of specifics," says Robert Fellmeth, director

for the Center of Public Interest Law at the University of San Diego. "There are lots of holes in the Political Reform Act, and you have to use 1090 to fill them."

He is enthusiastic about the DA's office using 1090 in the Malcolm stench, and so is Deputy DA David Stutz, who is now in charge of ethics and election enforcement. Under DA Bonnie M. Dumanis, "We are taking a harder look at all statements of economic conditions with public officials," says Stutz.

By contrast, there is the sorry case of the Valerie Stallings gift-giving scandal. She got off lightly because

the U.S. Attorney and DA offices used the Political Reform Act.

As a councilmember, Stallings had received thousands of dollars in gifts and other benefits from John Moores and his San Diego Padres. Moores had cut Stallings in to the "friends and family" list of stock in a hot initial public offering of Neon Systems, a Moores-controlled software company. She was one of a few who got in at the initial price of \$15 a share. After the stock zoomed, Moores tipped her off to sell within \$1.10 of the all-time high of \$50.25.

And Moores, who was lobbying the city council for a downtown ballpark as well as low-priced development rights to 26 downtown blocks, showered other gifts on Stallings.

*continued on page 6*

## Days <sup>B</sup> numbered

continued from page 4

Months before the case's resolution, Stutz had commented that if there was a quid pro quo, if Stallings got

inside information not available to others, and if she performed services beyond those of a normal councilmember, then it might be bribery. However, Stutz doubted that his boss, then-DA Paul Pfingst,

would touch it.

Well, Pfingst and then-U.S. Attorney Gregory Vega touched it — but barely. They pulled out the minutiae-laced Political Reform Act and focused on itsy-bitsy things. Stallings was

given misdemeanor wrist-slaps for not reporting the gifts under the act. Moores skated. "She got off easy, and he got off easier — completely," says civic activist Mel Shapiro, who still doesn't understand why the

bribe issue didn't come up.

But it could have been a felony case against Stallings if 1090 had been invoked. Why didn't the DA and U.S. Attorney's offices use the broader 1090? "You have to

continued on page 8

## Days <sup>B</sup> numbered

continued from page 6

look at the players," says Stutz. "[Former acting U.S. Attorney] Chuck LaBella representing the Padres, ne-

gotiating with his friend, [then-U.S. Attorney] Greg Vega." The third leg of the triangle was Pfingst.

"After an extensive investigation using the FBI, the only crime they can find is a misdemeanor in state

court, so they have to get Paul [Pfingst] involved," recalls Stutz. "He won't touch it, so he brings in an assistant U.S. Attorney [Thomas W. McNamara, who headed the U.S. government investigation] and made him

deputy DA for one day." Then followed the puny charges for violation of the Political Reform Act.

Following the whitewash, Vega (who represented Malcolm in the case resolved last week) and La-

Bella backed Pfingst for reelection, and McNamara formed a law firm with LaBella, with Moores's Peregrine as the major client. Nice round-trips, huh?

Later, Mayor Dick Murphy named both Vega and

LaBella to the ethics commission. Hmmm.

Vega and LaBella claim the Stallings case was properly handled. LaBella explains how he came to back Pfingst. "Greg Vega asked me if I would be listed in support of the work [Pfingst] did, and I said yes, I supported the law-enforcement work he had done."

Did the U.S. Attorney's office look into 1090? "I don't think commenting upon internal decision-making processes is appropriate," says Vega indignantly.

At the press conference announcing the action in early 2001, Vega refused to say whether Stallings had passed confidential information to the Padres and claimed that there was nothing wrong with giving money to a politician. I asked him and Pfingst if that was true when the gift-giver stood to gain extremely valuable real estate. Pfingst quickly changed the subject. Today, Vega says, "I am not going to answer that."

"I suspect that if the DAS office today had all that evidence, it might have been handled differently," says Stutz. Alas, the case was immediately sealed in 2001, and Stutz doubts it can be reopened. Still, "I would love to have that grand jury transcript and see if state crimes occurred and who broke the state laws."

However, 1090 was not dead when the records were buried. San Diego attorney Bruce Henderson brought a civil suit in Superior Court stating that the courts had concluded for years that a public official's interest in a contract could be indirect. Henderson argued that Stallings and Moores had a clear-cut arrangement: She received gifts and got promises of future gifts, and in return, she cast votes that benefited Moores and the Padres to the tune of more than \$100 million. This quid pro quo arrangement also violated City Charter Section 94, argued Henderson.

Not surprisingly, the City Attorney's office argued that a councilmember receiving gifts from a developer seeking favorable votes did not constitute a conflict of interest. Also not surprisingly, the Superior Court sided with the city.

However, the Fourth District Court of Appeals shot down the city's argument. The Stallings/Moores relationship was prohibited under both 1090 and City Charter Section 94, said the appellate court, calling the city's main argument "disingenuous." However, since the court upheld the validity of city council actions to reaffirm votes taken while Stallings was present, the case was moot, said the court. Also, the appellate court took its option of not having the opinion published, so it didn't become a precedent.

"The Fourth District Court of Appeals is big on not publishing opinions," says USD's Fellmeth. "If they did, they would get many reversed. But that's another issue."

In any case, if the DA's office under Dumanis will use 1090 as a weapon and also focus on gift-givers and what they receive, San Diego can start making a crack in the institutionalized, establishment-dominated white-collar crime that historically has fleeced the populace and slid untouched through the cracks of local law enforcement. ■

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The Recorder

May 8, 2003, Thursday

**SECTION:** NEWS; Vol. 5; No. 8-2003; Pg. Chorney

**LENGTH:** 1190 words

**HEADLINE:** Plaintiffs-friendly plan for 17200  
Bills by key players give disgorgement back to plaintiffs bar

**BYLINE:** By Jeff Chorney

**BODY:**

SACRAMENTO - After several months of negotiations that may have been tantamount to a political root canal, key legislative allies of the plaintiffs bar have released a package of reform bills that could actually expand the state's unfair competition law.

Sen. Martha Escutia, D-Montebello, and Assemblywoman Ellen Corbett, D-San Leandro, have joined forces on a two-bill plan that includes one potentially lucrative nugget for plaintiffs lawyers.

The legislators want to overturn a pair of recent state Supreme Court decisions that strictly limited disgorgement of profits in cases lost by defendants under the unfair competition law, Business and Professions Code § 17200. If enacted, the bills would allow money to be distributed through fluid recovery or cy pres award.

"You have to at least compliment the plaintiffs lawyers for not trying to disguise their intent of using the 17200 litigation crisis to feather their own nests," said John Sullivan, president of the Civil Justice Association of California, the tort reform group that has been attacking 17200 for years.

The proposals by Escutia and Corbett already have the backing of the plaintiffs bar and are the result of negotiations among trial lawyers, labor interests and legislative Democrats. They are competing with a handful of other, mostly Republican, bills - though Democratic dominance in Sacramento means the latest package is the one most likely to succeed.

Escutia and her staff said the bills, SB 122 and AB 95, are intended to prevent 17200 abuse while still protecting the rights of legitimate plaintiffs.

"I think it's a comprehensive package in terms of allowing judges every step of the way to [oversee a case]," Escutia said.

For months, legislators have been dicker over tightening the unfair competition law as a cadre of plaintiffs lawyers have come under fire for allegedly misusing the statute to leverage settlements. The attorney general's office and federal authorities are investigating the lawyers, and the State Bar is attempting to disbar three attorneys at the Trevor Law Group, a Beverly Hills plaintiffs firm.

The proposal from Escutia and Corbett attempts to address one of the main complaints against firms like the Trevor Group - that they joined defendants in their suits just because they were part of the same industry. The legislation would prevent defendants from being joined for that reason.

Escutia said she believes judges already have that power but she just wants to provide more ammunition for defendants targeted by unethical lawyers.

The joint proposal would also amend the statute to require plaintiffs lawyers to notify defendants of their rights when a suit is filed under 17200. It would also require courts to review attorneys fees in 17200 cases, even if they are settled or dismissed.

Corbett's bill is scheduled to be heard today in a special meeting of the Assembly Judiciary Committee. Escutia will hear her bill in committee Tuesday. The measures are linked, and one cannot be made law without the other's passage.

Bruce Brusavich, president of Consumer Attorneys of California, praised the proposals and defended the inclusion of disgorgement recovery. He said not allowing plaintiffs to go after the ill-gotten gains of defendants is like finding the bank robber but letting him keep the money.

Sen. Dick Ackerman of Fullerton, a Republican who is carrying some of the competing bills, predicted the joint measure will get through because of Democratic dominance of both houses. But Escutia and Corbett may still have some fence-mending to do in their own party. Assemblyman Lou Correa, D-Santa Ana, drove this year's push to reform 17200 after plaintiffs firms filed suits against thousands of small businesses in his district.

The plaintiffs bar doesn't like Correa's bill, however. Corbett said she is still reviewing it, but has already asked Correa to join her legislation as a co-author.

In crafting his measure, AB 69, Correa enlisted the help of Robert Fellmeth, executive director of the Center for Public Interest Law at the University of San Diego School of Law. Fellmeth has tried to reform 17200 since at least 1997 when he worked with the California Law Revision Commission to examine the statute.

Although Escutia's and Corbett's proposal has at least one provision in common with AB 69 - court approval of fees - Fellmeth said their bills are still "missing the big point."

"You need finality and due process," he said. Fellmeth believes that if a plaintiff is going to represent the general public, there must be a way to resolve the dispute once and for all so other plaintiffs attorneys can't come in and sue over the same issues.

And where Escutia and Corbett would require courts to review attorneys fees in the cases, he wants to see courts scrutinize the entire settlement. He also wants the attorney general's office to be notified of all 17200 suits and let people keep track of them over the Internet.

"What meritorious [suit] is going to be hurt by giving public notice?" Fellmeth said.

In response to Fellmeth's criticisms, Brusavich said the new bills do give courts the power to review settlements because of the new requirement to approve attorneys fees, and the fact that courts would administer any disgorgement fund.

As for finality, Brusavich said the problem there was the chance of "sweetheart settlements" between colluding plaintiffs and defendants.

For its part, the attorney general's office has said it would likely need additional resources to keep track of 17200 cases.

Besides that, Tom Dresslar, a spokesman for Attorney General Bill Lockyer, said the office is pleased that legislators seem to be making progress.

"We had hoped that the proposal might have been a little stronger, but this is a good start," Dresslar said.

Although they had hoped for more, both Fellmeth and the AG's office support the restoration of disgorgement.

The Supreme Court undercut plaintiffs lawyers' ability to seek disgorgement in 17200 claims with *Kraus v. Trinity Management Services*, 23 Cal.4th 116, which was decided in 2000, and in *Korea Supply Co. v. Lockheed Martin Corp.*, S100136, decided in March.

Responding to the criticisms of tort reformers, Sen. Escutia said, "I don't think CJAC is going to be satisfied with anything [I do]."

The Recorder May 8, 2003, Thursday

She sees her proposal as a way of addressing the complaints of some members of the business community who say frivolous lawsuits are one of the reasons businesses leave the state.

Although she said she did not plan to tie her proposal to any other issue - such as other business concerns like worker's compensation reform or the manufacturer's investment credit - she does hope business activists will recognize her efforts.

"Let's assume [the business community] was to get workers' comp reform and reform in unfair competition law, what am I, as a Democrat, going to get in exchange?" Escutia said. "I think this proposal is a benefit to the business community. We could have killed everything."

Reporter Jeff Chorney's e-mail address is [n8].

**LOAD-DATE:** May 13, 2003

Ventura County Star (California) May 12, 2003 Monday

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Ventura County Star (California)

May 12, 2003 Monday

**SECTION:** Editorials; Pg. B06**LENGTH:** 662 words**HEADLINE:** When a lobby collides with small business, who wins?**BYLINE:** Dan Walters**BODY:**

The state Assembly's dominant Democrats had a choice Thursday: Help the thousands of small-business owners who have been clobbered by extortionate lawsuits, or lawsuit threats, under the state's broad unfair competition law, or stand with personal injury attorneys who are among the Democrats' most reliable campaign contributors.

The attorneys, to the surprise of no one, emerged as victors in a showdown hearing of the Assembly Judiciary Committee.

Voting largely along party lines, the committee killed three bills that would have imposed some reforms on the unfair competition law -- UCL, as it's called -- and approved a lawyer-backed substitute that contains only superficial changes and, if enacted, would actually make it easier to collect money in UCL cases.

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It became a firefight in the Capitol's perpetual struggle between personal-injury attorneys and business- and insurance-backed groups over the rules governing lawsuits. Attorneys often use the UCL as the basis of lawsuits, and they resisted any changes that would inhibit their activities. But the business groups seized on the small-business owners' plight to demand a broad UCL overhaul, saying that it is often misused to extract settlements from defendants on flimsy pretexts.

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Ventura County Star (California) May 12, 2003 Monday

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"Trevor is just the tip of the iceberg," Fellmeth, one of the state's major authorities on UCL, warned the committee as he urged passage of Correa's measure. Among other things, it would have required courts to approve UCL settlements.

What happened is not surprising to anyone who knows of the close ties between the trial attorneys and the Democratic Party, but is instructive nonetheless. It reveals who really counts when a well-heeled special-interest lobby collides with struggling small-business owners who don't contribute to politicians' campaign treasuries -- notwithstanding the flowery rhetoric about protecting those on the lower end of the economic scale.

--Dan Walters writes for the Sacramento Bee.

**LOAD-DATE:** May 20, 2003

# Commentary

## GOP Focus Should Be Kid Stuff

By ROBERT C. FELLMETH

**W**hen my liberal colleagues learn I have been a registered Republican for 20 years, they look at me as if I had just been registered as a sex offender. But I have been persuaded by the GOP's traditional principles: democratic power closest to the people, checks and balances, civil liberties and equality of opportunity, family values — a fluid society that respects the individual and fashions a path upward, based on hard work and contribution.

Those principles also include advocacy for children. Republicans understand that first and foremost, children need simply to be wanted — and intended — by two parents. Commitment from parents correlates closely with child health and happiness. Yet a third of California's births are to unwed mothers — and it is not pregnant teens but adult women who account for the vast majority. And about 50% of births are unintended, according to the National Survey of Family Growth. Babies are born to women who want a teddy bear; they are the issue of men with the paternal commitment of salamanders.

Republicans have understood that "a village" cannot "raise a child" — it takes a family. Too many Democrats view the world through the eyes of a social service establishment with a capacity to grow infinitely so that children become little more than

pieces of paper sweeping across the desks of social workers.

And the history of the Republican Party gives us some cause for pride. We have opposed a large national debt, knowing that our children would be required to pay for it. We have sponsored school and other infrastructure investment and the GI Bill of Rights to give higher-education opportunity to a generation.

But something has gone terribly wrong. We have failed to live up to our commitment.

Going far beyond "limited government" principles, we have opposed the state reflexively. And we have adopted the proposition that lowering taxes stimulates the economy and generates more tax revenue. Ronald Reagan's biggest mistake was that mantra, and its result was the biggest deficit ever created.

If we were to take the percentage of adult personal income publicly invested in children in 1979 and commit the same percentage in 2003-04, we would spend more than \$18 billion more for our children than Gov. Gray Davis' budget proposes.

Instead, Republican and Democrats alike are agreeing to disinvest: cuts in education, although we are already in the bottom third in spending per child, and in health care, although more than 1 million kids lack

coverage.

How could this be? Proposition 13 sensibly limits property taxes to 1% of assessed valuation, but then it also inequitably limits valuations, so that those of us who bought our homes 20 years ago pay one-third, one-fourth, even one-tenth of the property taxes that our children now buying homes pay — and that badly limits the revenue we generate as a state. On top of that, we have enacted what is now \$28 billion in state personal income tax breaks since 1998, mostly for the wealthy and older adults.

We have been right to criticize some public spending, such as \$1,000 payola from the governor for every 18-year-old who scores in the top 10% in state tests, but the cuts in the 2003-2004 budget go far beyond that.

Californians are among the richest folk in the world. And it is really not a question of adding more for our kids — it is a question of not continuing to subtract from them. To do so, the DMV fee needs only to be restored to its 1998 level. Alcohol taxes need only to be raised to the national average. The wealthy need only pay the same percentage of income in taxes they paid years ago, when they were not nearly as well off.

Congress in 2001 relieved California adults of about

\$27 billion per year in federal income taxes over the next decade, and now promises to reduce taxes by an additional \$8 billion to \$10 billion per year. How about sharing that reduction? California could take back half of the savings from the two tax cuts — about \$18 billion — to invest in children.

Without new revenue, our K-12 class sizes will again grow to the largest in the nation. How can we as Republicans defend that? How do we ethically defend cuts in basic medical services for our children? How can we propose billions in bonds and borrowing from future years in light of our traditions? Can the GOP leader have been serious when he said that any Republican who voted for any tax increase should be impeached?

A seminal test approaches, pitting sound-bite aphorisms about "tax and spend" against real values and real consequences. Republicans should demand that every cent of new money go for kids, not for pork barrel, cushy jobs for friends or to feed the social service establishment.

Once those conditions are met, we should work to ensure that the revenues are available. That is what Gov. Pete Wilson did in 1991 when he covered half of a less drastic shortfall with new revenues, and he left a legacy of class-size reduction that is bearing fruit now.

*Robert C. Fellmeth is director of the Children's Advocacy Institute.*

# Incentives for attorneys to join the public sector



## Legal 4154 Academics

By Daniel Rodriguez

Law graduates are leaving our campuses with average law school debts of more than \$70,000. The consequences of law school debt impact our legal system — and therefore the ability of our citizens to take part in the American dream.

Studies indicate that close to 40 percent of law school students on the verge of graduation express a significant interest in serving the people in the public sector. And when assessing the benefits of civil legal services, these same graduates view the ability to "contribute to society and make a difference" in public interest law at 80 percent. Yet fewer than 3 percent actually accept a job serving the people in the public interest mainly because of law school debts.

How could these trends be improved so that more of the best and brightest lawyers pursue public interest careers? Here are some solutions:

1. **Support and funding for the Loan Repayment Assistance Program.** LRAP offers graduates substantial assistance to repay educational loans in exchange for pursuing a career in public interest law. The programs vary widely in terms of eligibility, total amounts expended, number of recipients and other programmatic details.

Of the 2.5 percent to 3.5 percent of USD graduates who pursue public interest law, only three to five applicants are enrolled in our LRAP annually. This figure is too low. There

should be an increase in the number of public interest law employers who offer LRAPs. Here's why:

Nearly 50 percent of law graduates said they would be more interested in federal employment if they were given loan payment assistance. And among the 326 public interest and government employers from all 50 states and the District of Columbia who responded to a recent survey, 82 percent reported that LRAPs are an effective recruiting tool and 67 percent added the programs aid in retention of employees.

The best LRAP programs are created through permanent endowments at law schools, endowments created through the contributions of alumni, law firms and philanthropic friends. These endowments generate revenue that is used to defray student debt obligations either through direct grants or through structured systems of loan forgiveness. In order to qualify for this assistance, students must commit to work in the public interest sector. In addition, there are strict requirements concerning maximum level of salary, the aim being to ensure that those students most seriously in need of support will qualify for loan repayment assistance.

2. **Provide additional incentives for graduates to pursue public employment.** The federal government should improve its contingent repayment option by amending the Higher Education Act to require forgiveness after 15 years, rather than 25, for borrowers who at that point have spent more than a specified number of years in full-time public service.

3. **Equalize the annual unsubsidized Stafford loan limit for law graduates from \$10,000 to**

\$30,000. Increasing the limit will substitute low-interest loans for higher-interest loans, rather than increasing the total amount of money that students borrow.

4. **Pass the Innocence Protection Act.** This law provides student loan forgiveness to lawyers who serve as public defenders for a required number of years. Additionally, it would help fund state efforts to improve the quality of representation in death penalty cases.

5. **Educate students about extended repayment options.** Public interest lawyers with high student loan debt may not be able to afford the monthly payments of a 10-year plan. A 30-year repayment option may be better for these graduates at the outset, and as situations change, can go back to a 10-year option.

New graduates may elect a long-term repayment plan. Later, if they so desire, they can pay it off over a shorter period of time, avoiding much of the interest. Graduates who are already paying on a 10-year plan may consolidate their student loans (including college debt) and elect a longer repayment option.

6. **Income-contingent repayment.** High-debt, low-income borrowers can reduce payments even more dramatically by using the federal government's income-contingent repayment (ICR) option. ICR is available only for loans (including both undergraduate and graduate debt) made or guaranteed by the federal government. Under ICR, a borrower's repayments vary with income and are never more than about 20 percent of a person's taxable income.

We are all stakeholders. Participation and involvement in facing these challenges together

will help the best and brightest of our nation to pursue justice and uphold the principles that make America the greatest nation in the world at the most public level. Today's graduates share the same vision that lawyers from generations past have — when you can serve the public through public sector and public interest jobs you can make a tremendous difference in the lives of fellow citizens and community. Together, let's keep these dreams alive and make it happen.

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*Rodriguez is the dean and a professor of law at the University of San Diego School of Law. Reach him at (619) 260-4527 or [danr@sandiego.edu](mailto:danr@sandiego.edu).*

**Source Code: 20030520tbh**

# Financial realities often outweigh desire to contribute to society



**Legal  
Academics**  
By Daniel Rodriguez

The public interest legal community faces great challenges. More and more law school graduates are bypassing public interest law employment because of mounting law school debt.

At the University of San Diego Law School alone, 82 percent of students take loans and this figure has remained fairly consistent over the past three to five years. Upon graduation, these law school graduates leave campus with an average debt of \$73,500.

Career choice is a complex topic, with many variables at play determining whether a law school graduate seeks public employment, debt being just one of the variables. But when average debt is more than \$70,000 per student — coupled with lower compensation in public interest jobs (than private practice) — it is the key variable.

In terms of public interest law, some 78 percent of law graduates entering civil legal services expect

to earn between \$25,000 and \$45,000, according to a recent Equal Works report.

But let us suppose that a starting salary is in the neighborhood of \$55,000 annually. Now assume this same graduate has a law school debt above \$70,000, with an average monthly student loan payment of \$875. After taxes, the graduate's monthly paycheck of roughly \$3,000 per month quickly becomes about \$2,100 a month. Assuming \$800 a month for rent; \$450 a month for food; \$400 for transportation (auto loan payment, insurance, gas); and \$150 for basic utilities, the graduate has \$300 remaining in the monthly budget. Clearly, something has to change.

A recent report, conducted by Equal Justice Works, the Partnership for Public Service, the National Association for Law Placement, and the National Legal Aid and Defender Association, revealed that close to 40 percent of law school students on the verge of graduation expressed a significant interest in serving the people in the public sector.

When assessing the benefits of

civil legal services, 80 percent of these same graduates viewed the ability to "contribute to society and make a difference" in public interest law as very important.

The ability to serve the public — the people — at the grass roots is the very heart of our legal system. Today's graduates share the same vision that lawyers from generations past have: When you can serve the public interest through public sector and government jobs, you can make a tremendous difference in the lives of fellow citizens and community. Yet fewer than 3 percent actually accept a job serving the people in the public interest.

This is a staggeringly low number, especially compared to the 60 percent to 65 percent of law school graduates nationwide pursuing public interest law careers, and at USD entering private practice upon graduation.

How could this be improved? USD's Loan Repayment Assistance Program (LRAP) offers graduates substantial assistance to repay educational loans in exchange for pursuing a career in public interest law. The programs vary widely in terms of eli-

gibility, total amounts expended, number of recipients and other programmatic details.

Of the 2.5 percent to 3.5 percent of USD graduates who pursue public interest law, only three to five applicants are enrolled in our LRAP annually. The LRAP isn't the only solution, but it's clear that the status quo is not an option.

For the past 20 years, unprecedented organization and fund raising by profit interests have put the public interest law movement on the backburner. As a result, the interests of the poor, the very young and the very old are underrepresented by today's legal community. Not having some of the best and brightest lawyers serving the interests of consumers, children and the environment has resulted in serious setbacks.

This trend may not change anytime soon unless we the people work together to find solutions that are dissuading many of our most outstanding law school graduates from pursuing public interest legal careers they otherwise would pursue were it not for the financial challenges they face.

*Rodriguez is the dean and a professor of law at the University of San Diego School of Law. Reach him at (619) 260-4527 or danr@SanDiego.edu.*

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# USD School of Law: Innovative leadership for the 21st century

4154  
By GEORGE DECKER  
USD School of Law

As the University of San Diego School of Law looks forward to the beginning of a yearlong celebration this fall to commemorate the 50th anniversary of its founding, its focus is firmly fixed on educating future lawyers to meet the challenges and opportunities of the 21st century.

## Curricular innovation

The USD School of Law is a leader in the creation of new programs and classes to prepare law students to practice in a rapidly changing world impacted by globalization and dramatic advancements in biotechnology, telecommunications and information technology.

For example, in the technology arena, during the 2002-2003 academic year the law school's curriculum featured classes in biotechnology law, telecommunications law, cyberspace law, intellectual property and scientific evidence. In recent years, the law school's course offerings have also included Computers and the Law, Emerging Financial Markets, Trademark Law, Patents and Trade Secrets and Copyright Law.

USD's international law curriculum is remarkable in its breadth and takes full advantage of San Diego's unique location on the Pacific Rim and at the northern edge of Latin America. In the current academic year, for instance, the law school offered classes in international litigation, human rights, tax, trade, arbitration, business transactions, negotiation and sales transactions, as well as the courses Free Trade and the Americas, European Union Law, Foreign Relations,

Mexican Law, Comparative Constitutional Law and Public International Law. In recent years, the law school has also offered the courses Chinese Law, Japanese Law, International Environmental Law and Comparative Corporate Law, among others in international law.

The value of comparing approaches to similar problems in different legal systems is increasingly evident. The law school, in cooperation with foreign universities, sponsors the Institute on International and Comparative Law. The institute conducts summer law study programs in England, France, Ireland, Italy, Mexico, Russia and Spain. The programs introduce American law students to foreign law and legal institutions, and provide intensive study during four- to five-week sessions. Classes abroad sensitize students to the cultural differences that influence effective international dealing, and expose students to the perspectives of foreign experts.

## Outstanding law faculty

To meet the highly competitive demands of the legal profession in the 21st century, attorneys will need to be armed with a first-rate legal education. To provide its students with such an education, a law school must have a top-notch faculty.

According to the 2003-2004 Educational Quality Rankings of U.S. Law Schools, the USD School of Law faculty is among the highest rated law faculties in the United States, ranking 22nd

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SAN DIEGO DAILY  
TRANSCRIPT

SAN DIEGO, CA  
FRIDAY 15,000  
MAY 2 2003

in the nation. This study was based on an extensive survey of more than 150 leading law professors throughout the country. These professors were asked to evaluate "the overall intellectual quality and scholarly accomplishments" of faculty at nearly 70 leading law schools.

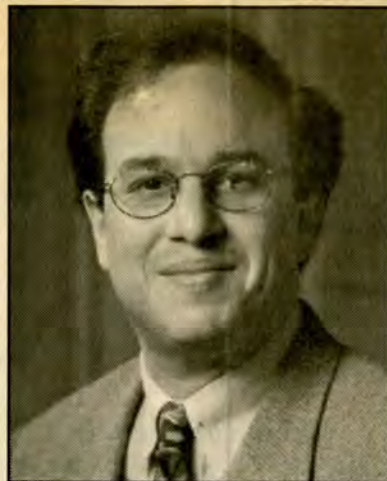
Importantly, the law school's faculty shares its scholarship on the leading legal issues of the day not only with law students, but also with the legal community and the general public.

"Taken as a collective whole, the faculty at the University of San Diego School of Law is an extremely important contributor to legal debates and controversies, whether in the pages of law journals and books, the opinion sections of local and national newspapers, or through lectures and colloquia at law schools and myriad professional organizations," said Dean Daniel B. Rodriguez.

#### Clinical legal education and advocacy programs

Toward the end of the last century, the creation of advocacy training and clinical legal education programs represented a radical but necessary departure from what American law schools had traditionally taught their students. In the law school of yesteryear, the emphasis largely had been on teaching legal theory, rather than on training students in the actual practice of law. While the University of San Diego School of Law remains strong in the fundamentals of a traditional legal education, it also offers outstanding advocacy and clinical legal education programs.

To prepare its students to practice law in the 21st century, the USD School of Law offers one of the strongest and most comprehensive programs of advocacy and clinical legal education in the



Daniel Rodriguez

United States. Through these programs, the law school has become a national leader in bridging the gap between courses in legal theory and the practical skills and experience individuals need to become effective lawyers.

Students hone their written and oral advocacy skills and experience the excitement of competition through the law school's

Appellate Moot Court Program and National Mock Trial Team.

On March 18, 2003, two USD law students had an opportunity that few practicing attorneys ever get during their lifetime: to argue a case before a justice of the U.S. Supreme Court. U.S. Supreme Court Justice Clarence Thomas served as Chief Justice for the final round of the law school's first annual Paul A. McLennon Sr. Honors Moot Court Competition. Judge Margaret McKeown of the U.S. Court of Appeals for the Ninth Circuit and Chief Justice Stanley G. Feldman (ret.) of the Arizona Supreme Court joined Justice Thomas on the judicial panel presiding over the final round.

And the record of law school's National Mock Trial Team demonstrates why it is one of the best such programs in the nation. Of the four or five competitions that the team has participated in annually since the 1990-1991

See USD on 10A

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**university of san diego**  
school of law  
graduate law programs

season, it has won on average three to four major awards, including eight double wins in the Association of Trial Lawyers of America Western Regional and three double wins in the American Bar Association Western Regional. Each fall, the top 16 teams in the country participate in the Tournament of Champions. USD's team has been invited seven times and has won once. In addition, the team has been selected as the best team in the Ninth Circuit seven times since 1989.

Preparing students for the practice of law in the 21st century is more than a slogan at USD — it's a serious commitment. Thanks to its visionary leadership, outstanding faculty and innovative programs and curricula, the University of San Diego School of Law is meeting that commitment.

Decker is director of publications at the University of San Diego School of Law.

# Parraguirre is favorite among judge nominees

By JANE ANN MORRISON 4154

REVIEW-JOURNAL

Although U.S. Sen. John Ensign crossed party lines to include the son of Democratic Assistant Minority Leader Harry Reid on his list of four candidates for a federal judgeship, the leading contender is District Judge Ron Parraguirre, political and legal sources said Monday.

Parraguirre, a staunch Republican, has been an attorney since 1985 and a judge since 1991, when he was elected to Las Vegas Municipal Court. He has been a civil judge in District Court since 1999.

The third nominee Ensign placed on his list for the lifetime federal appointment is U.S. Magistrate Robert McQuaid, whose 32 years of legal experience includes seven as



**Ron Parraguirre**  
District Court judge has been an attorney since 1985

a magistrate. The fourth contender is Sandy Smagac, a Las Vegas civil attorney with nine years experience who unsuccessfully ran for a District Court judgeship in 2002.

Leif Reid has been an attorney for seven years, making him the least experienced of the four and a Democrat.

"I would expect Ron Parraguirre to get it," said one GOP insider, citing Parraguirre's legal experience, his Republican

► SEE JUDGE PAGE 5B B

CONTINUED FROM PAGE 1B

credentials and his family friendship with state Senate Majority Leader Bill Raggio.

The source said President Bush is not expected to select the son of the man who once called him a liar. Harry Reid made the comment about Bush when Bush proposed Yucca Mountain as the location where the nation's nuclear waste should be buried.

As the senior senator of the party in the White House, Ensign is given the privilege of proposing judicial nominees, one of whom is chosen by Bush. The choice must then be confirmed by the U.S. Senate. The position is becoming available because U.S. District Judge David Hagen is taking senior status later this year.

Last week, Sen. Reid mentioned at a weekly coffee for Nevadans that he and Ensign are such good friends that Ensign had proposed his son for the judgeship.

"My emotions overcame me. ... I shed a tear that morning," Reid said about the event, which was attended by Ensign.

Reid said he played no role in proposing his son to Ensign as a federal judge prospect.

Ensign declined Monday to

confirm the names of the other three candidates, but multiple sources confirmed their identities. Ensign said experience "isn't the only qualification" he considered when deciding on the candidates.

"Leif Reid is very conservative," he said. "I looked at his qualifications. I liked the way he looked at the Constitution. I liked his political philosophy. I said to myself, 'If he wasn't Senator Reid's son would I consider him?' And there's no question I would have."

Some Republicans were angry, which Ensign anticipated.

"I walked for Ensign and I'll never do it again," said Jan Hunt of Carson City, a

member of the state Republican Central Committee. She said she will work against Ensign when he is up for election again. "If I could, I'd start a recall," she said.

"I totally understand why people are upset," Ensign said. "But when they know more details about Leif Reid, I don't think people will have the heartburn they're having today."

Rep. Jim Gibbons, R-Nev., a potential challenger to Reid in 2004, passed on the chance to criticize Ensign's choice.

Parraguirre, 43, got his law degree from the University of San Diego Law School in 1985 and then moved to

Washington, D.C., to work for U.S. Sen. Paul Laxalt, R-Nev.

In 1987, he returned to Nevada to work at his father's law firm. In 1991, he won the first of three elections as Las Vegas municipal judge, and in 1999 Gov. Kenny Guinn appointed him to District Court. He was elected to that job in 2002.

**LAS VEGAS  
REVIEW-JOURNAL**

LAS VEGAS, NV  
TUESDAY 164,754  
MAY 6 2003

# THE BATTLING BARRISTER

## Mary Lehman Likes Going Toe to Toe, Whether in the Ring or in the Courtroom

■ BY RENE'E BEASLEY JONES

Mary Lehman likes to pick fights. And she usually wins.

For 11 years, Lehman practiced appellate law in Gray Cary's San Diego offices. Last year, she decided to go it alone, opening the Law Offices of Mary A. Lehman in November.

Her record in the courtroom is impressive, colleagues say. Lehman's clients have included DuPont, Samsung, the San Diego Padres, Bridgestone/Firestone, Cytec Industries, General Atomics, McMillin Homes, and more.

But that's not the only arena in which Lehman lands punches these days.

The Coronado mother of 6-year-old twins is an undefeated pro boxer. The Women's International Boxing Association ranks her No. 14 in the world in her weight class.

Lehman believes she may have a shot at the world title, perhaps as early as next year.

At 5-foot-3-inches tall, Lehman boxes as a bantamweight (up to 118 pounds). Since turning pro last year, she's won four matches — against women in their 20s. Lehman turns 40 in September.

### Stubborn Attitude

Her ring name fits her to a T: *Mulita*, which is Spanish for little mule. *Mulita* is the nickname her husband of eight years, Juan Carlos Alvarez, called her long before she slipped on a pair of boxing gloves.



Annalee Lehman

Mary Lehman, a pro boxer and San Diego attorney, ranks 14<sup>th</sup> worldwide in the Women's International Boxing Association. As a pro, Lehman is undefeated in the ring.

**Next bout:** Rita Valentini (2-1), Fists of Gold California Golden State Title Series  
**When:** May 9, 6 p.m.  
**Where:** San Diego Sports Arena

"Only the person who's a mule will defy the odds," said Vernon Lee, Lehman's trainer at the Black Tiger Gym on Miramar Road. "Everyone else will quit."

In the ring, Lehman never gives up, Lee says. He compares her to a "buzzsaw or annoying bee."

Opponents broke her nose twice — first in a sparring match, then during her first amateur bout — but Lehman never flinched.

Lehman fell into boxing by mistake. She showed up for step aerobics on a day the gym offered kickboxing. The instructor told her to

**Occupation:** Attorney at Law Offices of Mary A. Lehman

**Education:** Bachelor of arts, St. John's College, Santa Fe, N.M.; J.D., University of San Diego

**Age:** 39

**Residence:** Coronado

**Family:** Husband, Juan Carlos Alvarez; twin daughters, Mia and Grace

shadow box in front of the mirror. Lehman found it empowered her more than other exercise routines and took up boxing in 1999.

She fought in the amateur division but jumped into the pro arena last year. As an amateur, she couldn't fight anyone younger than 35.

But as a pro, Lehman can fight a woman of any age, which opens the gate to competition.

Lehman quickly shushes critics who badmouth boxing.

"It is grace and art in the face of violence and death. It feels like dodging a bullet. You feel immortal for a split second," Lehman says.

### Lessons Learned In The Ring

She admits to being a challenge junkie. In past careers, she's worked in ski patrol, fought forest fires, and lived on an Indian reservation without running water and electricity.

"Everything learned in the ring is transferable to life," she says.

Especially in courtrooms.

For starters, boxers control situations and emotions, and preparation is everything.

The local Gray Cary offices made a big deal of Lehman's boxing career, she says. For her first pro bout, the firm bought 50 tickets and used her boxing to show that attorneys can enjoy a life outside the office.

Lynda West, one of the firm's legal secretaries, is the self-proclaimed president of Lehman's fan club. She'd never thought of going to a fight until Lehman started boxing.

"(Lehman) doesn't come out just slugging. She's very focused. She's very powerful, as small as she is," West says.

She plans to attend Lehman's next fight May 9 at the San Diego Sports Arena. Lehman will take on Rita Valentini, who lost to Lehman in January. They will fight in the Fists of Gold, a presentation of Oscar De La Hoya's Golden Boy Productions.

Promoters like to feature at least one female bout on the card because women's boxing is gaining popularity, says Ryan Wissow, WIBA



Melissa Jacobs

**Local attorney Mary Lehman thought she was going to aerobics class one evening, but it turned out to be kickboxing instead. The instructor told her to shadow box in front of a mirror. Lehman never looked back. Now, she's a pro boxer with a 4-0 record.**

executive director and ratings chairman.

Women box two-minute rounds, a minute less than men.

"(Women) don't have time to feel each other out. They have to go in there and start slugging," Wissow says.

Kathryn Karcher, a partner at Gray Cary who has attended two of Lehman's matches, agrees that the men's bouts move more slowly.

"A couple of people by me started yelling, 'Fight like a woman!'" Karcher says of the first time she watched Lehman box.

Wissow estimates there are 2,000 pro female boxers worldwide and 700 to 800 nationally.

They come from all walks of life, but he only knows of one other attorney, Laura Serrano, a Mexican junior lightweight champ.

### Daily Routine

Not only is Lehman an attorney and a boxer, she's a mom of two to Mia and Grace.

Lehman wakes by 6 and does legal work at home until it's time for the girls to get ready for school. Then, Lehman runs and shadow boxes before returning to legal work. She heads to Black Tiger Boxing Club in the afternoon.

If she's not preparing for a fight, Lehman trains for 2 1/2 hours. She adds an hour to the routine if a bout is coming.

Lehman returns home for an evening with

the girls, reading a book to them in bed every night. She watches no TV — except boxing. And she takes every Sunday off to be with her family.

Her daughters come to the boxing club and watch her train sometimes, but they don't watch her fight. Mia and Grace, who compete in karate, think boxing is cool, Lehman says.

"They've been raised to think women are fighters. ... They think men stay home and cook and women work and box," she says with a grin.

Lehman aspired to be a tomboy as a kid, but her parents were intellectuals who frowned at that notion. She got into one fight in junior high school — with a much bigger girl and her gang.

Lehman landed one punch before the principal arrived.

She plans to continue boxing another two years. And then Lehman will promote the sport and other women fighters.

In the meantime, she enjoys training, competing, and dreaming of a world championship bout. But she's never content to go out in the ring and bang, bang, bang her way to the top.

"There's something bigger," Lehman says. "I want to be a beautiful boxer, to be the best boxer I can be."

Contact Rene'e Beasley Jones via e-mail at [rbeasley@sdbj.com](mailto:rbeasley@sdbj.com) or call her at (858) 277-6359, Ext. 109.

## Profile

# Presiding Judge Stresses Inclusion in Evolving System

By Claude Walbert

Daily Journal Staff Writer

Presiding Judge Richard E.L. Strauss speaks passionately about the growing isolation of judges and the evolving court system, but he is little tempted to speak about himself.

His résumé is a bare-bones recital of education, positions as a lawyer, and roles as a judge — 154 words, including dates. Half a page. That's it.

Strauss, a Superior Court judge for seven years, shrugs.

"I'm modest," he said simply.

San Diego City Attorney Casey Gwinn, who has held office since 1996, said that previous supervising judges have made decisions about the courts without consulting all the people who might be affected.

Strauss always makes a point of consulting with others who have an interest in decisions about the courts, said Gwinn, whose 155 deputy city attorneys swarm into criminal and civil every morning.

"I've met with him on a number of major issues," Gwinn said. "He's very

careful, thoughtful and considerate. He doesn't race to a conclusion — he makes decisions like a judge."

L. Tracee Lorens, president of the Consumer Attorneys of San Diego, says Strauss is of the old school, courtly and restrained in the courtroom and out. She recalled appearing before him when he was assistant presiding judge.

"In the hearings, he was thoughtful, very intelligent, and yet easy to appear before," Lorens said. "He makes people comfortable, but he expected lawyers to respect the court and each other."

Public Defender Steven J. Carroll, too, described Strauss as a good listener, polite and patient.

"He's always willing to involve my office on any question that touches on indigent defense," Carroll said.

The lawyer gave as an example the court's plans to phase out most paper records while introducing almost exclusive use of electronic files. The public defender's office has its own computer system, and Strauss wanted to be sure

See Page 8 — JURIST



HUGH WILLIAMS / Daily Journal

The justice system "is one of the best things man has ever invented," says Superior Court Judge Richard E.L. Strauss. "There's something majestic about the law."

# Jurist Stresses Inclusive System

Continued from Page 1

that the future court system could communicate with the public defender's computers, Carroll said.

As an officer of an organization with high interest in the smooth operation of the courts, Lorens has observed Strauss since he began full-time administrative duties as presiding judge 16 months ago.

"I think he's a great administrator," Lorens said.

In that capacity, Strauss must focus on the larger problems facing judges and courts. The isolation of judges from much of the legal community is one of those problems, he said.

"It's one of the problems judges are having in California and across the country," Strauss said. "Relationships with lawyers have been almost eliminated."

Many judges won't attend a social function for a specialized bar group, he said, for fear of being accused of favoring that group's views.

"That's all about perception, not reality," Strauss said in his third-floor office in the 40-year-old criminal courts building. The austere room is mellowed by antique furniture brought from his old law office.

"We judges try very hard to be fair and unbiased, to avoid even the appearance of impropriety," he said.

Judges stay away from social events unless the guest lists include lawyers of many legal backgrounds, he said, although judges and lawyers need to meet and learn from each other.

"The bedrock of what we do depends on fair hearings," Strauss said. "Members of the public have to be treated fairly and believe that they've been treated fairly. We live that concept."

In today's climate, Strauss said, he even refuses to hear any case involving lawyers who are his occasional golfing companions.

"I'm protecting against the perception," the judge said. "That's a change from 30 or 40 years ago."

But today, Strauss said, "there's an element in our society that questions anyone in authority. We're the authority figures. That's why we wear the black robes."

Strauss once planned to become a different sort of authority figure — a university administrator. A friend's advice led him to the law.

Born in Los Angeles, Strauss grew up in La Jolla, a small community in those days. He attended La Jolla schools from kindergarten until he graduated from high school in 1959.

Along the way, he took part in school sports — basketball, track, tennis.

"I played everything," he said.

## Profile



**Richard E. L. Strauss**

Presiding Superior Court Judge  
San Diego

**Career highlights:** Presiding judge, January 2002 to present; assistant presiding judge, 1999 to December 2001; appointed to Superior Court by Gov. Pete Wilson, 1995; private practice, Strauss Kissane & Cook, 1976-95; assistant U.S. attorney, San Diego, 1972-76; assistant corporate counsel, Travelodge International, Inc., 1970-71

**Law school:** University of San Diego School of Law, 1968

**Age:** 61

The Strauss family lived only two blocks from Windansea Beach, famed for decades as a gathering spot for surfers, so the future judge grew up on the water.

"I did a lot of surfing and swimming," the judge said. "I sailed at Mission Bay."

He didn't neglect his studies, and in 1958 he was an exchange student in Munich, where he experienced a Germany that was making a strong comeback from the effects of World War II.

When it was time for college, he headed for Stanford, where in 1963 he completed his bachelor's degree in political science. The following year he received a master's degree with a specialty in higher education.

But he was beginning to have doubts about his goal of becoming a university administrator. He had learned that to rise to a high administrative level he would need a Ph.D. in an academic discipline, and he wasn't interested in such studies. He disliked what he had learned of virulent academic politics. In May 1965 he decided to pursue another career.

Strauss was accepted for the fall 1965 semester at the University of California, Berkeley, where he was to enter the master's of business administration program. However, he remained uncertain of his goal, particularly because he realized attaining it probably would mean living somewhere other than San Diego.

So he talked to David Moon, who is now a judge, whom he had known since the fourth grade. Moon had just finished his first year at the University of San Diego School of Law, and he suggested that Strauss enroll there too.

Strauss recalled that he told Moon, "I don't even know what a lawyer does."

Moon advised Strauss that if he attended law school, he could hang out his own shingle in San Diego. That convinced Strauss.

Once in law school, Strauss knew he had made the right decision.

"I really did enjoy it," he said. "It was fascinating."

After graduating in 1968, Strauss was offered a job in the district attorney's office, but decided instead to take a job with Travelodge International Inc., which had its headquarters in El Cajon. As assistant corporate counsel, he worked on partnerships and real estate. The company had interests in mobile-home parks, so he learned about the laws affecting those businesses.

But he wanted to broaden his knowledge of the law. By then, the district attorney's office had a hiring freeze. He applied for a position as assistant U.S. attorney, and was hired by U.S. Attorney Harry D. Steward in 1972.

For the next four years, Strauss prosecuted criminal cases — everything from massive drug conspiracies to one of the nation's first skyjacking prosecutions.

The skyjacking had taken place years earlier, Strauss said, but he got the case in 1975 after Cuba sent the participants and their children back to the United States. The participants were Black Power militants who took over a Los Angeles-to-Miami flight, Strauss said. Their reception in Havana was not what they had expected.

"They were not greeted like they were freedom fighters," Strauss said.

Cuban authorities eventually booted them back to the United States. Because the hijacked flight had passed over San Diego, Strauss said, the case ended up in the Southern District.

"I had the case all worked up," he said. "I was ready to go to trial."

But the skyjackers wanted to make a deal, and the Department of Justice gave Strauss authority to resolve the case. The men pleaded guilty and Strauss dismissed charges against their wives.

His time in the U.S. attorney's office gave Strauss an opportunity to develop his trial skills in the federal court's formal atmosphere. The assistant U.S. attorneys handled appeals of their own cases at the 9th U.S. Circuit Court of Appeals, he said, so he learned to argue constitutional law.

In 1976, Strauss and a fellow assistant U.S. attorney, Terry Kissane, decided to open their own law firm, which over the course of the years became Strauss, Kissane & Cook while remaining small, as the two founding partners had intended from the beginning.

At first, the firm handled civil litigation and transactional law, but after a union

officer and trustee were indicted for mishandling a San Diego union pension fund, the firm was chosen to protect the union members' money. Such work quickly developed into a firm specialty.

The lawyers ensured that union funds they oversaw had set procedures to prevent mishandling of the money, Strauss said.

"All of our clients were very good that way," he said. "No one ever asked us to cut a corner."

Funds of that type are managed jointly by labor and management, so Strauss quickly got to know "all the labor leaders and management in town" — people with great influence on politicians, through their money and the numbers of voters they can sway. But Strauss distanced himself from that part of union-management interests, he said, and never considered running for political office himself.

"It's just not my nature," Strauss said. "I think like a judge, not a politician."

By 1995, Strauss was wondering if he should become a judge himself, but only after Kissane asked why he didn't consider seeking an appointment.

"I didn't even have it in my mind," Strauss said.

Kissane's suggestion led Strauss to consider the advantages in such a career move.

"It's a way to have a new start in a career that's way down the road," he said.

Or, as U.S. District Judge William B. Enright said when Strauss asked his advice, "It's like being repotted."

Gov. Pete Wilson appointed Strauss to a Superior Court seat in October 1995, and Strauss quickly found that the job offered what he had expected: "New challenges, new perspectives, a chance to expand."

As if the job didn't offer enough challenges, Strauss five years ago created one for himself — learning to play the piano. He calls himself an "intermediate student" and says to expect no recitals soon.

He rarely goes to the beach, although he still loves the ocean.

"I spent a lot of time in the sun when I was a kid," he said. "I'm not sure I need much more of it."

Instead, he plays golf for relaxation, and he and his wife, Linda, enjoy travel. They have been married since his second year in law school and have a daughter.

London is one of their favorite places, but he doesn't visit the courts there.

"And I don't take my golf clubs, either," he said.

His role of presiding judge leaves little time for relaxation because, as leader of the court's 1,531 permanent employees, including 128 judges and 21 commissioners, he's in the forefront of what he calls a revolution in the state courts. With the unification of Municipal and Superior courts five years ago and the state's increased funding role, courts are becoming a true third branch of government, he said.

In the past, Strauss said, "the courts had a very local flavor, almost like a county department."

But uniform practices imposed by state officials can't take into account differences throughout the 58 counties, all with their own needs, customs and business practices. Somehow, the state's overall authority and local requirements must be reconciled.

"We're trying to find that balance," Strauss said.

The courts also must deal with the fiscal decisions of the governor and legislators, he said.

"Now we need to understand them and they need to understand us," Strauss said. "It's a big change, I think for the better. It's a chance to serve in a more consistent way."

Although the courts are evolving, Strauss doesn't believe that the fundamental role of the justice system will be harmed.

"It's one of the best things man has ever invented," he said of the justice system. "There's a search for truth and justice. There's something majestic about the law."

*Here are some of Judge Strauss' cases before he took up administrative duties, with the lawyers involved and their current affiliations:*

■ *People v. Ramos*, SCN060845

For the prosecution: Gregory A. Walden, district attorney's office  
For the defense: William B. Saunders, public defender's office

■ *Cunningham v. Home Depot*, N76371

For the plaintiff: Don C. Burns, Burns & Bush, San Diego  
For the defendant: Robert W. Buckley, Fireman's Fund Insurance Co., Novato

■ *Guerrero v. Zoological Society*, N71174

For the plaintiff: James W. Street, Cardiff  
For the defendant: Sean C. Cunningham, Gray Cary Ware & Freidenrich, San Diego

■ *Hernandez v. City of San Diego*, 702654

For the plaintiff: Michael R. Marrinan, San Diego  
For the defendant: Penny L. Castleman, city attorney's office

■ *Miller v. Palomar Medical Group*, N72486

For the plaintiff: Randall C. Sterling, Vista  
For the defendant: Sheila S. Trexler, Neil Dymott Perkins Brown, San Diego

## ASSOCIATE NAMED AT ROSENN, JENKINS & GREENWALD, L.L.P.

The Law Firm of Rosenn, Jenkins & Greenwald, L.L.P. is pleased to announce that Ann O'Donnell Farias has joined the Firm as an Associate in its Wilkes-Barre office. Ms. Farias' practice areas include commercial litigation, professional liability, personal injury, and workers' compensation.

Before joining the firm, Ms. Farias practiced in litigation in San Diego for fourteen years. After returning to Northeastern Pennsylvania, she was Of Counsel to a local law firm. In San Diego, she was most recently Claims Litigation Counsel for the house counsel of a large insurance company. Prior to law school, Ms. Farias was an Assistant Vice President with the former Manufacturers Hanover Trust Company in New York City and Houston.

Ms. Farias is a graduate of Smith College and received her Juris Doctor from the University of San Diego School of Law. She is a member of the Pennsylvania and California Bar Associations, as well as the Luzerne County Law and Library and the PA Trial Lawyers Associations. She is a native of Clarks Green, and now resides with her family in Shavertown.

Rosenn, Jenkins & Greenwald, L.L.P., with offices in Wilkes-Barre, Hazleton and Scranton, is a full-service law firm serving clients throughout Northeastern Pennsylvania since 1954. The firm's attorneys and paralegals provide legal services to individuals and companies in virtually all areas of the law, including business and finance; commercial litigation; civil rights; personal injury; real estate and zoning; wills, trusts and estates; tax law; employment and labor law; employee benefits and executive compensation; bankruptcy and creditor's rights and banking; insurance, construction and environmental law.



Ann O'Donnell Farias

### TIMES LEADER

WILKES-BARRE, PA  
SUNDAY 66,604  
MAY 4 2003

### SUNDAY VOICE

WILKES-BARRE, PA  
SUNDAY 29,608  
MAY 4 2003

LOS ANGELES DAILY  
JOURNAL

LOS ANGELES, CA  
FRIDAY 24,000  
MAY 16 2003

## Profile



**Michael A. Smith**  
Superior Court Judge  
San Bernardino

4154  
**Jurist Specializes in  
Civil and Criminal  
Long-Cause Cases**

**Lawyers Laud Judge as  
Patient, Careful Listener  
To Every Fact, Viewpoint**

**By Jason W. Armstrong**

Daily Journal Staff Writer

Judge Michael A. Smith's long-cause assignment involving some of San Bernardino County's longest and most gut-wrenching criminal and civil cases gives him a chance to see some of the most talented lawyers in action.

"Most of the lawyers who appear in front of me are the cream of the crop," Smith said recently. "They're excellent, they know their stuff and they're a pleasure to work with."

Yet in the rare instance that Smith is faced with a pro per defendant or a lawyer fresh out of law school, attorneys say, he gives that person the same courtesy he would give to a practitioner with decades of experience.

Grover L. Porter, a veteran San Bernardino criminal-defense attorney, said Smith impressed him in a recent hearing in which a murder defendant, a man named George Maynes, represented himself. *People v. Maynes*, FSB037295 (San Bernardino Super. Ct., filed 2002).

Smith was assigned to hear Maynes' motion to dismiss the murder charge, which is known as a 995 motion. Maynes claimed that his rights were violated when the judge who conducted his preliminary hearing refused to authorize removal of his handcuffs during the proceedings.

"[Smith] allowed the pro per to give his argument, and then ended up granting the motion," Porter said.

Smith said he granted the defendant's motion because case law states that a shackled defendant has a right to a hearing to determine whether good cause exists to keep him handcuffed.

See Page 9 — PROFILE

Prosecutors refiled a murder charge against Maynes and the case is pending, Smith said.

Smith "is extremely accommodating," Porter said. "He has excellent judicial temperament, and he never makes you feel like he's in a hurry."

Other lawyers who have logged time in Smith's courtroom say the former prosecutor and 17-year veteran of the San Bernardino bench takes on complicated legal issues with ease and is "right at home" presiding over dicey death-penalty cases or knotty, head-scratching civil matters.

Smith is gearing up for one of the most gruesome and lengthy trials to ever hit his courtroom. He expects the capital murder trial of Wayne Adam Ford to get underway later this year and last more than six months.

Ford, an Arcata truck driver, is charged in the 1997 and 1998 killings and mutilations of four women, including two from San Bernardino County, whose bodies were dumped in California rivers. *People v. Ford*, FSB027247 (San Bernardino Super. Ct., filed 1998).

At the same time, Smith is handling an ongoing months-long trial in which two San Bernardino County water districts are

engaged in a heated battle, each contending the other owes it millions of dollars. The case is bogged down with 17 boxes of evidence and mountainous stacks of files.

David Whitney, head of the San Bernardino district attorney's major crimes unit, said Smith takes the stress of the complicated cases that land on his plate "in stride."

Whitney said Smith is "one of the top judges" in the county because he is so knowledgeable of the law and maintains "excellent" impartiality. He has a knack for keeping problematic witnesses in check, Whitney said.

Smith showed that ability in the murder trial of Keith Thomas Loker, Whitney said.

Smith sentenced Loker to death in 1995 for killing two men in a Fontana adult bookstore four years earlier. *People v. Loker*, SCR58212 (San Bernardino Super. Ct., filed 1992).

At one point in the trial, Whitney said, a defense witness in the case started to lose his temper on the stand. Smith quickly admonished the man about the need to maintain decorum in court, Whitney said.

"The case was very difficult and the judge really kept things on a nice track," Whitney said.

Smith, 53, said that when he was a youngster growing up in Commerce and Monterey Park he knew he wanted to enter the legal field.

"I loved lawyer shows, like 'Perry Mason,' that made law look so interesting and fun," he said.

Smith attended California State University, Los Angeles, where he was a member of the debating team and graduated with a political science degree in 1971.

He graduated three years later from the University of San Diego School of Law. While there, he clerked for the civil firm of Sankary & Sankary, thinking he eventually wanted to try his hand as a civil practitioner.

But wanting to jump immediately into trial work, Smith took a job with the San Bernardino County district attorney's office in 1974.

Smith tried his share of misdemeanor and drug cases in his 12 years at the office but found his niche trying homicide and death-penalty cases.

He tried a string of high-profile murders and got convictions in the two capital cases he took to trial.

The case of Demetrie Mayfield was one of Smith's biggest cases as a prosecutor. Mayfield originally was arrested on a theft charge. His friends testified against him and he vowed revenge. While free on bail, he entered the house of the theft victim and encountered her mother and a male friend. Mayfield killed them both with a sawed-off shotgun. *People v. Mayfield*, 201 Daily Journal DAR 11903.

Smith got a conviction and a death sentence for Mayfield. But a federal appellate court overturned the sentence in

November 2001. The panel found that Mayfield's defense attorney, S. Donald Ames, who since has died, did a "deplorable" job representing him.

Prosecutors are seeking a penalty of life without parole for Mayfield, who could be retried later this year.

Smith won an open seat on the San Bernardino Superior Court bench in 1986. He has retained the seat, running unopposed, ever since. Currently, his roster includes eight long-cause criminal cases — the majority of which are murders and capital cases — and six long-cause civil cases.

A benefit of the assignment, Smith said, is that the cases are ready to go to trial by the time he gets them. Other judges have already dealt with the preliminary matters, he said.

"I don't get bogged down with all the motions," Smith said. "We get right to trial, which is more fun."

Many of the cases in Smith's courtroom have sparked media frenzies. Among those is the case of James Hood, a developer sentenced to life in prison in 1994 for murdering a former employee who had been cleared in the earlier murder of Hood's wife. *People v. Hood*, SCR56936 (San Bernardino Super. Ct., filed 1992).

At trial, Hood claimed that the employee, Bruce Beauchamp, had a gun when he arrived unexpectedly at Hood's Bloomington office March 2, 1992. Hood said he feared for his own life and grabbed his own gun, firing seven times until Beauchamp stopped moving.

Whitney, the prosecutor in the case, argued at trial that Hood paid Beauchamp to kill Hood's wife, Bonnie, and then murdered Beauchamp to silence him. A Tulare County jury acquitted Beauchamp of murder in the killing of Bonnie Hood.

The James Hood case included analysis of blood splatters in Hood's office. It broke legal ground as the first case in the state in which the jury got to see prosecution and defense versions of a video re-enactment of the crime, Smith said.

He said the Supreme Court later upheld his decision to permit the re-enactments.

In an unusual case in Smith's courtroom earlier this year, a defendant who

was convicted of statutory rape for assaulting a minor claimed he couldn't have committed the crime because he is paralyzed and wheelchair-bound.

The victim became pregnant after the incident, however, and a DNA test confirmed the defendant, Abdul Rasheed, was the father. Prosecutors found three other victims of Rasheed, Smith said.

Deputy Public Defender Jeffrey R. Lawrence, who represented Rasheed, said his client was looking at a potential life sentence on charges of statutory rape and rape causing great bodily injury. But the jury deadlocked on the forcible rape allegation and found Rasheed guilty of statutory rape. *People v. Rasheed*, FSB030565 (San Bernardino Super. Ct., filed 2002).

Smith sentenced him to six years in jail.

Lawrence said he admired that Smith "thoroughly" researched all the issues of the case.

"He listened intently to all the arguments," Lawrence said, "and I felt that he was fair in his rulings."

Deputy District Attorney Richard A. Young, who heads the office's career criminal prosecution unit and hard-core gang prosecution unit, agreed that Smith tends to hear attorneys out before making comment.

"He's a patient guy," said Young, who has tried several murder and capital cases before Smith. "He makes you feel at home in his courtroom, and his experience and knowledge make him stand out as an excellent judge."

"His rulings aren't always in my best interests," Young added, "but they're fair as far as appellate issues and statements to the law."

Off the bench, Smith teaches an online criminal-law class at the University of Phoenix. Discussion topics for the class include cases that have been tried in his courtroom.

Smith is quite the photographer, proudly displaying in his chambers photos he took on trips to La Jolla, Carmel, the Greek islands and the Bahamas.

He enjoys the beach, skiing, scuba diving and spending time with his wife, Barbara, a second-grade teacher, and children Adam, 19, and 14-year-old twin daughters, Nicole and Michelle.

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*Here are some of Judge Smith's recent cases and the lawyers involved:*

■ *People v. Lucas and Anderson*, FSB028773

For the prosecution: Richard Lewis Cope, district attorney's office

For the defense: Julian I. Ducre, Chino Hills (for Lucas) and Michael L. Duncan, Rialto (for Anderson)

■ *People v. Jordan*, FSB034639

For the prosecution: Douglas S. Poston, district attorney's office

For the defense: Michael L. Duncan, Rialto

■ *People v. Rasheed*, FSB030565

For the prosecution: Ronald D. Webster, district attorney's office

For the defense: Jeffrey R. Lawrence, public defender's office

■ *People v. Timney, Okendo, Westphal and Vargas*, FSB024269

For the prosecution: Jennifer S. Dawson, district attorney's office

For the defense: Michael L. Duncan, Rialto (for Timney), Ruby A. Friedman, San Bernardino (for Okendo), Deputy Public Defender William R. Dole (for Westphal), and James R. Gass, Redlands (for Vargas).

■ *People v. Elias, Elias & Valenzuela*, FSB031115

For the prosecution: Anne Marie Duncan-Saunders, district attorney's office

For the defense: Wayne M. Rozenberg, Rancho Cucamonga (for Rudy Elias), Deputy Public Defender Steven A. Mapes (for Robert Elias), and Julian I. Ducre, Chino Hills (for Valenzuela).

## Profile

### Michael A. Smith

Superior Court Judge  
San Bernardino

**Career Highlights:** Elected to San Bernardino Superior Court, 1986; deputy district attorney, San Bernardino, 1974-86

**Law school:** University of San Diego School of Law, 1974

**Age:** 53

# For the Record

PEOPLE ON THE MOVE

## LAW

Gary Campi has been hired as an associate attorney at HenkLeonard, a Roseville law firm specializing in employment law. He is a graduate from the University of San Diego School of Law with experience in workers' compensation law. He previously served as an associate at Laughlin Falbo Wevy & Moresi.



Campi

# VALLEY INDEPENDENT

MONESSEN, PA  
SATURDAY 15,633  
MAY 17 2003



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## Gross selected to judicial post

Ernest M. Gross, son of Ernie and Mary Gross of Monongahela, was selected to be a court commissioner by the Superior Court Judges of the County of San Diego, Calif.



**GROSS**

Gross is a 1972 graduate of Ringgold High School, a 1976 graduate of the University of Pittsburgh, and a 1980 graduate of the University of San

Diego School of Law.

As an attorney, Gross maintained a general civil litigation practice and served the court as a *pro tem* judge, arbitrator and mediator.

For the past 10 years, Gross has concentrated on the education and training of young lawyers in trial work and law office management.

Gross was selected from more than 400 candidates. Gross' wife, Mary Ann, and his stepdaughter, Chelsea Marie Zeffiro, participated in the recent swearing in ceremony.

## Now Snowing, a Tough-Judge Film

■ You gotta have nerves of steel to rule a courtroom of rich folks and stars, and Judge Fox has what it takes — and more — lawyers say.

By David Houston  
Daily Journal Staff Writer

LOS ANGELES — A powerful talent agent clashed with Judge Elden S. Fox earlier this year and discovered who holds the power at the Beverly Hills Courthouse.

### PROFILE

Fred Spektor, whose roster of clients includes Danny DeVito, John Goodman, Gene Hackman and Jeremy Irons, was in court to observe a hearing for his former assistant, who allegedly embezzled \$500,000 from him.

After the agent, sitting in the spectators' gallery, expressed displeasure with two of Fox's rulings, the judge ordered him from the courtroom.

On the way out the door, Spektor made a comment that might be de rigueur in some 90210 circles but definitely was a faux pas in the courthouse.

"I make more money than that son of a bitch makes!" Spektor said, according to the official court transcript.

Witnesses said Spektor prefaced that with, "He

can't tell me what to do!"

The agent cooled off in the courthouse lockup.

"It was the most humiliating experience of my life," recalled Spektor, who was handcuffed, fingerprinted and, perhaps most galling of all, had his cell phone confiscated for a couple of hours.

For the past dozen years, Fox has presided over cases in the Beverly Hills Courthouse, first as a Municipal Court judge and, after the 2000 unification, as a Superior Court judge. Five times, he has held the title of presiding judge of the court, a position currently held by Lisa Hart Cole.

In his time on the bench, the former prosecutor has gained a reputation as a judge who will not be bullied. "Firm," some call him; others say "tyrannical." Whatever the case, just about every lawyer before Fox has experienced his no-nonsense style.

A recent visitor to his courtroom saw both a defense lawyer and a prosecutor cut short in the space of minutes.

"Can you be quiet?" he snapped at a defense attorney who did not wait his turn to speak.

After the prosecutor belabored a point, Fox cut her off, too.

"OK, that's all I asked you," he said.

"He wants to get to the point, the heart of the matter and skip the fluff," defense lawyer Errol H. Stambler said.

See FOX, Page 6

### BIOGRAPHIC

#### Elden S. Fox

Judge, Superior Court  
Los Angeles (Beverly Hills)

**Career highlights:** Elevated by unification to Los Angeles County Superior Court, 2000; appointed by Gov. George Deukmejian to Beverly Hills Municipal Court, 1990; deputy district attorney, Los Angeles County, 1974-90

**Law school:** University of San Diego

**Age:** 56



A prosecutor offered a less charitable assessment: "Judge Fox thinks he knows more than everybody else. And he wants to make sure you know that he knows more than everybody else."

On the afternoon of the Specktor commotion, Fox, who is 56, sat in his chambers to talk. If he was angry about what had transpired, he didn't show it.

"Here's my comment about that: I like to treat people with respect and expect them to do the same thing when they come in here," he said.

"I've had some interesting experiences, in terms of my judicial education, being assigned here," he said.

Beverly Hills is considered a choice assignment. Until unification, cases were minor but frequently brought participants a lot of attention. Fox credits his prosecution of Zsa Zsa Gabor 14 years ago with landing him a judgeship.

And, as Stambler put it, "there are lots of nice restaurants nearby, so you can get a nice lunch."

The cases tried in Beverly Hills tend to fall into the relatively benign categories usual in wealthy communities: drunken drivers and shoplifters.

Fox presided over the cases of O.J. Simpson's drunken-driving daughter Arnette; rocker Tommy Lee's abuse of his former wife, Pamela Lee, and his assault on a paparazzo; and actress Shannen Doherty's nightclub brawling.

And then there was last year's shoplifting trial of the century.

Winona Ryder was convicted of walking out of Saks Fifth Avenue with \$6,000 worth of clothes and accessories she hadn't paid for. The case generated worldwide attention, drawing reporters from Europe, Australia and Japan. *People v. Ryder*, SA044291.

Dealing with VIPs who are used to receiving preferential treatment requires special skills — especially for a judge used to getting his way. After Gabor was convicted in 1989 of slapping a cop, her husband, Frederick von Anhalt, summed up what might be the prevailing attitude in some Beverly Hills sets.

"I think the rich and famous should be treated differently when they do something wrong," von Anhalt said. "They bring the money to Beverly Hills."

Beverly Hills court administrator Jose Padilla said, "I think Judge Fox has a lot of skills that are good for dealing with those types of people."

Padilla recalled how Fox handled a local professor who mailed to the court a traffic citation with an anti-Semitic remark scrawled on the back. Fox ordered her to visit the Museum of Tolerance and write a paper.

"He could have fined her more, but the way he handled it was perfect for who she was and what she had done," Padilla said.

Specktor, a longtime agent at Creative Artists Agency, denies wanting special treatment. The agent said he was upset that Fox reinstated bail for his former assistant, Kimberlee Rayburn, after she

failed to show up for a hearing. Rayburn blamed the missed appearance on her lawyer. Specktor also wanted Fox to reschedule a hearing so he could attend.

A few days later, Specktor said he was sorry he "lost [his] cool." He didn't mean to make a disparaging remark about the gap between his and Fox's salaries, he said.

"What I meant to say [was] this woman stole \$500,000 from me, which is a helluva lot more than that judge makes," Specktor said.

Fox's annual salary is \$139,476; top Hollywood talent agents like Specktor can take home tens of millions of dollars a year, industry experts said.

That Fox has survived in this atmosphere for more than 16 years — as head of the district attorney's Beverly Hills office and as a judge — is a testament to his toughness.

"I like to think I behave myself," Fox said, when asked to explain the secret of his success. "I don't think I've caused any embarrassment to the court."

Embarrassment was a word tossed around by some lawyers and court officials in the aftermath of the Ryder trial. Ignoring the old adage about avoiding clashes with people who buy ink in barrels (or satellite time by the hour), Fox repeatedly clashed with reporters.

"The judge often lets his ego get in the way of making appropriate decisions," said a prosecutor who has tried cases in his court. "A recent example was his decision twice, without stating sufficient grounds, to deny media requests for transcripts in the Winona Ryder case. Those decisions were immediately overturned by a court of appeals."

Fox barred reporters from hearings and voir dire and told jurors it was illegal for them to take money from media organizations for 90 days after trial.

Sources said Fox's mistakes prompted Superior Court Presiding Judge Robert A. Dukes to set up a 24-hour response team to give guidance to judges hearing high-profile cases. Dukes, through his spokesman Allan Parachini, said that a number of factors led him to establish the response team.

Fox, a native of Culver City, graduated in 1969 from UCLA and in 1973 from the University of San Diego School of Law. He served in the Army Reserve for

six years. His first job out of law school was as a prosecutor in the Los Angeles County district attorney's office, where he met his wife, Janet.

She is still there, prosecuting narcotics cases. The couple has two children, daughter Erin, who graduated last year from UC Berkeley and plans to go to law school, and son Ryan, a junior in high school.

At the district attorney's office, Fox established a reputation as a tough, straight-shooting prosecutor. In 1986, he tried his first high-profile defendant, Cathy Evelyn Smith, who went to prison for three years for injecting a lethal dose of heroin and cocaine into comic John Belushi.

Three years later, he prosecuted Gabor in a trial that ended with the former Hungarian beauty queen jailed for three days.

The 15-day trial was a made-for-TV spectacle. Gabor called Paul Kramer, the officer who stopped her Rolls-Royce Corniche, "gorgeous [but] vulgar." Judge Charles G. Rubin was "corrupt." Fox, she said, had a "Napoleon complex."

Fox held his own in this war of words. He accused Gabor of abusing the legal system and playing to the TV cameras.

"Let's face it, this is the greatest thing to happen to that post-menopausal lady's career," he said outside the court, according to the Los Angeles Times.

Fox was disappointed with his pace up the district attorney's administrative ladder and sought a position on the Municipal Court before the Gabor trial began. But his judicial application remained stagnant, he said, until that case made headlines.

In December 1990, three months after Gabor was convicted, Gov. George Deukmejian appointed Fox to replace Judge Charles D. Boags, who was removed from office for fixing parking tickets issued to his son and his son's friends at Beverly Hills High School.

Fox and Rubin never got along, even during the Gabor trial, according to courthouse sources. In 2000, after 17 years on the bench in Beverly Hills, Rubin was transferred to traffic court in a fallen-down area south of downtown Los Angeles.

Rubin's reassignment was the decision of Superior Court Presiding Judge Victor E. Chavez, but observers at the

time said they believed Fox influenced the move.

"They had a difference in philosophy, they didn't see eye to eye," one source, who requested anonymity, said. "What it was all about, I don't know, but there was a definite sense that Fox was behind [Rubin's reassignment]."

Rubin and Chavez declined to discuss the matter.

Fox said he did not have the authority to reassign Rubin and did not have anything to do with the move.

Whatever the internal squabbling, most lawyers praise Fox for eagerly tackling tough cases and putting in long hours.

"He's not afraid to get in there and do the work," said defense lawyer Mark J. Geragos, who represented Ryder. "He makes that courthouse hum."

Fox handles 20 to 30 cases a day and, until January, presided over all the felony cases in Beverly Hills. (Judge Richard A. Stone now shares those duties.)

"He prepares before he takes the bench, seems to have read all the files and the probation report," said Deputy District Attorney Richard Size, who is assigned to Fox's courtroom.

Fox is fair — even compassionate — to defendants, defense lawyers say. He sometimes takes up a collection in the courthouse to give money to homeless defendants for a meal and bus fare after they're released.

"My experience is that a lot of judges are just another district attorney in the courtroom. I don't feel that way about him," Deputy Public Defender Brenda J. Miller, who has been assigned to Fox's courtroom for two years, said.

But some lawyers complain Fox has a tendency to micromanage their cases and overly scrutinize their work.

"He views himself as knowing more than anyone else and is often not sensitive to how his criticisms affect other people," said a prosecutor who has tried cases in his court and requested anonymity.

Geragos said, "He holds lawyers to a high standard, and because he trained [deputy] DAs, I think he sometimes becomes impatient after sustaining several defense objections, and he takes over questioning of [the prosecutor's] case."

Fox trained Deputy District Attorney Danette E. Meyers when she became a prosecutor. Meyers said she never saw him verbally abuse anyone.

"He's just a really great teacher," Meyers said. "If you do something [wrong], afterward he's going to say, 'Look, you might do it this way or that way next time.' If you do something unethical he might say, 'Look, you might not want to do that in front of another judge.'"

"Elden is not someone who rubber-stamps something in his court. A lot of young lawyers don't understand that the bottom line is, the judge is going to mete out justice, and it may not always go your way."

SAN DIEGO UNION-TRIBUNE

SAN DIEGO, CA  
FRIDAY 374,856  
MAY 30 2003

## WAR'S AFTERMATH ON THE HOME FRONT

# REVOLUTION IN JET FIGHTER SCENE

Two Miramar women took combat roles in Iraq war

By Jeanette Steele  
STAFF WRITER

4154-45'D

When Amy McGrath raised her right hand in 1993 to enter the U.S. Naval Academy, she mentally had fingers crossed that the Marine Corps would soon reverse the rule barring females from fighter jet cockpits.

It did. And this month, when squadrons of F/A-18 Hornets came home from the war, she crawled out of one of them, a

veteran of combat.

McGrath, now a captain, is one of only two female Hornet weapon systems officers — who work in the back seat of the twin-seat jet — at Miramar Marine Corps Air Station.

The other was just a few planes away on homecoming day. Capt. Jaden Kim is in the same unit, Marine Fighter Attack Squadron 121.

They are members of a revolution in the elite fighter jet community.

Throughout the Marine fleet, only six jet seats are filled by women. There's a female F/A-18 pilot serving in Japan; an AV-8B Harrier pilot in North Carolina; and two

more F/A-18 weapon systems officers on the East Coast.

More are in training.

Meanwhile, there are hundreds of men in Marine fighter jets.

The Miramar women, slim figures in green flight suits, are low-key about their status. But they know they are trailblazers.

"We knew we were part of a very, very small portion of women who have ever done this, but it hits home when the Marine historian asks you for your flight gear," said McGrath, 27, from Kentucky.

"He was like, 'After the war, don't turn in

SEE <sup>13</sup>Women, B3



Marine Capt. Jaden Kim, who flew in combat, looked up at a passing jet at Miramar. John Gastaldo / Union-Tribune

## ► WOMEN

CONTINUED FROM PAGE B1

### Two at Miramar flew as weapon systems officers

your flight gear because the Marine Historical Society is going to want that."

The change started after the first war in the Persian Gulf, when the Pentagon lifted restrictions on women serving in combat aircraft in 1993.

The first female Marine to be trained was Sarah Deal, now a major and CH-53 helicopter pilot at Miramar who is currently deployed in Iraq. The Air Force and Navy also have female fighter crews.

So, during this latest war, the skies over Iraq looked a little different.

McGrath and Kim flew combat missions, including bombing runs, forward air control and reconnaissance. They each completed more than 30 sorties in less than a month. Last year, they also flew missions over Afghanistan during a six-month deployment in Kyrgyzstan.

Their planes took enemy fire over Iraq, but their squadron never lost a jet.

In many ways, it was a long journey to get there.

Kim, born in South Korea, rattled her family by joining the military.

The daughter of a doctor, she graduated from Princeton as a politics major in 1996. But instead of turning to investment banking upon graduation, as did many of her friends, the Chicago resident walked into a Marine recruiter's office. She had participated in Army ROTC during college, then decided to switch branches.

She liked the idea of service to country early on. A military tour is mandatory for men in South Korea.

"All the men in my family have served. It was this huge cultural deal — the boys go off to join the military, and all the women cry," said Kim, 29.

"I said, 'I think it's a good idea for the women to have to go.'"

Her younger sister, Gina, remembers the night Kim delivered the news.

## Surprised

"She called my parents, and they were on the phone all night, very unhappy with her," said Gina, a 24-year-old law student at the University of San Diego.

Gina was surprised, too. Her sister had always been a "girly-girl," she said, laughing. Style and shopping were her things.

"But after a while, I realized this is the perfect occupation for her," Gina said. "She's really brave, and she likes to do things that aren't normally done as a woman, and as an Asian woman. She doesn't like to be ordinary."

McGrath's mother, Marianne, was thrilled to see her daughter come home safely on May 12. She flew from the family home in Covington, Ky., to welcome her back to Miramar.

"I'm so proud of her, and I'm so glad she's home!"

Her daughter's passion for planes started as a child during a school project on World War II. She teases Amy, the youngest of three children, about her choice: "This is my daughter who said she was going to be a veterinarian," Marianne McGrath said.

It's a great job, the female fliers said.

But it demands all their energy and time — leaving little left for a normal life. McGrath said she wants to have a family some day, and it might not be compatible with this role.

McGrath and Kim, both single, joke about their private lives: What lives? they said. They have been deployed nine out of the past 12 months.

## Tough role

Another favorite joke: What's the easiest way to scare away a guy at a bar? Tell him what you do for a living, they said.

"In terms of being tough as a female, I think it is much tougher — and I don't mean that because people are harder on you. I mean that because, what happens when I want to have kids?" McGrath asked, saying the constant deployments would make raising a child difficult.

"I don't think I really thought that through," she said.

Kim calls it a "tough road." She hasn't decided whether to stay in the Marines after her initial contract is done in two years.

They both went to war knowing that being female would get them different treatment if shot down — either for better or worse, they weren't sure.

Both said they made peace with that before the first bombs dropped.

McGrath and her pilot made a grim pact. "If we get shot down, I've got 30 rounds (of ammunition,) and I'm not gonna be captured," she said. "I've learned there are things worse than death."

They returned from war tremendously proud to be Marines, after seeing how hard the squadron worked — especially the seven other female members, mostly enlisted mechanics and support personnel.

And moments came during the war when the long path to combat was forgotten, and the sacrifices felt worthwhile.

"That one time when you're sitting on the runway at night in Kuwait and you watch your lead take off, in the dark, in full afterburner, and you can feel it just reverberating through your entire body," Kim said. "And you go, 'Wow, my job is really stinking cool.'"

Jeanette Steele: (760) 476-8244;  
jen.steele@uniontrib.com

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		Daytime Enrollment	Part-Time Faculty				
		Evening Enrollment					
1	Loyola Marymount University Law School 919 Albany St. Los Angeles, CA 90015-1211 (213) 736-1000 Fax: (213) 384-1659 E-mail: eloise.teklu@lms.edu URL: www.lms.edu	1,396 1,007 344	129 1	ABA and AALS	Three law journals: Loyola of Los Angeles Law Review, International & Comparative Law Review and Entertainment Law Review; Center for Conflict Resolution; Cancer Legal Resource Center; Western Law Center for Disability Rights, Ethical Advocacy Center, and Annual National Civil Trial Competition.	David W. Burcham, Dean; Professor Victor Gold, Associate Dean, Academic Affairs; Victor Gold, Associate Dean; Ken Ott, Assistant Dean for Development; Graham Sherr, Assistant Dean, Career Services	1920
2	University of San Diego School of Law 5998 Alcalá Park San Diego, CA 92110-2492 (619) 260-4600 Fax: (619) 260-6836 E-mail: jdirfo@sandiego.edu URL: www.sandiego.edu/usdlaw/	1,112 819 293	151 60	ABA, AALS. Member of the Order of the COIF	Lawyering skills and written and oral advocacy courses and programs; legal clinics (entrepreneurship, land use, civil, environmental law, child advocacy, immigration, mental health, tax, criminal, small claims, public interest law); judicial and agency internship programs. Graduate (LL.M.) programs include taxation, business and corporate law, international law.	Alice B. Hayes, President; Daniel B. Rodriguez, Dean; Virginia V. Shue, Assoc. Dean for Academic Affairs; Carrie Wilson, Asst. Dean of Students; Susan S. Benson, Career Services; Nancy Carol Carter, Director, Pardee Legal Research Center	1954
3	University of California, Los Angeles School of Law Box 951476 Los Angeles, CA 90095-1476 (310) 825-4841 Fax: (310) 206-5422 E-mail: admissions@law.ucla.edu URL: www.law.ucla.edu	1,000 1,000 0	80 24	ABA and AALS	Critical race theory, business law program; Frank G. Wells environmental law/clinic, public interest program, clinical program.	Jonathan D. Varat, Dean; Barbara Varat, Associate Dean; Myra Saunders, Law Librarian and Associate Dean; Robert Goldstein, Associate Dean; Kristine Werlinich, Alumni Relations Director; Amy Berenson Mallow, Assistant Dean, Career Services	1948
4	Southwestern University School of Law 675 S. Westmoreland Ave. Los Angeles, CA 90005-3992 (213) 738-6700 Fax: (213) 383-1688 E-mail: admissions@swlaw.edu URL: www.swlaw.edu	954 666 288	111 30	ABA and AALS	Southwestern offers four J. D. programs: a three-year, full-time day program; a four-year part-time evening program; a four-year part-time day program designed for students with child-care responsibilities; and a two-year, conceptual program (SCALE). Southwestern also offers the only LL.M. degree in Entertainment and Media law.	Leigh H. Taylor, Dean; Anne Wilson, Director of Admissions; Professor Linda A. Whisman, Director of the Law Library; Gary Greener, Assistant Dean, Career Services; Debra Leathers, Director of Development; Leslie Steinberg, Director of Public Information	1911
5	California Western School of Law 225 Cedar St. San Diego, CA 92101-3406 (619) 239-0391 Fax: (619) 525-7092 E-mail: admissions@californiawestern.edu URL: www.cwsl.edu	900 815 0	45 40	ABA and AALS.	California Innocence Project, Institute for Criminal Defense Advocacy, McGill Center for Creative Problem Solving, National Center for Preventative Law, JD/MBA, JD/MSW, JD/PhD, Child, Family, Elder Law, Creative Problem Solving.	Traci Howard, Director of Admissions; Steven R. Smith, Dean; Professor Janet Bowermastez, Associate Dean Academic Affairs	1924
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9	University of Southern California Law School University Park Campus Los Angeles, CA 90089-0071 (213) 740-7331 Fax: (213) 740-5502 E-mail: admissions@law.usc.edu URL: www.law.usc.edu	600 600 0	150 0	ABA and AALS	General law programs include entertainment, intellectual property and business law. L.L.M. program for foreign lawyers offers specialized training in U.S. and international law.	Matthew Dean; Altman, A. Dean; Asso	

**SAN DIEGO DAILY  
TRANSCRIPT**

**SAN DIEGO, CA  
THURSDAY 15,000  
MAY 1 2003**

## **Other USD-Related News**

# Small C/Store Has **BIG** Impact at U of San Diego

Earlier this year the University of San Diego, Calif., opened a brand new, \$25 million residential complex called Manchester Village on the remote east side of campus. The complex, which houses 356 students, faculty and staff, is home to a residential learning program called Wisdom for the Real World, whose stated mission is to help students think about the deeper meaning of their academic and professional development and to clarify their personal vision and expectations of post-college life.

While the area, which once consisted mainly of athletic fields, has certainly become much busier with the completion of the project, one thing was still missing—a foodservice option. To fill that void, dining services at the university decided to open its second convenience store, called the Village Store, to help keep the students well fed and satisfied.

Since the store is relatively small, just 541 square feet, setting the proper product mix was especially critical. According to Roy Lubovsky, store manager, one of the key decisions the university made was to get the students involved in areas such as determining the product mix to give them a sense of ownership in the store.

To accomplish that, residents in Manchester Village were invited to give feedback on what items the store should carry. Out of the 229 suggestions that were received, 168 of the

requested items were included; altogether the store carries about 900 different products. Those products include a variety of snack items, groceries, beverages, milk, frozen items, household items, candy, school supplies, health and beauty aids, a coffee operation, grab-and-go items and a DVD and video-game rental section. Grab-and-go selections include sandwiches and salads that are made fresh daily by the university's deli, which is also supervised by Lubovsky. The five most popular items in the store are beverages, Ben and Jerry's ice cream, grab-and-go sandwiches, salty snacks and the DVD and video-game rentals.

While food items are certainly the center of attention, according to the university the Village Store is one of the few campus convenience stores to offer DVD and video-game rentals and Lubovsky notes that those have turned out to be a big hit. "There are lot of people on campus with limited time and resources for entertainment, and this makes it more convenient," he said. "We match Blockbuster with a three day rental," and we charge just \$3. We get the new releases the same day as their national release, so at 7 a.m. we have the new releases before Blockbuster is even open."

As part of the store's grand opening celebration, those that provided product suggestions were entered into a drawing to win a Raleigh Mountain Bike courtesy of Nestlé. The Coca-Cola Company also sponsored a promotion that gave students their sixth Vanilla Coke purchase free and offered three grand prizes that included an MP3 player, a PDA and a computer sound system.

The store has been generating between \$300 and \$400 a day since it opened, but Lubovsky projects that revenue will increase to between \$100,000 and \$150,000 annually, including sales generated during San Diego University's very popular summer programs. To ensure that those projections are met, Lubovsky said that a number of marketing initiatives have either already begun or are in the works.

"The store overlooks our intramural sports field and is only a three minute walk from our softball stadium, which has no concessions," Lubovsky said. "So our plan is to market to those two venues."

Also, when students returned from winter break they found a welcome back coupon in their mailbox that entitled them to a "welcome" bag full of products at the store. "The bag included items such as a can of Red Bull,



A DVD and video-game rental section near the register is one of the popular features of the Village Store

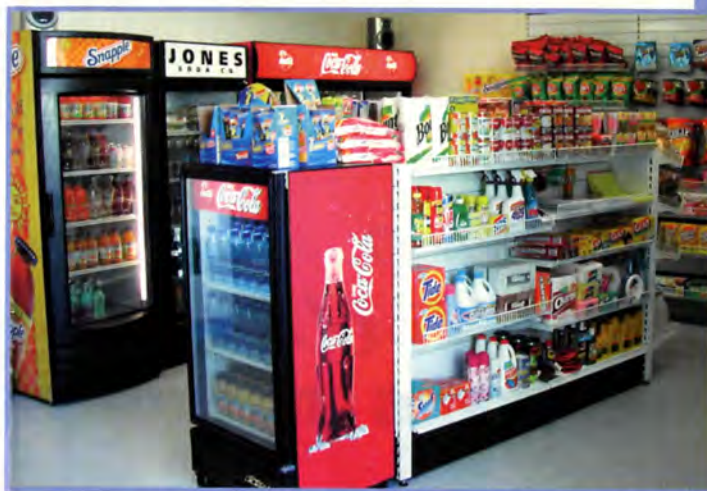
bottled water, chips, a coupon for \$1 off on a Ben and Jerry's ice cream item, a coupon for \$1 off of a DVD rental, a coupon for a free cappuccino, a candy bar and some gum," said Lubovsky. "The bag had a retail value of around \$16 and [in the first day] 300 of the 356 distributed had been redeemed."

Lubovsky went on to say that the promotion has turned out to be a great success. "The idea was to get people who had never stopped into our store to come in to get their bag," he noted. "We saw that the week after our sales went up by about 30 percent because of that promotion."

Because of its location and the scarcity of parking, Lubovsky notes that the Village Store has very little competition from off-campus merchants. However, to offer students both value and convenience, all of dining services' operations, including the convenience stores, are benchmarked annually against similar collegiate and commercial operations in the area.

"Our pricing is averaging about 5 percent lower than our competitors, and that's very rare," Lubovsky said. "Our number one goal is customer satisfaction. We are not trying to increase our profit margin."

Overall Lubovsky said that the store has proven to be a success thus far. "Students have really taken to heart our idea that



Beverages, cleaning aids, groceries, snacks and more are part of the product mix at the Village Store at the University of San Diego

this is their store," he said. "Our comment cards have included comments such as 'thank you for being open' and 'we appreciate having our own store.'"

Because the store was designed to listen to its customers from the start, its success has come as no surprise to Lubovsky. "Some of the best suggestions I have ever received have come from customers," he said. "Those include things like products, hours and even procedures." Lubovsky also takes suggestions made by his staff of nine part-time student workers seriously. "They are students, so they know what they would buy, and what other students would buy, so they have a good feel for which items would be popular."

—C/SOC

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APRIL 2003

# Hardworking Ari Hest mines the stories of his life

By George Varga  
POP MUSIC CRITIC

**A**t 23, gifted New York singer-songwriter Ari Hest is candid enough to acknowledge that praising him as an "underground sensation" is only half true.

"'Underground,' at this point, is accurate," said Hest, who performs a solo gig Tuesday night at 8 at USD's Aromas Coffeehouse, 5998 Alcala Park, Linda Vista.

But the hardworking Big Apple troubadour can boast of an entry into the world of rock 'n' roll worthy of the opening scene for an episode of VH1's "Behind the Music" or MTV's "Making the Band."

"I picked up a guitar during my junior year of high school, and my first gig was in a 'battle of the bands' at my school," Hest recalled. "A friend and I did a duo thing. We did 'Thank You' by Led Zeppelin and 'Nothingman' by Pearl Jam. I was nervous as hell, but I sang well."

On VH1 or MTV, Hest's debut gig would signal the start of glory and groupies galore. In real life, it was a small lesson in life's injustices.

"We lost the 'battle of the bands' to my math teacher, who was an Axl Rose impersonator. He got up there and did 'Welcome to the Jungle,' and it was all downhill for me," Hest said with a chuckle.

"This teacher was a math

nut, but it was hard not to vote for him. Because, even though he didn't look anything like Axl, he sounded just like him and got his personality down perfect."

This amusing tale does *not* appear in musical form on Hest's impressive self-produced album, "Story After Story," released last year and available on his Web site ([www.arihest.com](http://www.arihest.com)) and at his

But the 10-track CD is full of vivid, melodically rich songs that showcase his autobiographical lyrics. Indeed, even a glance at such song titles as "This Fight," "Didn't Want to Say Goodbye" and "Strangers Again" begs a question about the state of Hest's love life.

"Everything I write is about personal experiences. And, for that album, there was *plenty* of post-breakup material," he said from a recent tour stop in Dallas.

A 2001 New York University grad with a degree in communications, Hest regards his music as a form of therapy to deal with his shyness.

"Growing up, I had a tough time relating to people, and this is my way of doing it," he said of his songs. "I write about things I can't talk about easily. On stage, I'm pretty comfortable doing it, regardless of what the subject matter is. It's when I start talking between songs that I mumble."

That Hest is already an ac-



He doesn't have a record deal or a high profile, but New York's Ari Hest is establishing himself as a singer-songwriter of note. He performs Tuesday at USD.

complished tunesmith with considerable potential is clear. So is the expressive strength and versatility of his singing, as befits the son of a mother who is a musically accomplished cantor and a composer-arranger father who is a music professor.

On "Story After Story," his

second self-produced album, Hest sounds husky like Dave Matthews, croons like James Taylor and Dan Fogelberg, and displays a jazzy falsetto that should make Bobby McFerrin smile. Happily, he is able to add his own stamp to his music, which he hones by playing at least 20 club and college shows

SAN DIEGO UNION-TRIBUNE

SAN DIEGO, CA  
SUNDAY 374,856  
MAY 4 2003

per month.

A former baseball pitcher and basketball player, Hest stands out at 6-foot-4. He is steadily building a grass-roots fan base and hopes to emulate former San Diego singer-songwriter Jason Mraz (with whom he has often performed) by earning a major-label record deal.

"I know," Hest said, "that, eventually, my time will come."

*For information on Hest's USD show, call (619) 260-4178.*

### **Crow in La Jolla**

Sheryl Crow is downsizing for a night in San Diego, and it's for a worthy cause.

The multiple-Grammy-winner, who performed here last year at the nearly 20,000-capacity Coors Amphitheatre, is returning for Friday's "A Daughter of Cambodia Remembers" charity show at La Jolla's 500-seat Sherwood Auditorium. Proceeds will benefit the Cambodian Fund, which provides free prosthetic limbs to landmine victims.

Crow will be preceded by the world premiere of a staged reading of the book "First They Killed My Father" by Cambodian author Loung Ung, who will be in attendance.

The event, which is being put on in conjunction with the Vietnam Veterans of America Foundation and the Young Presidents Organization, is the brainchild of Jess and Sheri Kraus of Encinitas, who are underwriting all the production costs.

"This benefit will support two clinics in Cambodia whose funding from the U.S. government was recently cut in half," said Jess Kraus, president of the Carlsbad-based 3-E Co., an international hazardous waste management company, and the board president of the San Diego Repertory Theatre.

"We wanted to do something more than just write a check," he continued. "So we created this theatrical adaptation, with a cast of seven — which has already been booked as a staged reading in Boston, Seattle, Long Beach and New Zealand — to bring attention to the victims of the atrocities committed by Cambodia's Khmer Rouge regime in the 1970s."

Friday's benefit gig is nearly sold out, Kraus said. A limited number of tickets (\$350 and \$750) are still available. Information: (760) 602-8680.

**George Varga:** (619) 293-2253;  
george.varga@uniontrib.com

**O**n the morning of the University of San Diego's recent visitors' day to show the campus to prospective students and their parents, a group appearing to be gay and lesbian protesters greeted cars at the entrance of the campus.

The protesters held rainbow flags and rainbow balloons. They carried signs reading "USD Loves Queers."

However, one of the protesters, a man with a huge beer belly, undipped beard and San Diego Chargers cap, hardly looked gay. His sign "God Hates Fags," also looked a bit odd.

As it turned out, the group was not composed of gays and lesbians. Rather, it was a group of conservative Catholics who oppose the Catholic university's efforts to reach out to GLBT students, faculty and staff.

They assumed that their efforts to inform unwary parents and prospective students about USD's efforts at inclusion would result in the parents turning around and heading home.

That wasn't happening. Ironically, given the attitudes of most of the incoming freshmen these days, if the right-wing group wanted to discourage straight students from attending USD, it would have been better off trying to portray USD as an unfriendly campus for GLBT students.

In response to this month's national "Day of Silence," the right-wing Pacific Justice Institute sent letters to school districts throughout the nation threatening to sue schools if "activist teachers remain silent and/or post pro-homosexual symbols in their classes..."

The PJI contends that recognizing the Day of Silence creates a hostile learning environment for students who morally or religiously disagree with homosexuality.

Based upon this logic, one would suppose students and teachers cannot wear yellow ribbons in classrooms because that would create a hostile learning environment for students in the anti-war camp.

The actions of the group at USD and by the PJI are desperate measures by the right wing to try to intimidate colleges and school districts not to comply with what is clearly established law protecting the civil rights of GLBT students.

Ironically, while this was going on, the Ninth Circuit Court of Appeals held, in *Flores vs. Morgan Hill Unified School District*, that the right of students to be free from discrimination based on sexual orientation is clearly established in the law and has been since 1990.

In a number of cases occurring during the mid-'90s, GLBT students filed suit against school officials when staff refused to take action against hate crimes allegedly occurring within the school district.

For example, student Alana Flores found pornography and notes to the effect of, "Die,

inside her locker. Under California's hate crimes statute, this constitutes a hate crime and should have been reported to law enforcement.

When Flores showed notes to assistant principal Delia Schizzano, the assistant principal took no action. Instead, she asked if Flores was gay and told her not to bring "this trash" to her again.

A male student reported that six boys beat

**The days when school officials could look the other way in the face of abuse are over.**

him up in middle school, calling him "fag-got." The beating landed the boy in the hospital for broken ribs. The school principal punished only one of the six boys and then transferred the gay student to another school.

Another female student complained that girls called her "dyke" and "queer" in her physical education class, but her teacher refused to tell the girls to stop. The coach told her to change clothes away from the locker room so that girls would not feel uncomfortable.

In each of these cases, the students filed suit against the school district and the individual school administrators. The school administrators claimed they were immune from liability because, when these acts occurred, there was no clearly established law protecting students from abuse based upon real or perceived sexual orientation.

The federal appellate court disagreed with the school officials.

The court found that school officials treated the students' claims of harassment differently than claims of harassment by straight students.

Even though some of the harassment occurred between 1991 and 1998, it was clear as early as 1990 that the schools' conduct violated constitutional rights. Further, the court found that it would be reasonable for a jury to conclude that school officials in this case acted with deliberate indifference to the claims of the students.

The case now returns to federal court for a trial, largely to determine damages.

This case is significant because it makes it clear that under federal law school officials are

see **BRIEFS**, page 36 ●



**BEYOND THE BRIEFS**

by Rob DeKoven

## Homophobic school officials may pay out of pocket

### ● BRIEFS, from page 35

Not immune from liability when they fail to take reasonable measures to protect GLBT pupils from abuse.

Without the cloak of immunity, school officials can be held personally liable for their actions. This also applies to school board members when they ratify the acts of officials.

The days when school officials could look the other way in the face of abuse are over. When a school district fires a superintendent for being "gay tolerant," or punishes students for engaging in symbolic protest, those individuals can expect to start paying out of their own pockets. ●

*Robert DeKoven is a professor at California Western School of Law.*

### GAY & LESBIAN TIMES

SAN DIEGO, CA  
WEEKLY 15,200  
MAY 1 2003

On-campus  
advertising  
being  
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more often  
at women

# The big sell

By Eleanor Yang, STAFF WRITER

**Y**amo Liu is a typical hard-to-reach college-student consumer. The San Diego State University junior doesn't watch much TV. She doesn't subscribe to magazines or newspapers. Even freebies distributed on campus are a tough sell.

Yet recently, the 21-year-old was lured into o.b.U, a two-day event sponsored by o.b. Tampons celebrating "female individuality."

With hundreds of other San Diego State women, Liu entered a teal green tent, posed for pictures, then decorated a plastic picture frame with dazzling beads and glitter.

"I usually don't stop by these things, but this one's interesting," Liu said, as Sheryl Crow and ABBA tunes blared from a boombox. Sitting under a canopy of pastel-colored Japanese lanterns, Liu glued patterns

on her frame, looking up occasionally to watch other young women pose for pictures. "This is more involved. It's more than just saying, 'Here's a free soda.'"

Gone are the days when companies could expect to build brand loyalty and sell more products to college students with the old-fashioned booth and simple freebies such as coffee mugs or key chains. To muscle their way into the estimated \$215 billion college-student market, companies

**\$215 billion**

Money spent annually by the estimated 15.3 million college students in the United States

**\$100 to \$10,000**

How much companies typically pay universities to set up a booth or event on campus

**100 to 200**

Estimated number of companies that visit San Diego State University annually to market to students

**56 percent**

of U.S. college campus population is female



Students were invited to decorate a picture frame during a recent promotion at SDSU.

SEE Campus, B6

## ► CAMPUS

CONTINUED FROM PAGE B1

### Brand loyalty formed 'during college years'

are crafting sophisticated "experiential events" to build brand recognition. And increasingly, they're sculpting their message to women, who make up the majority of students on U.S. campuses.

For decades, corporations have visited college campuses and handed out freebies. But their approach has grown increasingly stylized in the past few years as students become more savvy — and desensitized — to the stream of advertisements directed their way.

"If you just hand out a sample, people know you have a good product," said Dan Collins, vice president of marketing for Campus Concepts, a

Baltimore-based company that specializes in marketing to college students. "But if your approach is more experiential, it helps people know what the brand is about — that it's more caring or more technologically savvy, for example."

### More sophistication

At the University of California San Diego, *Glamour* magazine put on an event this year featuring a model search, fashion show and giveaways. The campus also hosted Volkswagen's Major Motion Picture Show and activity village, which included a 25-foot climbing wall, a mini-bike obstacle racing course, prizes, refreshments and a screening of "Catch Me If You Can."

In the fall, the University of San Diego hosted Lunafest, a film festival organized by LUNA nutrition bar to showcase works by women filmmakers. The event, now in its third year, raises money for breast cancer awareness. Recent films includ-

ed a documentary about a breast cancer survivor and an animated piece that told a cautionary tale about breast enlargements.

"We want to expose people to the brand," said Allison Justice, Lunafest coordinator. "If people associate us with good taste and being healthy, that's awesome."

The events have not only taken on more dimensions, they have also grown in number. Alloy Inc., one of the country's largest media and marketing companies targeting teens and college students, has experienced about 30 percent growth in its campus-visit business in each of the past few years.

UCSD has witnessed a 30 percent increase in the number of companies sponsoring events on campus over the past few years, said University Events Interim Director Kathy Lee. At San Diego State, officials estimate 100 to 200 companies visit the campus annually.

What is so desirable about the market is clear:

It is made up of 15.3 million students, who spend in excess of \$215 billion each year, according to Alloy. About 91 percent of 18- to 24-year-olds who are enrolled in community colleges and universities own a computer. More than half are employed in off-campus jobs, giving them a source of disposable income.

"College students are oftentimes making first-time independent purchases for everything from laundry detergent to razors to snacks," said Derek

White, an executive vice president for Alloy. "A lot of research suggests brand loyalty gets formed during the college years."

### Targeting women

Companies also are responding to the change in college demographics. Over the past 30 years, college campuses have shifted from nearly 60 percent male to 56 percent female, according to recent federal statistics.

As an example of this shift, White points to the ubiquitous campus trial pack — the small box of samples and coupons often distributed to freshmen at the start of the school year. The men's pack, stuffed with shaving cream, soap and cold medicine, among about 20 items, has long carried more items than the women's pack. But the trend reversed a few years ago, when the women's box picked up more samples of lotion, shampoo, whitening toothpaste and candy.

"Everyone is waking up to the fact that women on campus buy everything men buy, and more," White said.

Some say it's a natural market to go after, considering the recent move by many advertising agencies to further target women and the effort by car makers, financial service providers and food manufacturers to create female-friendly products and redesign existing products to better suit women.

"By targeting women in college, companies are getting a jump-start on what women will buy after college," said Collins of Campus Concepts.

Some marketers have tai-

lored their messages to female students by focusing on issues of confidence and image.

"O.b. did some research and found out a lot of college girls are stressed out and want help in building their confidence," said Michelle Naughton, the o.b. brand representative who helped coordinate the company event at SDSU. "Our event is something to comfort them and show them they're all going through the same thing."

The photo shoot was designed for women to have fun in front of a camera, Naughton said. Afterward, students were invited to a screening of the movie "Legally Blonde," and a question-and-answer session with Julia Bourland, the author of the irreverent "Go-Girl Guide" for 20-something women. Bourland's talk, much like her book, offered insight from career counselors, dating coaches and financial advisers.

### Too commercial?

Rare is the occasion when students are turned off by the company-sponsored event.

"I guess there comes a point where things get too commercialized," said Liu, the San Diego State junior. "But this is an open university and we don't have to be here."

Many of the estimated hundreds of women who passed through the o.b. tent were grateful for the break from their studies. Dianna Nathan was talked into participating after four friends heard about it. Although hesitant at first, Nathan quickly embraced the activity.

"We put on the wigs and the whole bit," Nathan, 25, said as

she glued shiny buttons on an "o.b.you!" plastic picture frame. "We figure it's going to be something for us to remember."

Some have almost come to expect the company visits.

Alison Horton is a freebie maven.

This semester, the San Diego State freshman has netted free movie tickets and LUNA nutrition bars at an event sponsored by Warner Bros. Entertainment, CLIF Bars and Honda Motor Co. She's also picked up free Capri Sun juice, Propel fitness water and la Creme yogurts distributed on campus.

Sometimes stopping to pick up samples even makes Horton late for class.

"It's not necessarily stuff I'm going to use, but I just like getting free stuff," she said.

If the recent trend in campus visits is any indication, Horton and her colleagues will continue to collect more freebies.

"You'll definitely see more proprietary events on campus," said Bill Chipps, senior editor of the EIG Sponsorship Report, a consulting company that researches corporate sponsorship. "More events and more bells and whistles."

For example, more events might start to take on more dimensions, like the Dove Zen Garden, which made its way through 15 campuses this fall.

With a backdrop of a sand garden with a reflection pool and bird noises, female students were treated to massages, facials and skin consultations. Many lounged on teak furniture before leaving the garden with a scattering of samples.

"People are getting more sophisticated and savvy," said White of Alloy. "It's at the point where people are not only psyched to go to the events, many are returning for more."

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COLUMN ONE

# 2 Rs Left in High School

FRONT PAGE

■ Out of choice or fatigue, many teachers have abandoned the term paper, leaving a hole in college-bound students' education.

By ERIKA HAYASAKI  
Times Staff Writer

High school junior Dominique Houston is a straight-A student enrolled in honors and Advanced Placement classes at Northview High School in Covina. She is a candidate for class valedictorian and hopes to double-major in marine biology and political science in college, preferably UCLA or the University of San Diego.

But the 17-year-old said she has written only one research paper during her high school career. It was three pages long, examining the habits of beluga whales.

Houston frets over whether she will be able to handle assignments for long, footnoted research papers, once she gets to college.

"Bibliographies? We don't really even know how to do those. I don't even know how I would write a 15-page paper. I don't even know how I would begin," she said. Her experience appears to be increasingly common. Across the country, high school English and social studies teachers have cut back or simply abandoned the traditional term paper.

Although some students and critics contend that teachers are lazier than in the past, many educators say they can't grade piles of papers for overcrowded classes while trying to meet the increased demands of standardized testing, many of which involve multiple-choice questions. Other teachers believe that term papers are meaningless exercises, because the Internet has made plagiarism more common and difficult to spot. And many say long (10- to 15-page) research papers are pointless, because many students' basic writing skills are weak and are more likely to improve with shorter and more frequent assignments.

A report released recently by the National Commission on Writing in America's Schools and Colleges, a panel of academics gathered by the College Board, found that 75% of high school seniors never receive writing assignments in history or social studies. The study also found that a major research and writing project required in the senior year of high school "has become an educational curiosity, something rarely assigned." In addition, the report found that, by the first year of college, more than 50% of freshmen are unable to analyze or synthesize information or produce papers free of language errors.

Commission Chairman C. Peter Magrath blamed societal changes. "We don't write letters anymore, because we use telephone and e-mail and watch television. We communicate in all kinds of other ways," he said.

Teresa Humphreys, head counselor at Northview, said the school recognizes the problem and plans to start an intense writing plan next year, requiring papers in nearly every subject.

"We want them to get back to writing," Humphreys said. "We decided this will be the focus of our school."

All schools needs to refocus that way, said Gary Orfield, a professor of education at Harvard University. During his public high school days, he wrote many research papers, including one on Shakespeare. Such assignments are rare today, he said, because "we're in such an idiotic period in education that we've simplified it into filling in this bubble."

"If we send students to college without being able to think, synthesize or write in a coherent way, students are going to be crippled, no matter what their test scores are," he said.

The result shows in the awful quality of many college term papers, said J. Martin Rochester, author of a book on failing education systems and a professor of political science at the University of Missouri-St. Louis.

"I read every paper line by line," he said of his students' research projects. "It's one of the most painful ordeals you can ever go through. Students today cannot write a complete sentence."

Eliana Seja, 18, a freshman at USC, said she rarely had to do research papers when she was an honors student at Chino High School. The longest assignment she remembers was three pages. During her senior year, the only writing assignment she completed was her personal essay required for college admittance, she said.

She struggled through her first college paper, six pages for her sociology class examining the role of families in the media.

"When I came here, I was so scared about writing papers, because I didn't have any experience," Seja said. "It was really a challenge. It was so hard for me. I had no idea about structure."

Dawn Damron, co-chairwoman of the English department at Chino High, said that

students in almost all grades have to do some research, but that it is up to each teacher to decide the length and frequency of writing assignments. Most teachers concentrate on making sure students can "coherently write a five-paragraph essay," because that is the type of writing that students must complete on timed standardized tests, she said.

"I wouldn't say research papers have gone out the window," Damron said. But she said she thinks students "probably do write less because the focus of what they have to learn has changed. Standardized testing is a big deal. The scores are published in the paper. People make assumptions about a school based on one test."

At Roosevelt High School on Los Angeles' Eastside, finding a teacher willing to assign a long

paper would be like "finding a dinosaur," said Aldo Parral, 32, who teaches social studies and Advanced Placement English.

When he was a student there, more than 15 years ago, he wrote a 12-page paper on the stock market crash of 1987. But in 10 years as a teacher at the school, Parral assigned no term papers because he thought journal entries and short essays provided enough writing experience.

This year, he decided to challenge students in his advanced classes with a four- to six-page research paper. He said most were receptive, because they knew such work would be expected in college. He added that Roosevelt's English and social studies departments are pushing to include more research papers next year.

Although many teachers say they have given up on term pa-

pers because of the hundreds of Web sites selling ready-written versions to cheaters, Donna Garner, an English teacher who taught for 27 years in central Texas public schools, has fought back.

She created and posted on the Internet a step-by-step process for teachers who assign and grade term papers. It requires students to document and update their research progress continuously, making it nearly impossible to plagiarize by downloading a research paper the night before class.

According to Garner's instructions, students must gather information from a variety of sources, including liberal and conservative magazines, newspapers and Web sites. They must type a series of informal outlines and rough drafts supporting each idea with labels and more background. They edit and reedit.

Other teachers say plagiarism concerns are secondary to time constraints.

As a new teacher three years ago at Granger High School in West Valley City, Utah, Michelle Harper didn't foresee the stress of classes of 30 to 35 students. In her first year on the job, she assigned her English students a 10-page research paper.

"Wow, it took me a long time to correct. Every waking moment I had a paper in my hand, so that if I got a second I could read it," she said. "The next time around I decided that I shouldn't have to give up everything . . . for research papers. We tried it a little smaller: Five pages."

Now, they have been whittled down even more: "I don't assign more than a typewritten page anymore."

Most troublesome were her students' struggles to construct complete sentences and paragraphs.

"How can I expect a paper, if they can't make the first step?" Harper asked.

Some high school students and college professors, however, say the decline is simply a result of the unwillingness of a growing number of teachers to spend nights and weekends grading papers.

"Some wonderful teachers stay up until midnight grading," said Chester E. Finn Jr., a senior fellow with the Hoover Institution at Stanford University and a former assistant U.S. secretary of education. "But many more are told by unions that the school day ends at 2:50, and that's when they are done."

Kathleen Lyons, a spokeswoman for the National Education Assn. teachers union, said the average teacher works 48 hours a week, even though their contracts often require far less time. The decline of the term paper can be traced to swelling class sizes, she said.

"If a teacher has 30 students in each class and five periods in a day, that's 150 papers that have to be graded," she said. "That's a monumental amount of reading."

Stephen Miller, 17, a senior at Santa Monica High School enrolled in honors and AP classes, says he has never written a long term paper, even though teachers there say students receive plenty of writing and research assignments.

Miller, who is active in band, tennis, religious studies and political and youth groups, said there is no time for lengthy writing projects, especially with all of the required testing.

"To be accepted into a university, you have to be a stellar student, athletic, musically inclined and involved in the community," he said. "For students like me, if I was getting term and research papers, it would hinder my ability to perform well in other classes and continue all of the extracurricular activities I am involved in."

But Miller, who will attend Duke University next year, said he is not nervous about parachuting into a college atmosphere where five-, 10- and 15-page papers are due every few weeks.

He said he likes a challenge. Writing a term paper, he said, will "be a new experience for me."

# Teen panelists see need to fight stereotypes

By Jennifer Sterba

ARIZONA DAILY STAR

A group of graduating seniors is worried recent events will make it more difficult to overcome stereotypes — especially when they hear epithets like “bomb the towel-heads” in the hallways at school.

The panel of nine seniors from schools throughout Tucson sat down last week at the Arizona Daily Star to discuss how historical events have shaped their lives and goals.

During their tumultuous high school years, the 2000 presidential

election was disputed, terrorists attacked in 2001, the economy faltered, and their country went to war in Iraq.

“It’s made me more patriotic,” said 18-year-old Ryan Beckett of University High School. “To be an American really means something now. It seems like it’s us versus them; you’ve got to pick a side.”

## 9/11 and stereotypes

Like generations before them, these teens face stereotypes based on everything from their school to

their ethnicity and race, which are only heightened by the times in which they live.

They see college as an opportunity to overcome or destroy whatever labels society has attached to them.

“It’s human nature,” said 19-year-old Nicholas Vasilus. “We always divide ourselves into cults, clans, tribes, nations and geopolitical areas. I think

it’s just part of what we do.” Vasilus finds other students think that because he attends the

affluent and high-performing Catalina Foothills High School, it’s a given he’s going to college. The reality, he said, is that he’s dyslexic and earning good grades isn’t easy for him.

Priscilla Meredith, a 17-year-old senior at Calli Ollin Academy, a charter school sponsored by Chicanos por la Causa, said she is stereotyped even at home.

“My family, they think every Chicana girl is going to get pregnant,” she said. “And that’s what they think about me.”



GRADUATION  
2003

SEE TEENS / A9

## Grads who participated in the Star panel discussion



Adam Barzar, 18,  
Tucson High



Ryan Beckett, 18,  
University High



Jezanna Garza,  
18, Cholla High



Darlene Higuera,  
18, Sunnyside High



Erin McDonald,  
17, Tucson High



Priscilla Meredith,  
17, Calli Ollin  
Academy



Alex Rancier, 18,  
Sahuaro High



David Thomas,  
18, Pusch Ridge  
Christian



Nick Vasilus, 19,  
Catalina  
Foothills

But that attitude is pushing Meredith to go on to college. She's already taking a couple of classes at Pima Community College. Meredith hopes to eventually work for the federal immigration service, ensuring that immigrants' rights aren't trampled.

She and other panelists are concerned people's prejudices increased after the attacks of Sept. 11, not only against Middle Easterners but also against immigrants crossing the U.S./Mexican border.

Meredith said she saw Middle Eastern students at her previous school walk faster to class to avoid scrutiny from fellow students.

"Everyone was suspicious," she said. "You had to look a certain way at school. You had to dress a certain way. Everybody just stood there and stared, and I felt bad because that was wrong."

About half the panel said they'd heard ethnic slurs from fellow students about people of Arab or Middle Eastern heritage.

"Some people are ignorant in how they talk about what happened Sept. 11," said David Thomas, 18, a senior at Pusch Ridge Christian Academy, a private school on the Northwest Side.

The students said they make a conscious decision not to stereotype others. Hispanic and black students said they draw on personal experience to reinforce their convictions.

Adam Barzar, 18, from Tucson High Magnet School, said he notices people looking at him at the mall — like he's going to shoplift something just because he's African-American. Eighteen-year-old Alexander Rancier of Sahuaro High School, who also is black, nodded his head in agreement.

"I have a friend who is from Sri Lanka. He looks Middle Eastern," Rancier said. "Sometimes I ask him if people have

been bothering him because I don't want that to happen to him."

### Awareness

Students said recent history has also ignited a sense of political awareness — and for some, cynicism.

The 2000 presidential election, with its disputed ballots and allegations of voter fraud, left some wondering if their vote really counts.

"It seemed like such a scandal that the one state that didn't have the (ballot) chads go through was Florida, where Bush's brother was governor," said Jezanna Garza, an 18-year-old senior at Cholla High School. "That brought out a lot of the lies in politics as well."

Tucson High senior Erin McDonald, 17, said voting is a civic responsibility she takes seriously, but she still has her doubts.

"The election proved that in our country... your vote doesn't matter. In the end, the Electoral College makes the decision," said McDonald, who said 9/11 and the events since have made her more political and more liberal.

"If I go and vote," Barzar said, "it's not going to change anything."

Another result of the 2000 election, some students said, is a president who doesn't represent them.

"I feel like he pretty much does what he wants to do," said 18-year-old Darlene Higuera about President Bush. She said she's frightened for her brother, who's in the military and stationed in Iraq.

McDonald speculated that had Al Gore become president, there wouldn't have been war.

Rancier, who plans to study pre-pharmacy at the University of Houston, said he had been concerned that teens like himself might be sent to war if there was a Selective Service draft. "If they did have Selective Service, I wouldn't go," said Barzar, explaining he wouldn't want to fight for a country that segregated blacks in past wars.

By contrast, Vasilius described himself as an "almost nationalistic" Republican.

Beckett said it feels more acceptable now to show patriotism at school than it did when he started high school.

### Unsure about safety

For Higuera, the Sept. 11 attacks and what she views as Bush's rush to war left her feeling unsure about her own safety.

"It made me scared of a terrorist attack at the mall or wherever," she said. "You don't want to be on your guard all the time."

Several panelists worry that North Korea is taunting the world with nuclear weapons

tests while the United States is preoccupied elsewhere.

Higuera organized a candlelight vigil at her school, Sunnyside High School, on the first anniversary of the World Trade Center attacks.

"We should be happy more for what we have," she said. "My mom recently passed away, so I know how it feels to lose someone you love."

Thomas said he thanks God for his family all the time — but especially after Sept. 11.

"It made me realize once again we're not guaranteed on this Earth," he said. "I realized that if I would have died on Sept. 11 and I would have looked at my past, I wouldn't have been happy with what God saw."

Thomas started what he calls a "spiritual walk" the summer after 9/11. He gave up cursing and smoking. He said he's going to work with his youth ministry when he starts at Pima Community College next year. He hopes to transfer to the University of Arizona later to study law.

Students said the attacks put things in perspective. Family and loved ones are the most important, they said.

"You get a 'D' on a paper? Well, things could be worse," Barzar said.

### The future

Despite their worries, the panelists see college as the next step.

But how to pay for it in today's shaky economy has one scrambling for more scholarships and another cutting back on his spending.

"The tuition hike at the UA is like \$1,000," Higuera said. "That's a lot of money."

Higuera said if she can't find the extra money in a scholarship, she'll enroll at Pima Community College and transfer when she has enough money.

California schools also increased their tuition. Combined with the high cost of West Coast living, Beckett has had a talk with his parents. They've mentioned the importance of cutting back on spending — especially on things like electronics and accessories. Beckett plans to attend the University of San Diego to study psychology.

Thomas said he turned down three scholarships, partly because his mother reminded him they wouldn't cover the extra costs of living out of state.

The terrorist attacks and the slow economy have affected career plans, with at least a third of the panelists leaning toward law enforcement.

"I had planned to be an engineer," Vasilius said. "After 9/11, engineering jobs just dried up — unless they were military contracts."

That's why he decided to major in economics and political science, in Washington state. He hopes to join the FBI.

So does Beckett, possibly as a criminal profiler.

And Barzar plans to study criminal justice at Arizona Western, so he can work for the FBI or other law enforcement — "I want to wear a suit and I want to carry a gun."

McDonald looks forward to enjoying more time with her family while studying archaeology at the UA, but others are ready to leave town.

Garza will attend college in Chicago this fall and study political science and pre-law. She will continue on a path started in middle school when she successfully fought her school's dress code — so successfully that her principal encouraged her to try student government.

"We've been preparing for this," Garza said. "It's time."

► Contact reporter Jennifer Sterba at 573-4191 or at [jsterba@azstarnet.com](mailto:jsterba@azstarnet.com).

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# Term papers becoming a relic

## Fewer assigned in high schools

4154  
By Erika Hayasaki  
Tribune Newspapers

LOS ANGELES—High school junior Dominique Houston is a straight-A student enrolled in honors and Advanced Placement classes at Northview High School in Covina. She is a candidate for class valedictorian and hopes to double-major in marine biology and political science in college, preferably UCLA or the University of San Diego.

But the 17-year-old said she has written only one research paper during her high school career. It was three pages long, examining the habits of beluga whales.

Houston frets over whether she will be able to handle assignments for long, footnoted research papers, once she gets to college.

"Bibliographies? We don't really even know how to do those. I don't even know how I would write a 15-page paper. I

don't even know how I would begin," she said. Her experience appears to be increasingly common. Across the United States, high school English and social studies teachers have cut back or simply abandoned the traditional term paper.

Although some students and critics contend that teachers are lazier than in the past, many educators say they can't grade piles of papers for overcrowded classes while trying to meet the increased demands of standardized testing, many of which involve multiple-choice questions.

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A report released recently by the National Commission on Writing in America's Schools and Colleges, a panel of academics gathered by the College

Board, found that 75 percent of high school seniors never receive writing assignments in history or social studies. The study also found that a major research and writing project required in the senior year of high school "has become an educational curiosity, something rarely assigned."

In addition, the report found that, by the first year of college, more than 50 percent of freshmen are unable to analyze or synthesize information or produce papers free of language errors.

The result of not doing research assignments in high schools shows in the awful quality of many college term papers, said J. Martin Rochester, author of a book on failing education systems and a professor of political science at the University of Missouri-St. Louis.

"I read every paper line by line," he said of his students' research projects. "It's one of the most painful ordeals you can ever go through. Students today cannot write a complete sentence."

*Los Angeles Times*

# Protesters denouncing Bush gather at harbor and area colleges

By Dwight Daniels  
and Eleanor Yang  
STAFF WRITERS

4154  
As President Bush addressed the nation last night from the aircraft carrier Abraham Lincoln, about 200 protesters demonstrated at the San Diego harbor to denounce Bush and call for U.S. troops to leave Iraq.

With the Star of India as a backdrop, the protesters carried signs labeling the U.S. presence in Iraq as "occupation

not liberation."

Mike Looper of North Park said Bush "wants to conquer the Middle East. We should pull our troops out. I don't believe we should be there."

Hal Brody said, "The loss and suffering . . . the violence, the maiming, the killing of the war just hasn't been worth it."

Brody said there should be a U.N. peacekeeping presence in Iraq, and U.S. troops should return home.

Several passers-by responded to the demonstrators with

loud catcalls.

Groups of protesters also gathered at San Diego colleges yesterday.

Students traveled among San Diego State University, UC San Diego, University of San Diego and City College, condemning the war, emphasizing activism and calling for U.S. troops to return.

As combat operations in Iraq have wrapped up, the anti-war movement has tried to find a new focus.

At City College, about 30 students called for activism and promoted awareness of May Day, which is the struggle of working people.

At SDSU and USD, handfuls of students denounced Bush for his Iraq policy. At UCSD, about 25 students listened to poets talk about a need for social change.

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## Xavier choir brings gold home

By Wendy Miller <sup>4154</sup>  
Independent Newspapers

An area school choir hit the highest note possible while competing against 14 other choral groups.

On March 29, the Xavier College Preparatory Honor Choir traveled to San Diego, Calif., to compete in the Heritage Festival. Not only did the choir place first in their classification as a women's choir, but it only earned the top score of all 15 choirs participating.

Xavier earned scores of 95, 96 and 98 from the Heritage Festival's three judges.

By sweeping so many awards, the choir also earned an invitation to compete in next year's Festivals of Gold, held in Chicago, New York



Submitted photo

**While competing in San Diego's Heritage Festival, the Xavier College Preparatory Honor Choir earned not only a first as a women's choir but also the top score of all 15 choirs participating.**

City and Salt Lake City. Participants must have earned a rating of 95 or higher.

While in San Diego, the honors choir also sang for masses in the Founder's

Chapel at the University of San Diego and at the Mission Basilica de Alcala, California's first mission established by Father Junipero Serra.

# School Budget Planners Need Remedial Math

there's one thing I've learned in my years as an editor, it's that the most interesting items in the news are frequently buried deep in the story where most readers won't find them.

Here's a good case in point: Last week's big news story about the San Diego Unified School District avoiding the layoffs of nearly 1,500 teachers. A combination of budget cuts and hundreds of teacher buyouts allowed the district to avoid layoffs for the 2003-04 school year. This is pretty good news, no?

Well, something bothered me about this story. Maybe it's my skeptical nature, but the sudden seesaw from the possibility of huge layoffs to no layoffs at all just didn't feel right. I couldn't figure out why.

Then, I found my answer.

Buried back on page A6, in paragraph 31 of a 35-paragraph story in the *San Diego Union-Tribune*, was this nugget: "(San Diego City Schools Superintendent Alan) Bersin also announced yesterday that the district had overestimated by tens of millions of dollars how much the cost of employee salaries and benefits would increase in the coming year."

Excuse me? The school district had overestimated the cost of employee salaries and benefits by tens of millions of dollars?

Wait, it gets better.

"The teachers union estimates that the district was off by about \$35 million (emphasis added).

"If true, the district's budget gap would be \$39 million, and, Bersin said he believes that can be covered through state monies owed the district this year but paid next year, and through drawing on what it expects to be a beefed-up reserve account this summer."

Let me see if I get this straight:

1. The original estimate by school budget "planners" (a term used in the newspaper that seems laughable in this context) was that the district faced a \$147.7 million budget shortfall next year.

2. The school district reacted by sending out notices of possible teacher layoffs as a result of the projected \$148 million shortfall. This scared the beejesus out of all sorts of people — especially the teachers who got the notices that they might lose their jobs next year.

3. Now, hidden among all the glad-handing and high-fiving the school district administration is doing for solving the school budget crisis without layoffs, is the little fact that they missed their projections for salaries and benefits by a cool \$35 million.

What does the school administration say now — oops? Sorry we scared you, but we made a little mistake?

There's a lot I could say about this, but I'll limit it to just two thoughts:

- The San Diego Unified School District needs to get somebody — anybody — with some skills in quantitative statistics who can do some basic budget forecasting. This is not rocket science. Quantitative

Continued on next page

## Notebook: No Wonder We're Cynical

Continued from preceding page

statistics is a standard class in most MBA programs, so I'm sure that any of our local colleges — University of California, San Diego, University of San Diego, San Diego State University, National University, the University of Phoenix, or any other decent school — can offer the school district some remedial help to avoid another \$35 million error. And, doesn't one of Superintendent Bersin's heralded "consultants" have any training in this stuff? A reasonable person would think that one of those high-priced people would have a little business background and know something about forecasting.

- Who is editing the *San Diego Union-Tribune* these days? Is there anyone in their newsroom who questions this stuff before it's published? A \$35 million forecasting error in the school budget would seem to me — or any other thinking person in San Diego — to

be worthy of more than paragraph 31 in a news story.

If you wonder why the public is cynical when it comes to stories about the budget and the public sector's ongoing inability to intelligently deal with deficits, it's because of stuff like this. Not only is the school district's basic budget work terribly shoddy, but the big watchdogs in the local media who supposedly follow these things don't seem to be watching the right things.

From Sacramento to San Diego, we have budget crises galore. Given the kind of budget work — and media reporting — we see here, it's likely to be a roller coaster ride all summer long.

Better buckle yourself in.

Hollon is editor of the *Business Journal*.

Robert Moss  
000164

## SAN DIEGO BUSINESS JOURNAL

SAN DIEGO, CA  
WEEKLY 14,000  
MAY 5 2003

# LARGEST EMPLOYERS

Ranked by total number of employees as of Dec. 31, 2002

Rank (last year)	Company name Address Web site	Phone Fax	Total number of employees • 2002 • 2001 • % change (loss)	• Number of full-time employees 2002 • Number of full-time employees 2001	• Number of part-time employees 2002 • Number of part-time employees 2001	Company description	• Local executive(s) • Title	Personnel manager	• Parent company • Location	Year established locally
<b>1</b> (1)	<b>Federal Government</b> Federal Information Center	(800) 688-9889	40,600 <sup>1</sup> 40,300 <sup>1</sup> 1	na na	na na	Administration of federal functions, services, agencies	NA NA	NA	United States Washington, D.C.	1850
<b>2</b> (2)	<b>State of California</b> 1350 Front St. San Diego 92101	(619) 525-4487	38,500 <sup>1</sup> 37,600 <sup>1</sup> 2	na na	na na	Administration of state functions, services, agencies	NA NA	NA	State of California Sacramento, Calif.	1850
<b>3</b> (NR)	<b>San Diego Unified School District</b> 4100 Normal St. San Diego 92103 www.sandi.net	(619) 725-8000 (619) 725-5576	24,240 24,054 1	12,580 12,415	11,660 11,639	Education	Alan Bersin superintendent	Deberie Gomez	San Diego Unified School District San Diego	1854
<b>4</b> (3)	<b>University of California, San Diego</b> 9500 Gilman Drive La Jolla 92093 www.ucsd.edu	(858) 534-2230 (858) 534-5629	21,266 20,310 5	10,494 10,037	10,772 10,273	Higher education, health care, research	Robert Dynes chancellor	Rogers Davis	University of California Oakland, Calif.	1960
<b>5</b> (4)	<b>County of San Diego</b> 1600 Pacific Highway, #202, San Diego 92101 www.sdcountry.ca.gov	(619) 531-5100 (619) 531-6076	17,222 16,603 4	16,927 16,246	295 357	County services	Walter Ekard chief administrative officer	Carlos Arauz	County of San Diego San Diego	1850
<b>6</b> (NR)	<b>City of San Diego</b> 1200 Third Ave., #300, San Diego 92101 www.sandiego.gov/	(619) 236-6400 (619) 236-5500	12,656 12,438 2	10,700 10,521	1,956 1,917	City services	Dick Murphy mayor	Rich Snapper	City of San Diego San Diego	1850 <sup>2</sup>
<b>7</b> (9)	<b>U.S. Postal Service, San Diego District</b> 11251 Rancho Carmel Drive San Diego 92199 www.usps.com/sandiego	(800) 275-8777	12,336 na NA	na na	na na	Collection, transmission, and delivery of messages and merchandise	John Platt district manager	na	U.S. Postal Service Washington, D.C.	1850
<b>8</b> (5)	<b>Sharp HealthCare</b> 8695 Spectrum Center Blvd. San Diego 92124 www.sharp.com	(858) 499-4000 (858) 499-4140	12,167 10,764 13	7,658 6,415	4,509 4,349	Health care, hospitals, health services	Ky Lewis senior vice president	na	San Diego Hospital Association San Diego	1946
<b>9</b> (6)	<b>Scripps Health</b> 4275 Campus Point Court San Diego 92121 www.scripps.org	(858) 678-7000 (858) 678-6767	10,435 10,562 (1)	6,624 5,421	1,575 1,317	Health care, hospitals, home health services	Chris Van Gorder president, CEO	Victor Buzachero	Scripps Health San Diego	1924
<b>10</b> (7)	<b>SBC<sup>3</sup></b> 101 W. Broadway, #1440, San Diego 92101 www.sbc.com	(800) 310-2355 (619) 231-1357	6,988 7,174 (3)	6,988 7,174	na na	Local and long distance phone service, Internet, wireless services	John Hull vice president	Stephanie Jones	SBC San Antonio	1878
<b>11</b> (8)	<b>Kaiser Permanente</b> 4647 Zion Ave. San Diego 92120 www.ca.kaiserpermanente.org	(619) 528-5000 (619) 641-4176	6,290 6,344 (1)	3,151 3,077	3,139 3,267	Health care, hospitals, health services	Nathaniel Oubre senior vice president, area manager	Cherie Sampson	Kaiser Permanente Oakland, Calif.	1967
<b>12</b> (10)	<b>San Diego Community College District</b> 3375 Camino del Rio S. San Diego 92108 www.sdccd.net	(619) 388-6500 (619) 388-6913	5,318 4,979 7	1,940 1,986	3,378 2,993	Associates degrees in academic and vocational majors	Augustine Gallego chancellor	Wayne Murphy	San Diego Community College District San Diego	1914

<b>13</b> (12)	<b>Qualcomm Inc.</b> 5775 Morehouse Drive San Diego 92121 www.qualcomm.com	(858) 587-1121 (858) 658-2100	5,152 5,489 (6)	5,043 5,397	34 33	Develops and delivers wireless communication products based on CDMA technology	Irwin Jacobs CEO, chairman	na	Qualcomm Inc. San Diego	1985
<b>14</b> (15)	<b>San Diego State University</b> 5500 Campanile Drive San Diego 92182 www.sdsu.edu	(619) 594-5200 (619) 594-1863	4,984 4,891 2	2,553 2,493	2,431 2,398	Higher education	Stephen Weber president	Sue Blair	California State University Long Beach, Calif.	1897
<b>15</b> (13)	<b>Science Applications International Corp.</b> 10260 Campus Point Drive San Diego 92121 www.saic.com	(858) 826-6000 (858) 826-6634	4,672 4,496 4	4,264 4,059	408 337	High-tech research and engineering company	J. Robert Beyster president, CEO, chairman	Bernie Theule	Science Applications International Corp. San Diego	1969
<b>16</b> (14)	<b>Sempra Energy</b> 101 Ash St. San Diego 92101 www.sempra.com	(619) 696-2034 (619) 696-4379	4,323 4,370 (1)	4,190 4,239	133 131	Energy services	Stephen Baum president, CEO, chairman	Joyce Rowland	Sempra Energy San Diego	1998
<b>17</b> (47)	<b>Kyocera Corp.</b> 8611 Balboa Ave. San Diego 92123 www.kyocera.com	(858) 576-2600 (858) 569-9412	4,252 3,206 33	na na	na na	CDMA wireless telephone handsets and ceramic microelectronic package products	R.N. Lanthorne managing director	na	Kyocera Corp. Kyoto, Japan	1971
<b>18</b> (19)	<b>Sony</b> 16450 W. Bernardo Drive San Diego 92127 www.sony.com	(858) 942-8500 (858) 942-9404	3,500 3,500 0	2,750 2,750	750 750	Television, computer, and digital technology	Hirom Inouye president	na	Sony Tokyo	1972
<b>19</b> (16)	<b>Children's Hospital &amp; Health Center</b> 3020 Children's Way San Diego 92123 www.chsd.org	(858) 576-1700 (858) 966-8015	3,360 3,594 (7)	2,148 2,256	1,212 1,338	Pediatric health care	Blair Sadler president, CEO	Carolyn Stoll	Children's Hospital & Health Center San Diego	1954*
<b>20</b> (30)	<b>University of San Diego</b> 5998 Alcalá Park San Diego 92110 www.sandiego.edu	(619) 260-4600 (619) 260-4200	3,199 2,920 10	1,291 1,125	1,908 1,795	Higher education	Alice Hayes president	Gwendolyn Lytle	University of San Diego San Diego	1948
<b>21</b> (18)	<b>Grossmont Union High School District</b> 1100 Murray Drive La Mesa 91944 www.guhisd.net	(619) 660-8027 (619) 465-5341	3,148 na NA	1,876 na	1,272 na	Public high school district	Granger Ward superintendent	Brian Smith	Grossmont Union High School District La Mesa	1920
<b>22</b> (17)	<b>National Steel and Shipbuilding Co.</b> 2798 Harbor Drive San Diego 92113 www.nassco.com	(619) 544-3400 (619) 544-7644	3,100 3,000 3	3,100 3,000	na na	Shipbuilding and repair	Richard H. Vortmann president	Tom Fawcett	General Dynamics Corp. Falls Church, Va.	1959
<b>23</b> (27)	<b>Barona Valley Ranch Resort and Casino</b> 1932 Wildcat Canyon Road Lakeside 92040 www.barona.com	(619) 443-3130 (619) 443-6977	2,931 2,100 40	2,900 2,100	31 na	Lodging, dining, gaming	Karol Schoen general manager	Veronica Gomez	Barona Casino Lakeside	na
<b>24</b> (NR)	<b>The Scripps Research Institute</b> 10550 N. Torrey Pines Road La Jolla 92037 www.scripps.edu	(858) 784-8825 (858) 784-9003	2,791 2,746 2	2,791 2,746	na na	Nonprofit organization for biomedical research	Richard Lerner president	Judith Munoz	The Scripps Research Institute La Jolla	1955
<b>25</b> (11)	<b>Jack in the Box Inc.</b> 9336 Balboa Ave. San Diego 92123 www.jackinthebox.com	(858) 571-2121 (858) 571-2101	2,761 2,745 1	824 800	1,937 1,945	Jack in the Box restaurant operator and franchisee	Robert Nugent CEO, chairman	Robin Jones	Jack in the Box Inc. San Diego	1951

In the case of a tie, employers are ranked by full-time employees in 2002.

wnd Would not disclose

na Not available

NA Not applicable

(NR) Not ranked

\*Employment figures obtained through the California State Employment Development Department.

†Incorporated as a city.

‡Formerly known as SBC Pacific Bell.

Notes: Companies on last year's List that did not return a survey this year are: Zoological Society of San Diego, No. 21; Palomar College, No. 22; Viejas Enterprises, No. 23; Palomar Pomerado Health, No. 24; San Diego Marriott Hotel & Marina, No. 34; Tri-City Medical Center, No. 35; JC Resorts, LLC, No. 43; and LPL Financial Services, No. 50. Companies on last year's List that did not qualify for The List are: Cohu, Inc., No. 48; and Sheraton San Diego Hotel & Marina, No. 49. Companies that returned a survey but did not qualify for The List are: Aradant Corp.; Community National Bank; Cymer, Inc.; dj Orthopedics, LLC; Golden Eagle Insurance Corp.; North County Transit District; Pan Pacific Retail Properties, Inc.; TD Waterhouse Investor Services, Inc.; and Women First HealthCare, Inc. Gateway, Inc. returned a survey but would not disclose ranking information.

Source: The companies, California State Employment Development Department

It is not the intent of this List to endorse the participants nor to imply a company's size or numerical rank indicates its quality.

**Researched by Patti Strickland**

Continued on Page 18

**FAIRFIELD CITIZEN-NEWS**

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**FAIRFIELD CITIZEN-NEWS**

FAIRFIELD, CT  
FRIDAY 15,000  
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Jessica Szerszen, the daughter  
of Gene and Laura Szerszen, has  
been named to the dean's list at the  
University of San Diego.

She is a member of the  
Lauralton Hall class of 1999.

## Athletics



USD's Tony Perez (right), joking in dugout with teammate Joey Prast, hopes to sign with major league team in upcoming draft. *Peggy Peattie / Union-Tribune*

# MR. TORERO

## Perez's versatility keys USD success

By Kirk Kenney  
STAFF WRITER

FULLERTON — Tony Perez wants to play baseball as long as he can.

That means more than just joining his USD teammates in the NCAA Tournament and extending the 2003 season into June.

Perez will be starting tonight at 7 in center field for the Toreros and, he hopes, finishing on the mound against No. 3-ranked Cal State Fullerton in a first-round game.

But the senior from Eastlake High is thinking about playing for years to come.

"I want to sign and keep playing baseball with someone," said Perez, who expects to be selected in next week's major league draft. "I want to have the satisfaction that I could or couldn't do it. I can't picture someone not giving me a chance."

For decades to come.

Last fall, Perez found himself watching a bunch of hardball players with hardening arteries on the field at El Capitan High. It was a 60-and-older men's league. Perez's 63-year-old father, Lucio, was right in the middle of it, pitching for Berry's Athletic Supply.

"He's my inspiration," said Perez. "I enjoy watching how excited he gets over the game."

"Actually, he got dropped down to the 50-and-over team. He's pretty pumped about that."

Perez said his father had a chance to play in the minor leagues for the Los Angeles Angels in the 1950s when he was a teen-ager, but he wasn't able to take advantage of the opportunity.

"He had to go get a job and help his family," said Perez. "That's another thing that pushes me to give it everything I have. So he can kind of live that through me."

Perez's entire family has enjoyed watching him play the past four years at USD. Opponents, too.

"He's the guy on our team," said Toreros coach Rich Hill, "that every coach we play says, 'That's the guy I wish I had on my team.'"

The Toreros have come to rely on Perez from start to finish.

The 5-foot-10, 160-pounder bats and throws left-handed. As USD's leadoff hitter, Perez has batted .351 this season with seven homers and 34 RBI. He leads the Toreros in runs scored (65) and on-base percentage (.490). His 45 walks are more than twice as many as anyone else on the team.

For the second straight season, Perez also has been called upon to close out victories. He had seven saves last season and has a school-record 12 this year.

"I like it a lot," said Perez, "the adrenaline rush."

One thing is certain: USD wouldn't be here without him.

### Catcher commits

John Jaso said he came down from McKinleyville High in Northern California two years ago for the weather. He's staying for the baseball. The Southwestern College catcher has made an oral commitment to USD. The 6-foot-2, 195-pound Jaso batted .346 with seven home runs this season.

## NCAA Division I Baseball Regional

### TODAY'S SCHEDULE

at Cal State Fullerton

Arizona vs. Notre Dame, 3 p.m.

USD vs. Cal State Fullerton, 7 p.m.

Both games will be broadcast on CSTV (available through DirecTV). All USD games this weekend will be Webcast on [www.usdtoreros.com](http://www.usdtoreros.com).

### FORMAT

The tournament's 64 teams have been divided into 16 four-team regionals in a double-elimination format played today through Sunday. The 16 regional winners advance to one of eight Super Regionals, where two teams play a best-of-three series June 6-9. Those eight winners advance to the College World Series, played June 13-23 in Omaha, Neb.

### TEAMS IN REGIONAL

#### Arizona (35-21)

The Wildcats are among the nation's leaders with a .329 team batting average, 142 stolen bases and an average of 9.2 runs per game ... Sophomore right fielder Jeff Van Houten leads the way with a .415 batting average, 11 homers and 71 RBI.

#### Notre Dame (43-16)

The Fighting Irish reached the College World Series last season for the first time in 45 years ... Freshman reliever Ryan Doherty is the most recognizable player on the staff. Doherty is 7-foot-1 ... Sophomore third baseman Matt Edwards is Notre Dame's most dangerous hitter, batting .379 with eight homers and 65 RBI.

#### USD (31-28)

The Toreros have won nine of their past 10 games in reaching the tournament for the second straight season ... Junior left fielder Josh Hansen has batted .410 with five homers and 17 RBI during a stretch in which USD has outscored opponents 71-38 and outhomered them 14-4 ... Junior right-hander Kyle Collins (9-4, 3.68 ERA) is scheduled to pitch tonight's opener ... USD lost twice to Fullerton this season, 16-6 and 6-1.

#### CS Fullerton (43-13)

The No. 3-ranked Titans went 16-1 to open the season, although they finished second to Long Beach State in the Big West Conference ... The Titans are where they are because of a pitching staff that has a composite 2.80 ERA. Junior Jason Windsor is 8-2 with a 1.91 ERA; freshman Dustin Miller is 7-2, 3.40. Chad Cordero (4-1, 1.62, 6 saves) is among the nation's best closers.

## SAN DIEGO UNION-TRIBUNE

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# Late-game heroics send Toreros to NCAA Tournament

**By Kirk Kenney**  
 STAFF WRITER

4154  
 MALIBU — The Pacific Ocean provides a beautiful backdrop beyond the left-field fence at Pepperdine's Ed-  
 dy D. Field Stadium.

But the most beautiful thing beyond the left-field fence for USD players, coaches and fans yesterday was the ball the Toreros' Josh Hansen hit there in the eighth inning.

"I knew I hit it well, but I didn't

USD  
 3

Pepperdine  
 1

six outs."

USD did just that — although not without a few tense moments in the ninth inning — to beat Pepperdine 3-1 for the West Coast Conference cham-

know if I really did anything until I saw it land," said Hansen. "Then I heard the crowd go nuts."

Hansen's first thought as he rounded first base: "Let's go get

pionship.

Hansen's two-run homer, coupled with the pitching performance of junior Aaron Wilson's life, sparked USD to its second straight title and second straight berth in the NCAA Tournament.

USD's Rich Hill picked a memorable moment for his 500th career win as a college coach.

Hill called winning last year's title a "relief." The emotions this time around were "elation and euphoria."

## Road to Omaha

The USD baseball team finds out whom it will face during the NCAA tournament selection show today at 9:30 a.m. (ESPN2)

"We were expected to do it last season," said Hill. "We were preseason favorites. We started out the season 10-0. We were a Top 20 team. And all the expectations make winning it a

SEE USD, C5

## Pitcher survives rocky 9th inning for crucial win

weight off your shoulders.

"This was completely unexpected. It's a testament to our players and their heart."

USD lost five key players from the 2002 team to the major league draft. In addition, senior Tom Caple, one of the team's top returning starters, was compelled to redshirt because of a shoulder injury.

The Toreros (31-28) got off to a 2-9 start, spending much of the season trying to find their way back to .500. Somehow, they found their way beyond.

This morning the Toreros will be back where they were a year ago, in the baseball coaches' office watching the tournament selection show. The 64-team bracket will be announced at 9:30 on ESPN2.

The players should find a spot right up front for Wilson, a 6-foot-3 right-hander from Santana High. Wilson (5-6) pitched a six-hitter. The only run he allowed was unearned. Wilson had only himself to blame, making back-to-back throwing errors in the sixth inning that allowed the Waves (36-23) to take a 1-0 lead.

"Those were obviously big plays in the game," said Wilson. "But the way things were going I knew I had my stuff and I knew if I stuck with it my guys would come back for me."

"I knew one run wasn't going to win it."

Hansen made sure of that with his ninth homer of the season. The Toreros tacked on an unearned run in the eighth for good measure. Then it was nail-biting time.

Wilson retired the Waves in order in the eighth. In the ninth, he got two outs. But two singles had put runners at first and second and brought Hill out of the dugout.

Said Hill: "When I was halfway to the mound, I said, 'Don't worry, I'm not coming to get you.'"

He just wanted to slow things a bit.

Hill asked Wilson how he felt. "Good." He asked Wilson if he wanted to finish. "Yes." Anything else? "Get the heck out of here."



**Josh Hansen**



**Aaron Wilson**

Hill returned to the dugout. Pepperdine's Patrick Rooney then looped a ball over first base to load the bases. But Jason Durbin chopped a 1-1 pitch to USD shortstop Ben Quinto, who flipped the ball to second baseman Jose Ortega. Ortega stepped on the bag to set off a celebration.

The Toreros likely will play in a regional hosted by one of four West Coast schools: Stanford, Cal State Fullerton, Long Beach State or Arizona State.

## NCAA Baseball

The 16 regional sites for the NCAA Division I baseball tournament (host schools in parentheses):

Atlanta (Georgia Tech)  
Auburn, Ala. (Auburn)  
Austin, Texas (Texas)  
Baton Rouge, La. (LSU)  
College Station, Texas (Texas A&M)  
Coral Gables, Fla. (Miami)  
Fullerton (CS Fullerton)  
Hattiesburg, Miss. (So. Miss)  
Houston (Rice)  
Lincoln, Neb. (Nebraska)  
Long Beach (Long Beach St.)  
Palo Alto (Stanford)  
Starkville, Miss. (Miss. State)  
Tallahassee, Fla. (Florida St.)  
Tempe, Ariz. (Arizona State)  
Wilson, N.C. (N.C. State)

■ All 16 host schools are guaranteed berths in the 64-team tournament, which starts Friday. The rest of the field will be announced today.

# Title is on line for USD

By Kirk Kenney  
STAFF WRITER

MALIBU — USD's Joey Prast had fans on the edge of their seats yesterday in the bottom of the 10th inning

against Pepperdine.

Prast already had tied the West Coast Conference Championship Series

game twice with home runs. Now he was at the plate with a chance to tie it again. Or, better yet, win it.

The Toreros, designated the home team for the game, trailed Pepperdine by a run with one out and runners on first and second.

Prast ran the count to 3-2 against Waves reliever Steve Kleen. Then he fouled off a pitch down the right-field line. Then another one over the Pepperdine dugout. And another straight back. And still another. With each pitch, the crowd of 400 — mostly USD fans — held its collective breath at Eddy D. Field Stadium.

"I thought we were going to win," said USD coach Rich Hill. "Joey was on him."

Kleen went into his windup one more time, and Prast lined the pitch to left field.

"I hit it. I smoked it," said Prast.

But it was right at left fielder Brandon Daguio, who gloved the liner for the second out. That knocked the wind out of the Toreros. But before anyone could take another breath, Daguio was throwing to second base.

## WCC Tournament

### TODAY'S GAME

USD (30-28) at Pepperdine (36-22), 1 p.m.

■ Winner advances to NCAA Tournament

USD pinch-runner Jamie Hesselgesser, running hard so he could score from second, was put out for a game-ending double play.

USD players and fans sat in stunned silence. The Pepperdine side erupted in cheers.

The Waves evened the series with the 7-6 victory, leaving today's game at 1 p.m. to determine who advances to the NCAA Tournament.

"No matter what they do, we're going to get in the position where we can win," said Prast, who made it 2-2 with a two-run homer in the first and 5-5 with a solo shot in the seventh. "We've seen their best. We've hit their best. We know we can beat their best."

Pepperdine catcher Brent Haapenen, for one, saw it differently. "The momentum is definitely on our side," said Haapenen.

He had a point.

The Toreros' Freddy Sandoval drove a pitch deep to the gap in left-center with two outs in the eighth and Prast on first, but Daguio saved the

season for the Waves (36-22) with a diving catch in left to end the inning.

When the catch was made, Prast was already around third base. His run would have won the game in regulation for the Toreros (30-28) and sent them to the playoffs for the second straight season. In the top of the 10th, Pepperdine's Patrick Rooney and Haapenen hit back-to-back homers off USD closer Tony Perez to make it 7-5.

The Toreros weren't done yet. They still aren't.

"We're a good enough team that we're not going to let this kill us," said Prast. "We know what we have to do."

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## WCC BASEBALL CHAMPIONSHIPS

# Toreros one Waves loss away from NCAA tourney

By Kirk Kenney  
 STAFF WRITER

4154  
 MALIBU — USD was well on its way to an 8-2 victory over Pepperdine yesterday when Waves coach Frank Sanchez came out of the dugout and asked plate umpire Tom Hiler to check the ball.

Toreros

8

Pepperdine

2

What Sanchez should have asked the umpire to check was the ball-club. This definitely isn't the same Toreros team Pepperdine swept seven weeks ago in San Diego.

That much was evident in the first game of the West Coast Conference championship series at Eddy D. Field Stadium.

What's the difference? "Confidence,"

said USD's Tony Perez, who came in from center field in the ninth inning to close out the victory on the mound.

"We know we're good now," Perez said. "At the beginning of the year, we were still trying to find ourselves."

The Toreros, who have won eight straight, will find themselves in the NCAA Tournament for the second straight year with one more victory.

USD (30-27) plays Pepperdine (35-22) again today at 1. If necessary, the teams will meet again at the same time tomorrow to decide the best-of-three series.

Pepperdine starter Greg Ramirez pitched a six-hit shutout against USD in April, which is one reason the Waves' senior right-hander earned conference Pitcher of the Year honors.

USD chipped away at Ramirez (9-3) this time, collecting 10 hits — all singles

— over five innings. "Jab, jab, jab," said Perez.

The Toreros took a 1-0 lead in the third on Freddy Sandoval's RBI single. They expanded their advantage to 4-0 in a three-run fifth highlighted by Jose Ortega's run-scoring squeeze bunt.

Perez greeted Pepperdine reliever Paul Coleman with a home run to left leading off the sixth and Sandoval hit a sacrifice fly in the seventh to make it 6-0.

"It made it easier knowing I didn't have to throw a shutout," said USD starter Kyle Collins (9-4), who pitched seven shutout innings anyway before allowing two runs in the eighth.

Collins pumped his right fist coming off the mound in the sixth and seventh after getting a strikeout to end each inning with two runners on base.

"I had a little adrenaline going," said

Collins.

He wasn't alone. USD produced 15 hits, led by three each from Perez and right fielder Joey Prast. The eight runs were twice as many as the Toreros scored in their three-game series against Pepperdine during the regular season.

"It was a byproduct of them being tough outs," said Sanchez.

## ALL-WCC selections

Perez, Prast and outfielder **Josh Hansen** earned first-team All-WCC honors in selections announced by the conference. Sandoval was an honorable mention pick. Pepperdine shortstop **Kevin Estrada** shared Player of the Year honors with Santa Clara outfielder **Scott Dierks**, and Sanchez was named Coach of the Year.

# Toreros aim for NCAAs behind emerging Collins

By Kirk Kenney  
STAFF WRITER

MALIBU — USD's Kyle Collins will take the mound today for the Toreros' biggest game of the season. And he owes it all to the Blossom Valley Beavers.



Kyle Collins

Three years ago Collins was a freshman middle infielder sitting on the bench as a redshirt for San Jose City College.

After the season he joined a Blossom Valley summer-league team that was lacking in one significant area.

"We literally had no pitchers on the team," said Collins. "The coach said, 'Who wants to pitch?' and I raised my hand."

Never mind that he never even pitched in high school.

"I thought it would be fun," said Collins, who was born and raised in San Jose.

Turns out he was good at it, too.

Now Collins finds himself in the middle of the West Coast Conference Championship Series. The Toreros (29-27) play Pepperdine (35-21) here in the best-of-three series to determine the WCC's automatic bid to the NCAA Tournament.

USD is aiming to repeat its feat of last year, when the Toreros won at Pepperdine to earn the first NCAA berth in school history.

Last season, USD coach Rich Hill handed the ball to WCC Pitcher of the Year Ricky Barrett in the series opener.

This year, Hill gives it to Collins, a 6-foot-1, 165-pound junior right-hander who not so long ago thought his career would be over by now.

"I was just going to play my sophomore year, and that was going to be it," said Collins.

Instead, he emerged as a junior college All-America pitcher, going 10-2 last season at San Jose City. He attracted the attention of several Division I schools, choosing USD over Santa Clara, Arizona and Cal.

"I saw him pitch one time last year and that was plenty," said USD pitching coach Sean Kenny. "Usually converted guys are raw, arm-strength guys, but he can pitch."

Collins isn't overpowering. His fastball ranges from about 87 to 89 mph. But he throws three other good pitches and has good movement on his fastball.

"Even when I played infield my ball would always run," said Collins. "I've always had natural movement."

That didn't make things easy for first basemen when Collins threw across the diamond. It makes it even more difficult for hitters.

Collins was one of the conference's most dominant pitchers this season, going 8-4 with a 3.81 ERA, although he thought his season

might be over before it began. Collins experienced shoulder pain after throwing two innings in an exhibition game just days before USD's season opener.

"I've never shown up before and not been able to throw a baseball," said Collins. "I didn't know if that meant I was out for six months or a week."

He was diagnosed with shoulder tendinitis and missed series against Cal Poly and Texas. Three weeks of rest resolved the problem.

Collins has started every Friday game since.

"I'm pretty easygoing six days a week," he said. "I get serious on Fridays."

Especially this one.

## WCC Baseball Championship Series

USD (29-27)  
vs. Pepperdine (35-21)

Where: Eddy D. Field Stadium, Malibu

**The series:** The winner of the best-of-three series receives the WCC's automatic bid to the NCAA Tournament. Fans can follow the series on the Internet at [www.usdtoreros.com](http://www.usdtoreros.com). USD beat Pepperdine for last year's championship to earn the school's first WCC title and NCAA Tournament berth. The Waves, who swept the Toreros in a three-game series last month at Cunningham Stadium, are aiming for their 14th WCC title and 20th NCAA playoff appearance.

**The Toreros:** USD comes into the series riding a seven-game winning streak. Junior right fielder Joey Prast leads the team in most offensive categories, including batting average (.358), doubles (24), home runs (10), RBI (53) and stolen bases (15). Senior Tony Perez (.356, 6 HR, 32 RBI) also is among the offensive leaders and has come in from center field to record a school-record 12 saves. Freddy Sandoval and Josh Hansen are tied for second on the team with eight homers. Junior right-hander Kyle Collins (8-4, 3.81 ERA) is to start today's game. Freshman left-hander Justin Baine is 3-1 with a 2.48 ERA in his last six starts.

**The Waves:** Pepperdine has been the class of the conference, but comes into the series having lost three of its last four games. The WCC's top pitching staff is led by starters Greg Ramirez, Jacob Barrack (Rancho Buena Vista) and Brandon Boesch, who have combined to go 25-8 with a 2.87 ERA. Junior first baseman Chris Kelly leads the team with 15 homers. Senior shortstop Kevin Estrada had a WCC-leading 32 stolen bases.

### SCHEDULE

Game 1: Today at 3 p.m.

Game 2: Tomorrow at 1 p.m.

Game 3: Sunday at 1 p.m. (if necessary)

— KIRK KENNEY

LOCAL COLLEGES

# SDSU misses tennis upset

Washington nips Aztecs in finals of NCAA regional

By Jerry Magee  
STAFF WRITER

It was Washington that San Diego State's men's tennis team was opposing yesterday. Just in case the Aztecs weren't aware of it.

Coach John Nelson, who wants his players to take an impersonal approach, said: "We don't play personalities or rankings or schools, so egos don't enter into it."

The Huskies — No. 12 in the Intercollegiate Tennis Association's team rankings (to SDSU's No. 29) and with two singles players with higher rankings than the highest-ranking Aztec — figured to prevail easily in the finals of an NCAA Regional on the Aztecs' courts.

As Nelson must have appreciated, though, his players made a strong stand before Washington escaped with a 4-3 victory that delivered it into college tennis' final 16.

The score was 3-3 before Washington gained the decisive point at No. 5 singles when Dillon Ruby closed out a 6-3, 6-3 triumph over the Aztecs' Armando Carrascosa. Winning places the Huskies in the NCAA Championships to be contested May 17-26 in Athens, Ga.

In the same round a year ago in which it was competing yesterday, Washington defeated Stanford, a power in men's tennis.

"And we have the same guys we had last year, plus Fred Sundsten," said Washington coach Matt Anger. "We must be better."

The Aztecs, however, took the doubles point, and when

## MWC baseball standings

	Conference		All Games	
	W	L	W	L
UNLV	22	5	39	14
New Mexico	17	10	34	21
BYU	16	11	24	21
SDSU	15	12	22	30
Utah	8	19	21	28
Air Force	2	25	14	35

## WCC baseball standings

WEST	Conference		All Games	
	W	L	W	L
USD	18	12	29	27
USF	17	13	24	28
Loyola Marymount	10	17	23	29
Portland	5	21	9	40

COAST	Conference		All Games	
	W	L	W	L
Pepperdine	22	5	34	18
Santa Clara	18	8	28	25
Gonzaga	11	15	23	24
Saint Mary's	8	18	18	32

Portland and Saint Mary's have one conference tie

Felix Hardt outplayed Sundsten, a hulking player from Norway, 6-4, 6-3, SDSU led 2-0. Now the hosts had to win just two of the five singles matches that were being contested when Hardt completed his conquest and they would be bound for Georgia.

At this point, the Aztecs' No. 1 player, senior Oliver Maiberger, was leading in a match against Alex Vlaski, a rangy left-hander from Belgrade, Yugoslavia, that Maiberger later would win 6-2, 6-3.

Vlaski, said by Anger to "absolutely" have a professional tennis future, had been 32-6 coming into the match and held an ITA singles ranking of No. 10.

But a fourth point eluded the Aztecs. At No. 2 singles, Ryan Redondo was up breaks in both sets, but Matt Hanlin of Birmingham, England, checked him 6-2, 7-6 (7-1).

"I honestly felt we could win every point," said Nelson, who clearly is a positive thinker. Possessor of a third-degree black belt in Japanese jujitsu, Nelson draws from the martial art in creating his philosophies. One is that tennis is best played "in the moment," that players should not permit their minds to dwell on, say, being passed at the net.

Nelson has his players keep journals, thus gathering data that they can draw from as the season progresses.

"It's like a funnel," the coach said. "I tell the players that their minds are their best weapons. Discipline is doing what you are supposed to do every single time you do it to the best of your ability."

## Softball

SDSU earned an at-large bid to the NCAA Tournament and will open against fourth-seeded Louisiana-Lafayette (43-8) in a Region 6 game at Cal State Fullerton on Thursday morning at 9. The tournament appearance will be the second in three years for the No. 5-seeded Aztecs (38-19). The regional round is double-elimination and continues through Sunday.

## Baseball

Visiting USD scored nine runs in the seventh inning en route to a 17-4 drubbing of Portland. The Toreros (29-27, 18-12 WCC), who clinched the West Division title Saturday, scored four more runs in the eighth and had a total of 22 hits. USD's Zach Dobek doubled, homered, scored three runs and drove in four. The Toreros also got good games from Tony Perez (4-for-6, three RBI) and Jose Ortega (3-for-6, three RBI). USD starting pitcher Justin Blaine (4-4) allowed four hits and two runs in 6 1/3 innings.

## LOCAL BASEBALL

# Toreros' late rally ices title

UNION-TRIBUNE

What a way to win a baseball title! USD completed it with style yesterday.

Trailing host Portland by four runs in the ninth inning of a West Coast Conference game that would clinch them a second straight West Division championship, the Toreros rallied for six runs, four with two outs, won it with a three-run home run by Josh Hansen and ensured it with a solo shot by Zach Dobek.

The 9-7 victory advances the Toreros (28-27, 17-12) into the WCC playoffs, where they will likely travel to Pepperdine for a three-game series May 23-25 to determine the conference's automatic bid to the NCAA Tournament. Pepperdine can clinch the Coastal Division with a win today.

"We believe we're never out of a game," USD coach Rich Hill said. "That's the beauty of baseball."

Here was the ninth with USD trailing 7-3: Pinch-hitters Gavin Ng and Erik Verdugo walked, both advanced on wild pitches and both scored on RBI groundouts by Lucas Wennersten and Tony Perez. With the bases empty, two outs and a 2-2 count, Joey Prast was hit by a pitch, and then Freddy Sandoval doubled to right-center.

The Pilots (9-39-1, 5-20-1) elected to pitch to Hansen, who earlier hit a single and his seventh home run, and they paid for it.

Perez pitched a 1-2-3 bottom of the ninth to pick up his 12th save and make a winner of reliever David Dunn (1-0).

## More baseball

San Diego State allowed the game-winning run on a bunt single with two outs and slid into fourth place in the Mountain West Conference after BYU (24-21, 16-11) rallied for a 5-4 win in Provo, Utah. The Aztecs (23-30, 15-12) took a 4-0 lead in the first inning, courtesy of a two-run double by Garrett Cook and a two-run home run by Curt Mendoza. The Cougars answered with two runs in the third and three in the sixth, including Kainoa Obrey's two-run home run and Casey Cloward's two-out RBI bunt single.

■ After being shut out by Santa Ana 3-0, Palomar rebounded with an 11-7 win over College of the Desert to advance to the championship round of the State Community College Southern California Regionals at Palomar. The Comets (27-14) need to beat Santa Ana (30-15) twice today — the first game begins at 11 a.m. — to advance, while Santa Ana requires only one win in the double-elimination tournament. Matt Guiliano was 2-for-4 in the first game and is 8-for-13 in the tourney for Palomar.

## SAN DIEGO UNION-TRIBUNE

SAN DIEGO, CA  
SUNDAY 444,216  
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## LOCAL COLLEGES

# USD closes on baseball berth

4154  
Kyle Collins flirted with a no-hitter for 6 1/3 innings yesterday to put USD in the flirtatious position of a second consecutive West Coast Conference playoff berth. Collins (8-4) lost the no-hit bid on a home run by Portland's Kory Casto, but he yielded only four hits in eight innings and the Toreros won 7-4 in Oregon.

Tony Perez (3-for-4, three RBI) hit his sixth home run and then cleaned up the ninth inning after the Pilots (9-38-1, 5-20-1) scored three runs off Brian Jones. USD (27-27, 16-12), with help from Loyola Marymount's 16-10 win over San Francisco, needs one win to clinch a playoff berth.

**SAN DIEGO UNION-TRIBUNE**

SAN DIEGO, CA  
SATURDAY 374,856  
MAY 10 2003

## COLLEGE BASEBALL

# USD takes charge with sweep of LMU

By Kirk Kenney  
STAFF WRITER

USD began a magical baseball season a year ago with a school-record 10-game winning streak. The Toreros have been below .500 this year since an early eight-game losing streak.

**Toreros**  
**4-11**

**Loyola M.**  
**2-2**

That USD could still achieve every bit as much in 2003 as it did in 2002 — when the Toreros went to the NCAA Tournament for the first time — indicates that success has never hinged on a winning record. Just a winning spirit.

"It goes back to the Texas series and the Texas Tech series," said USD coach Rich Hill, recalling three-game sweeps suffered against two Top 25 opponents in the season's opening weeks. "We told the players we don't validate ourselves based on our won-lost record."

Winning the West Coast Conference championship again would provide some validation. It is not out of the question.

USD took control of its destiny yesterday by defeating Loyola Marymount 4-2 and 11-2 to complete a three-game sweep of the Lions (22-27, 9-15 WCC)

## MWC baseball standings

	Conference		All Games	
	W	L	W	L
UNLV	20	4	37	13
New Mexico	16	8	33	19
SDSU	14	10	22	27
BYU	14	10	22	20
Utah	6	17	19	27
Air Force	1	22	13	32

## WCC baseball standings

	Conference		All Games	
	W	L	W	L
WEST				
USD	15	12	26	27
USF	15	12	22	27
Loyola Marymount	9	15	22	27
Portland	5	18	9	35

	Conference		All Games	
	W	L	W	L
COAST				
Pepperdine	19	5	31	17
Santa Clara	17	7	26	24
Gonzaga	10	14	22	23
Saint Mary's	8	15	18	28

Portland and Saint Mary's have one conference tie

at Cunningham Stadium.

The victories position the Toreros (26-27, 15-12) to win the conference's West Division. USD and USF are tied for first place, each team with three games to play. This weekend USD travels to Portland while USF goes to Loyola Marymount.

IF USD and USF finish in a tie, then the Toreros go to the WCC Championships by virtue of a better won-lost record within the division.

"WCC teams take turns beating each other up and here we are in first place going into the last weekend of the season," said Hill.

He couldn't have asked for anything more.

USD third baseman Freddy Sandoval got things started yesterday with a two-run homer in the first inning of the first game. Teammate Josh Hansen did likewise with a two-run homer in the first inning of the second game. Then Hansen went one better, adding another two-run homer in the fifth.

"Coach has really wanted guys to step up and take leadership roles," said Hansen, a junior from Irvine who moved from catcher to left field in mid-season to bolster an injury-depleted outfield. "It felt good to do something today because I wasn't only helping myself, I was helping the team."

Hansen finished the double-header with two homers, four doubles and five RBI. His final hit lifted his average above .300 for the season.

Aaron Wilson (4-6) went seven innings for the win in the first game and Justin Blaine

(3-4) went 6 1/3 for the victory in the second.

## Aztecs 3, UNLV 0

San Diego State's Ben Coon and Drew Jenson combined to limit UNLV to three hits in the Aztecs' 3-0 Mountain West Conference victory before a crowd of 1,251 at Tony Gwynn Stadium.

Coon kept the Rebels off balance for 6 2/3 innings before Jenson replaced him in the seventh inning with runners at first and third. Jenson (7-1) got out of that predicament and also kept UNLV from scoring in both the eighth and ninth innings after they put two runners on base each inning.

"They (the Rebels) did what they had to do by winning two out of three games, but this was reaffirmation that we can beat these guys," said SDSU coach Tony Gwynn.

It was the first shutout this season for the No. 18-ranked Rebels (37-13, 20-4 MWC).

SDSU (22-27, 14-10) did all of its scoring in the eighth inning. Chad Corona drove in the first run with a one-out double and Rielly Embrey slid home after a wild pitch to make it 2-0. Curt Mendoza worked the count to 3-2 before driving in the final run with a single over second base.

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**Tom Cushman**

## The 'Oilys' are back to running Oklahoma's low-grade show



On an afternoon during the mid-1970s, I was at Owen Field in Norman, Okla., talking with Larry Lacewell, then defensive coordinator for the top-ranked Oklahoma Sooners. Practice had been ongoing for an hour when Lee Roy and Dewey Selmon, mainstays of Lacewell's bruising unit, came jogging out of dressing quarters and onto the playing surface.

I asked Lacewell why the two were late. "They have labs," he replied. "And, they actually go." Larry seemed almost disoriented by the absurdity.

So the Selmons, gifted scholars as well as football All-Americans, attended class. Others didn't. Earlier that week I'd asked Johnny Keith, the university's sports information director, to arrange interviews with several of the noteworthy athletes.

"Just go over to the football dorm anytime during the day," Keith had said. "Most of them will be there."

The Sooners at the time were on NCAA probation, a penalty they endured at least once each decade from the 1950s through the '80s. Barry Switzer, head coach for 16 of those years, offered no apologies for the program's excesses. During one of my several lengthy interviews with Switzer, he made reference to three losing seasons.

Aware that none of his teams had a negative

win-loss record, I mentioned that. "I had two 8-4s and a 7-4-1," Switzer pointed out. "At Oklahoma, that's losing."

Switzer was frank about pressures to win from external sources — people who provided funding both for football and other university projects. "Oilys," he called them, an allusion to the fact that much of the money spewed from beneath derricks dotting Oklahoma's landscape. "The Big Cigars" was another reference.

According to Switzer, after the second 8-4 season OU president Bill Banowsky promised he'd resist efforts to have him replaced. Then added, "But, Barry, if you win a national championship (he won three) the regents won't fire you even if we catch you smoking dope."

Instead, it was a series of lawless incidents involving athletes that brought about Switzer's resignation in 1989. Thereafter the program was allowed to swoon for several seasons, or until attention had been deflected, but then along came Bob Stoops to restore traditions to which Oklahoma had been accustomed. On a recent evening several blabbermouths on ESPN were gushing over prospects for Stoops' next edition, projecting it as the probable No. 1 in preseason rankings, pointing out that more than 40,000 had attended the Sooners' spring game, and braying, as donkeys will, that the 43 victories in Stoops' first four years rank as the best record by a new coach in more than 100 years.

What they didn't mention was the team's grad-

**SAN DIEGO UNION-TRIBUNE**

SAN DIEGO, CA  
SUNDAY 374,856  
MAY 4 2003

uation rate, which was the worst of any team competing in the last postseason.

I'm aware that graduation rates as compiled by the NCAA are somewhat flawed. They don't take into account transfers and athletes leaving early for professional careers, and they put six-year parentheses around any graduation. Some athletes actually complete degrees long after leaving campus.

Nevertheless, figures I've seen were reviewed by the Institute for Diversity and Ethics in Sport, which is located at the University of Central Florida and is overseen by Dr. Richard Lapchick, a highly regarded professional analyst.

As Lapchick mentions, if the Bowl Championship Series based its selections on teams with the top graduation rates, Tulane and Notre Dame would have played for the last national championship.

You read that correctly. Notre Dame, synonymous with football, a university that's provided the NFL with more than a few mountains of muscle, graduated 74 percent of players who enrolled with the 1995-96 class.

Tulane's percentage was 80, and equally impressive is its 75 percent rate for black athletes, a statistic that's far more imbalanced at most colleges. Penn State, Boston College, USC, Iowa, Oregon and Virginia were others with rates above 60 percent. Not a football lightweight among them. Oklahoma, 26 percent.

Actually, the Sooners now can report a rather

remarkable quinella. Lapchick also commissioned a study of the 64 teams in the recent Division I basketball tournament. Few will be surprised to learn that graduation-rate champion was Stanford, at 100 percent.

We can offer local applause for USD's 83 percent. Like USD, North Carolina-Ashville (89), Butler (86), Wagner (86) and Dayton (80) aren't high-profile basketball schools. But, Kansas, a Final Two participant, checked in at 70 percent.

As for Kansas' Big 12 teammate, Oklahoma, it's figure is nonexistent, unless 0.0 is considered a number.

Sooners coach Kelvin Sampson insists this is inaccurate — that Bobby Joe Evans from the 1995-'96 class graduated beyond the six-year limit, as did Michael Cotton, after transferring to Boston College. Sampson also says, "These kids are basketball players, and they're getting jobs in basketball."

We could point out that Sampson's first four recruiting classes at OU brought to campus grade-point averages 0.64 lower than all other athletes enrolling, including even football players.

The "Oilys" may take pride in their championships, but what they've really helped create at Oklahoma is an NCAA armpit.

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Retired senior columnist **Tom Cushman** writes occasionally in the Union-Tribune. He can be reached at [tcushmant@aol.com](mailto:tcushmant@aol.com)

# 'You're gone!'

An expletive-laced tirade or a demonstrative display may cause an ejection by an umpire. But here are five instances that definitely will result in the old heave-ho, according to coaches and umpires:

## 1. Start a sentence with Y-O-U

Coaches can argue all they want, but they aren't supposed to get personal with the umpire.

USD head coach Rich Hill said it's trouble "if you say you attached to anything, like, 'You so and so.' "

Says Eastlake High coach Dave Gonzalez, who spent 20 years as an umpire:

"That is probably the worst word in the English language to an umpire. Y-O-U. Now you've gotten personal.

"Like saying, 'You're brutal.' My response is, 'You're gone.' "

## 2. Flaunt the rule book

It's best to leave the rule book in the dugout when arguing a call.

"I found that out," said Hill, who was ejected in a game earlier this season when he brought the rule book with him during an argument.

Tom Hiler, the West Coast Conference coordinator of umpires, said umpires want to get calls correct. But there's a time and place for everything.

"We don't need to have somebody waving the rule book around," said Hiler. "If the crew has any doubt in their mind, they will step into the locker room or down in the dugout away from people and they will open the rule book up."

## 3. Kick up some dirt

Gonzaga coach Steve Hertz earned more than an ejection last month when he kicked dirt on an umpire during a game.

"He was very frustrated and felt like that's what he needed to do," said Hiler.

"There's an NCAA rule that if you make physical contact with an umpire, and that includes kicking dirt, you will be automatically suspended for one game."

## 4. Just ask impolitely

Longtime umpire Mike McDonald was at Point Loma Nazarene University for a game in the late 1980s against Northwest Nazarene University of Idaho. PLNU was winning 14-2 in the sixth inning when the Northwest coach approached McDonald and pleaded to be tossed.

"He said, 'You've got to throw me out. I just can't stand watching this kind of play,'" said McDonald. "I told him, 'If I have to watch this, then you have to watch this.' Then he told me I didn't have the guts to throw him out."

To which McDonald responded: "That's it, Coach. You got your wish. Go get on the bus."

## 5. Draw attention to a full moon

Gonzalez said he was umpiring a Pony League All-Star game some years ago when he called a player out on strikes.

"Before the next kid came to the plate, I heard somebody hollering from the dugout to get my attention," said Gonzalez. "When I looked over I saw somebody mooning. Then I realized he was doing it to me.

"It was the player I had just called out. So I ran him. The coaches quickly had him out of the dugout, in a car and out of there."

SAN DIEGO UNION-TRIBUNE

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USD coach Rich Hill argues with umpire Dennis Smythe during a recent game against Saint Mary's. Hill made contact with Smythe and later received a one-game suspension. *Joel Zwink photo*

# Where's the beef?

Often, it's between college coaches and umpires, where a compressed season makes every game and every call crucial

SAN DIEGO UNION-TRIBUNE

SAN DIEGO, CA  
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**By Kirk Kenney**

STAFF WRITER

4154

It was a close play at third base. Runner sliding in. Third baseman tagging him out.

There was only one problem. None of the three umpires on the field was in position to make the call.

It happened in March at Tony Gwynn Stadium when the Aztecs were playing Air Force.

Players, coaches and fans waited and waited for a ruling as the umpires walked toward third, each looking at the other.

Finally, the Air Force base runner was called out by home plate umpire Ken Bayne, though Bayne was 90 feet away when the play occurred.

Air Force head coach Reed Peters immediately began arguing with Bayne and Peters was quickly ejected by the umpire.

Peters said what made him most irritated is that Bayne would not acknowledge that he was improperly positioned to make the call.

"He said he was on top of the play, and I have a hard time believing that," said Peters.

SDSU head coach Tony Gwynn was on the steps of the Aztecs dugout. Had the call gone the other way, it would have been Gwynn arguing.

"I knew somebody was going to get booted," said Gwynn.

It has been said that umpires are expected to be perfect at the start of a game and then improve as it goes along.

That's an unreasonable expectation even for major league umpires. So imagine the pressure on college umpires, who, at \$125 a game, can't afford to make it a full-time profession but are expected to be nothing short of perfect nonetheless.

Plus, they have responsibilities major league umpires do not have. They have to monitor use of smokeless tobacco. And, this year, they must enforce a new rule that coaches when they come on the field must be wearing the same jersey or jacket that the players are wearing — a source of friction

between umpires and coaches.

College coaches are under the same pressures to win as professional managers, perhaps even more so since the college season is compressed.

Both USD and San Diego State play 30 conference games, just a fraction of the 162 games played in the majors or the 140 games played by most minor league teams.

"Everything in college baseball is packed into three games on the weekend," said Tom Hiler, coordinator of umpires for the West Coast Conference. "Tensions get high. Coaches get excited. It's darn important to them."

It's Hiler's task to assemble and oversee the umpiring staff for the WCC.

"We're looking for umpires who have excellent judgment and excellent people skills who handle situations well," said Hiler.

Some situations are handled better than others.

SDSU pitching coach Rusty Filter, echoing the sentiments of many coaches, said he most respects umpires who can admit they're human.

In a game earlier this season, Filter said the home plate umpire missed a strike-three call that would have enabled the Aztecs to get out of an inning. On the following pitch, the batter drove in two runs with a hit.

"As the next batter came up, I said, 'That can't happen,'" said Filter. "The umpire took his mask off and hit it against his knee and nodded his head as if to say, 'You're right.'"

"I gained huge amounts of respect for him there because he acknowledged he made a mistake."

The performance of umpires is evaluated from all sides. The umpire crew chief, both head coaches and a volunteer observer all file reports after each series. The coaches aren't convinced that this improves the situation on the field, however.

When USD head coach Rich Hill was ejected from a game in February by one WCC umpire, the coach complained that umpires are not held accountable for

their actions.

But the umpire was subsequently removed from his WCC assignments.

"The umpire did not have any games removed for any one particular game or incident," said Hiler. "Over the course of time, a decision was made by the conference. We felt it was better for the umpire not to work in our conference at this time. We will re-evaluate him for next year."

Hill has had his share of run-ins with umpires this season. He's been ejected four times.

"The confrontational guy, the guy with the chip on his shoulder, that's where I really get into problems with umpires," said Hill. "I'm very competitive. There's a huge fire that burns in me. I am emotional. If an umpire has that same type of personality, then we're going to clash."

The clashes might be reduced if the colleges borrowed a page from the local high schools. Prep coaches get to use what's called a "scratch list," which allows them to designate certain umpires they do not want to work their games.

Hill made contact with home plate umpire Dennis Smythe during his most recent ejection and received a one-game suspension.

Smythe said he tries to avoid confrontation.

"When I first started, the idea was to go out there and not take any crap," said Smythe, who has been an umpire since 1990. "Now you try to manage situations more. They (coaches) are emotionally involved. It's just adversarial."

That's how it's always been, says Eastlake High coach Dave Gonzalez.

Gonzalez spent 20 years umpiring at various levels. He is a past president of the Southern California Collegiate Umpires Association.

"It's like umpires are the villain," said Gonzalez. "Three blind mice. It's never changed. Walk on the field and people start booing. It's a part of American folklore as much as Casey at the Bat."

And, in Gonzalez's opinion, it just wouldn't be the same without a little conflict.

"I think people enjoy seeing a good beef," he said.

## LOCAL BASEBALL

# Aztecs lose their shirts to the Rebels

By Kirk Kenney, STAFF WRITER

San Diego State was hoping to make a statement in its Mountain West Conference series this weekend against UNLV, but it's the Rebels who have left their mark.

UNLV 15  
Aztecs 3

In more ways than one. UNLV defeated the Aztecs 15-3 yesterday at Tony Gwynn Stadium, all but clinching the regular-season conference title for the Rebels (37-12, 20-3 MWC).

SDSU (21-27, 13-10) intended to make a two-team race of it. Instead, the Aztecs will be trying to avoid a sweep in today's finale at 1 p.m.

"It's easy to point the finger in different directions when things aren't going your way," said SDSU head coach Tony Gwynn. "But they're a good team... When you get on a roll like they're on, you make things happen."

It was the 14th win in 15 conference games for the No. 18-ranked Rebels.

UNLV leadoff hitter Garrett Shitanishi set the tone when he opened the middle that put Aztec Carque on his back.

Morning rainwater had puddled throughout the field. Dirt had turned to mud on the mound. When Carque got up, he had a mark across his back that made it appear as if he'd been run over by a truck.

Carque's teammates knew the feeling by game's end. The Aztecs were steamrolled.

UNLV collected more hits (21) and more home runs (5) in the game than any SDSU opponent this season.

"They're playing like this is their house," said SDSU center fielder Anthony Gwynn.

Rebels first baseman Fernando Valenzuela Jr. made himself at home, collecting two home runs and six RBI. Teammate Patrick Dobson was 4-for-4 with a homer and two RBI.

If there were any positive for the Aztecs, it was that they got a hit off UNLV starting pitcher Matthew Luca.

Luca, a freshman right-hander, no-hit SDSU five weeks ago in Las Vegas. Aztecs shortstop Kyle Floquet made sure it didn't happen again when he singled with one out in the third inning. Luca (4-0) still pitched five innings of shutout ball before being relieved in the sixth.

"It's important to get some confidence," said Anthony Gwynn of SDSU's hopes coming into the series. "But we showed BYU we could beat them seven or eight times (last year) and that didn't do anything."

SDSU owned the Cougars throughout the 2002 season but lost to them twice on the final day of the MWC Tournament.

So BYU went to the NCAA playoffs. SDSU, which had won the MWC regular-season title, stayed home with its 43 wins.

"As a rule in college baseball, you win 40 games and you should be OK," said UNLV head coach Jim Schlossnagle. "But I'll always have doubt."

### Toreros rained out

USD's West Coast Conference game yesterday against Loyola Marymount was postponed because of rain. It will be made up today as part of a doubleheader beginning at noon at Cunningham Stadium.

SAN DIEGO UNION-TRIBUNE

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# Coaches Face Parents' Full Court Press

FRONT PAGE

Angry when their student-athlete's career languishes, parents sue the schools and instructors. Legal experts see a trend.

By DAVE MCKIBBEN  
Times Staff Writer

John Emme, the baseball coach at Corona del Mar High in Newport Beach, has been sued twice in two years by Marc Martinez, a physician whose son pitched on the school team.

Martinez alleged in his first suit that Emme harmed his son J.D.'s future as a college pitcher by making him pitch too many innings, damaging his arm. Martinez pulled his son off the team in his senior year and later filed another suit, saying the coach made false statements in a news-



GLENN KOENIG Los Angeles Times  
**COACH'S REPLY:** John Emme answered Marc Martinez's lawsuits with a \$1-million countersuit.

paper article, ruining his son's chance for a college scholarship and, perhaps, a career in the big leagues.

Such "disappointment" lawsuits, legal experts say, are an emerging trend as parents —

who not so long ago simply attended games and pulled an occasional snack bar shift — take on school districts and coaches over the handling of their children.

In some cases, moms and dads contend coaches have done a poor job of showcasing their children to college or pro scouts. In other suits, parents say coaches and trainers failed to help young athletes reach their potential.

Parents' expectations have been raised by the success of such athletes as Tiger Woods, Venus Williams and Kevin Garnett, who made millions when they were still teens. High school senior LeBron James of Akron, Ohio, is expected to sign a shoe deal worth \$20 million to \$30 million even before he is drafted by an NBA team later this year.

"The stakes have gotten higher," said Bob Jarvis, who [See Disappointment, Page A11]

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# Today's Coaches Facing Parents' 'Regret' Suits

*[Disappointment, from Page A1]*  
teaches sports law at Nova Southeastern University in Fort Lauderdale, Fla., and has tracked some 200 sports lawsuits in the last year. "College costs more. Parents see all these kids going to the NBA, the tennis and golf tours, making all this money. They want it for their kids. And when it doesn't happen for them, they have to blame somebody."

"In the old days, parents said, 'You coach the kids, and we'll help get them money for travel and uniforms,'" said Jarvis. "Now, they don't want to do any of that stuff. They say, 'We'll come to the games, we'll second-guess you and we'll sue you.'"

Lawsuits in which parents or students say promising careers were short-circuited by coaches began to surface about a decade ago. About 20 such suits were filed in the last year, but experts say they are not aware of any case in which a court has ordered a financial judgment.

One early case involved Bryan Fortay, a high school football star from New Jersey who said his career nose-dived when Dennis Erickson, then the coach at the University of Miami, didn't name him the starting quarterback. Fortay alleged in the 1993 lawsuit that Erickson promised him the starting job when he was a high school senior. Fortay alleged that Erickson broke that oral contract when he gave the job to Gino Torretta, who went on to win the Heisman Trophy in

1992. Fortay and the University of Miami eventually settled.

In 2001, Lynn Rubin of Union City, Calif., filed suit seeking \$1.5 million in damages from the New Haven School District after his 15-year-old son, Jawaan, was demoted from the varsity to the junior varsity basketball team at Logan High. Rubin, who also was seeking the dismissal of the varsity coach, said in a recent interview that he felt the demotion was "messing up [Jawaan's] future and professional earnings." The suit was dismissed.

So far, most of the "disappointment cases" appear to be frivolous, said sociologist Richard Lapchick, who directs the Institute for Diversity and Ethics in Sport at the University of Central Florida. But if juries begin handing down judgments, he said, it could leave coaches feeling handcuffed, afraid to talk freely with recruiters, second-guessing themselves on how they handle young athletes.

For Emme, the baseball coach at Corona del Mar High for the last six seasons, the suit alleging he ruined the career of J.D. Martinez is a reflection of the times. "In this day and age," Emme said, "there are a lot of parents spending thousands of dollars grooming their kids for pro careers or college scholarships."

"I didn't want to sue the guy," said Martinez, an emergency room doctor who lives in Newport Beach. "It's costly. There

are risks involved. I did everything I could, but I didn't think I had any other choice."

One of those risks includes being counter-sued. In January, Emme filed a \$1-million malicious prosecution suit against Martinez, claiming the coach's reputation had been damaged.

In his suit, Emme paints his former player as "an outstanding young man" who possessed average baseball skills. But his father, the coach alleged, had "grandiose ambitions" for his son as a collegiate and professional player.

Despite claims by parents such as Martinez, the role of the high school coach in the college recruiting process has generally diminished. These days, scouting services specialize in shopping kids to colleges, complete with videotape packages highlighting a player's strengths.

"We always say, 'You can't hide Babe Ruth,'" said Bob Flint, a high school baseball coach for 35 years who has spent the last three seasons at Irvine's Woodbridge High School. "Even if I wanted to completely bury a kid, I couldn't do it ... if you're good enough, they'll find you."

Martinez showcased J.D.'s right arm as much as he could during the summer and fall. After his senior year, J.D. played in a tournament in Waco, Texas, before numerous college scouts. Marc Martinez said his son was given a "7" rating out of 10.

"He was throwing 83 to 84

miles an hour," Martinez said. "He was stronger and better than he had been in high school. The scouts in Texas said he was a prospective Division I college player and a potential lower-round draft pick."

But J.D., who declined to discuss the case, was not recruited by any Division I programs, even though Marc Martinez said his son received about 30 letters of interest from colleges. Martinez, who asked for \$25,000 as well as punitive damages in his suit, said he told him that he was going to "close the door" on his son's chances of getting a college

scholarship. Emme said he never closed any doors on the young baseball player.

"I was not contacted by any schools about J.D. after he left my program," Emme said.

To some, Emme has become an illustration of the changing relationship between coach and parent.

When he was a young coach in Texas, Flint said he didn't know a single parent. "I always thought players played, coaches coached, umpires umpired and parents sat in the stands," he said. "And we didn't cross those lines." Now, the kids and parents

"are with me 11 months of the year," Flint said. "It'd be nice if we could get away from each other, but we need to be around each other to compete with everybody else."

Bob Ferraro, director of a Pennsylvania-based national coaches association, said it was probably just a matter of time before parents began taking their gripes against coaches to the courthouse.

"Everyone wants to blame the coach," said Ferraro, who said complaints against coaches to his office have risen dramatically in the last few years. "The kid didn't win the game, it's the coach's fault. The kid didn't get the scholarship, it's the coach's fault."

Ferraro said some parents now view sports as a financial investment. "Unfortunately," he said, "many times the parents are living through their kids."

So whatever became of J.D. Martinez's college career?

J.D. is a 19-year-old freshman at the University of San Diego, a Division I Catholic school known for its academics. But he is not playing baseball. He tried out for the team, but didn't make the cut. "He's doing great," Marc Martinez said of his son. "He'd love to be playing baseball, but he just rolls with the punches."

Something his dad wasn't able to do. "I guess I could have walked away," he said. "But I don't walk away."

# Toreros hopes slipped because of a flying disc

## SDSU routs hobbled USD in NCAA men's tennis opener

By Don Norcross, STAFF WRITER

USD's chances against San Diego State in yesterday's first round NCAA men's tennis match turned on, of all things, a Frisbee.

USD freshman Pierrick Ysern, the Toreros' No. 1 player, injured his right knee last Sunday on campus when he was clipped from behind while running to catch a Frisbee.

"Just a stupid accident," said Ysern, a Parisian.

Ysern played doubles yesterday and wanted to give singles a try, but USD coach Tom Hagedorn nixed those plans after watching the left-hander hobbling about. The rest of the Toreros were forced to move up one spot in singles.

The result: a drubbing.

Playing on its home courts on a picturesque sun-kissed afternoon, SDSU routed the Toreros 5-0. As a reward, the Aztecs face 16th-ranked Washington at noon today on the same courts. Washington blanked American University 4-0 yesterday morning.

The winner of the SDSU-Washington match advances to next week's Sweet 16 at Athens, Ga.

Hagedorn said he briefly considered sending Ysern out at No. 1 singles, knowing he would lose to SDSU's Oliver Maiberger, who's ranked 42nd in the nation. While dropping a point, it would have kept the rest of the Toreros' lineup in place.

"I just couldn't sacrifice him," Hagedorn said. "For me, it's not ethical because your No. 1 is your best player and he had no chance of winning today. You always second-guess yourself with those decisions. But I would have felt horrible if he'd have hurt himself worse."

Asked what their reaction was when they realized Ysern would be a singles spectator, SDSU's Ryan Redondo said, "Nothing. There was no reaction."

At a school noted for its business department, the Aztecs were downright businesslike on the court. After winning two doubles matches to earn one point, the Aztecs dominated singles.

Their four singles wins came in straight sets. Because the match had been decided, the final two singles matches were not completed, but the Aztecs were up a set in those, too.

Total games won in the six singles matches: SDSU 66, USD 19.

The victory avenged a loss to USD back in March when the Toreros edged the Aztecs 4-3. It had been six years since the Toreros defeated SDSU.

But Maiberger, a senior from Germany, wasn't biting on the revenge angle.

"I don't think we're a team that gets overly excited," he said. "(The USD loss) gave us a watch-out warning. But it's not like we were out for revenge."

The USD loss obviously snapped the Aztecs to attention. SDSU (16-9) has won a season-high six straight matches and 11 of its last 12. USD finished 13-10.

At a program making its fifth NCAA appearance in six years, Maiberger credits SDSU head coach John Nelson for the team's typical strong finish.

"He's just persistent, every day, training us to be disciplined," said Maiberger. "A lot of players at the end of the season, particularly foreigners, want to go home. He doesn't let you think that way. He reminds you the season's over at the end of May, not before."

As for USD's Ysern, he took the loss hard.

"I kind of feel guilty," he said. "I feel like it's all my fault."

## SDSU women lose

Fresno State defeated San Diego State's women's tennis team 4-0 in a first-round NCAA playoff match at Tempe, Ariz. SDSU finished the season 22-6.

SAN DIEGO UNION-TRIBUNE

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## Aztecs, Toreros men to meet in Regional

4154  
The men's tennis teams from San Diego State and USD were drawn against one another yesterday for a first-round match in an NCAA Regional tournament to be contested on SDSU's courts May 9-11.

The SDSU women's team drew into a Regional event to be played on the same dates at Arizona State in Tempe. The Aztecs are to begin against Fresno State, with the winner to go against the winner of an Arizona State-Illinois-Chicago match for a place in the NCAA Championships, May 15-24 at Gainesville, Fla.

The winner of the SDSU-USD men's match is to oppose the winner of a Washington-American University match. The men's NCAA Championships are May 17-26 at Athens, Ga.

The Aztecs and Toreros men played once during the regular season, USD winning 4-3 at SDSU on March 5. Said Aztecs coach John Nelson: "It's great for San Diego to have two teams in the tournament. Our goal is to have these programs nationally ranked, so people will consider this a destination place."

The Aztecs women have not opposed Fresno State this season. "This looks like a good opportunity for us," said SDSU women's coach Peter Mattera. Fresno is ranked No. 20, SDSU No. 27 by the Intercollegiate Tennis Association.

— JERRY MAGEE

## LOCAL COLLEGES

# Aztecs, BYU tie for 2nd in golf

UNION-TRIBUNE

4154  
San Diego State shot a final-round 290 yesterday to tie BYU for second place at the MWC Championships at Sunriver, Ore. Both schools finished at even par.

New Mexico, which finished at 9-under, claimed its first conference title and will advance to the NCAA Championships.

The Aztecs' Lars Johansson carded a 73 to finish tied for fourth, two strokes behind New Mexico's Michael Letzig, who beat Colorado State's Martin Laird in a playoff. SDSU's Aaron Choi and Mark Warman finished tied for 16th and 18th, respectively. Johansson and Warman also were named to the all-conference team.

Although the Aztecs didn't earn an automatic berth to the NCAA Regional, they are likely to get an at-large bid.

### Men's tennis

No. 20-ranked UCSD lost 7-1 to No. 11-ranked **Hawaii Pacific** in a second-round match of the NCAA Division II Regionals at UCSD. The Tritons (18-6) got their lone point when Michael Meyer and Sean Nagel won their doubles match 8-2.


### Women's tennis

Top-ranked and defending Division II national champion **BYU-Hawaii** beat UCSD 5-0 in the Round of 16 at the NCAA Division II Regionals at Laie, Hawaii.

### Track and field

The SDSU women's track team won two events and recorded 18 other top-three finishes at the Steve Scott Invitational at UC Irvine. The Aztecs' Tonette Dyer successfully defended her title in the 200 meters with a season-best tying mark of 23.52. The other win went to Jamillah Titus in the high jump (5-5).

### Women's rowing

 **USD** took second place for the fifth straight year when it finished seven points behind **Gonzaga** on Friday at the West Coast Conference Rowing Championship at Lake Natoma. The Toreros, who took second in all three events, finished just .41 seconds behind Gonzaga.

SAN DIEGO UNION-TRIBUNE

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MAY 4 2003

# USD signs Oklahoma JC player from Cameroon to step in for Keep

By Hank Wesch  
STAFF WRITER

4154  
The USD men's basketball team has signed a successor to Jason Keep, the 6-foot-10, 280-pound center who last season led the Toreros to their first NCAA Tournament berth in 16 years.

Brice Vounang, a 6-8, 240-pounder from Eastern Oklahoma Junior College in Wilbur-

ton, Okla., has filed a letter of intent to transfer to USD for two years of eligibility starting in the fall.

"They're getting a heck of a player," said Eastern Oklahoma coach Jimmy Voight. "He's an outstanding student and a very good athlete. He's a power player. He can shoot the 15-, 16-foot jumper on occasion, but he is most effective down on the low blocks."

A native of Cameroon, Vounang averaged 18 points and nine rebounds last season, Voight said, in earning All-Bi-State Conference and All-National Junior College Athletic Association Region II (Oklahoma/Arkansas) honors. Vounang shot 63 percent from the field and 68 percent from the free-throw line.

"He's what we need in terms of an inside post player," USD

coach Brad Holland said. "He's got crafty moves and good feet and he gives us that legitimate post player we need. Nick Lewis and Brandon Gay are more finesse players who can step outside and shoot the three."

Lewis, 6-9, was the first front-line substitute for the Toreros last season as a redshirt freshman. Gay is an incoming junior college transfer.

In eight seasons as a head coach, five at Bacone College (Muskogee, Okla.) and three at Eastern Oklahoma, Voight has had several players advance to play at the Division I level. Among them are Luis Lamas, a center at BYU, and Vounang's teammate Steve Moore, a guard who has signed a letter of intent with Arizona State.

Voight assesses Vounang as

ready.

"He's a little different than Jason Keep, not as tall and he doesn't carry the same heft," Voight said. "But his bread and butter is the physical play close to the basket."

"I don't think there's any question USD is a good spot for him filling the hole left by Keep or (power forward) Jason Blair."

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# Spirit's Pagliarulo is back in goal — and never better

By Mark Zeigler, STAFF WRITER

On the cringe-o-meter, they were off the scale. Twice in the first half against the Boston Breakers at Torero Stadium last July, San Diego Spirit goalkeeper Jaime Pagliarulo had shots hit directly at her. And twice they slipped through her hands and into the net, like the ball was greased or it was scalding hot or it was simply invisible.

Soccer players have a term for that: howlers.

The Spirit benched Pagliarulo at halftime and figured it was a bad case of the bobbles that would quickly pass. But she let in another howler four days later against the same opponent on the opposite coast, and backup Carly Smolak replaced Pagliarulo again at the half.

There were seven games left, and "Pags" didn't play again until a charity substitution with eight minutes left in the regular-season finale.

Maybe there was an injury no one knew about, a sudden loss of confidence, a change of technique, some bad defense in front of her. Maybe a bad horoscope.

"I wish I could blame it on something," Pagliarulo says, "but I can't."

The Breakers are back in town today at 5 p.m., and Pagliarulo is back in goal. And we mean *back*. She has started four of the Spirit's five games this season, and her 1.00 goals-against average is third in the WUSA — behind national-team regulars Briana Scurry (.50) and Siri Mullinix (.80).

"I think I was smart enough not to dwell on it," Pagliarulo says, "because you'll become a head case. I wish I could sit here and say I'll never have a bad game again, but that would be a lie . . . I made three mistakes and let in three goals. You'd probably be hard-pressed to go around the league and find someone who didn't have two bad games."

"But as a goalkeeper, you can't really hide it."

Last season's loss of form was a shocking development for two reasons: It came out of nowhere, and it came after Pagliarulo's rookie year. She was the surprise of the WUSA's inaugural season, going from a sixth-round pick out of George Mason University to the Spirit's starter to a member of April Heinrichs' national-team pool.

"She doesn't have that tremendous athleticism," says Spirit assistant coach Tom Tate, himself an accomplished goalkeeper from USD. "But she reads the game well and she positions herself properly. And she's very con-



**Jaime Pagliarulo**  
*Goalie has bounced back*

## Boston at Spirit

**Site/time:** Torero Stadium, USD / 5 p.m.

**TV:** 4 San Diego (live)

**Records:** Breakers 3-2-1; Spirit 2-1-2

**Season series:** Boston leads 1-0-1, winning 2-1 at San Diego in the season opener and tying 1-1 in Boston on May 3.

**Outlook:** These teams are getting pretty familiar with one another, playing for the third (and final) time in six games this season. But the Spirit has not shown the Breakers the same lineup in any of them, missing Joy Fawcett in the opener and now being without forwards Julie Fleeting and Christine Latham. Fleeting is in Scotland on national-team duty; Latham is in Canada for her father's funeral. Four other starters — Fawcett, Julie Foudy, Shannon MacMillan and Aly Wagner — were in Birmingham, Ala., yesterday for a national-team game against England, but they all played only a half, flew home last night and are expected to start today. Boston has three players who were in Alabama. Kristine Lilly played the full match, and Angela Hucles and Kate Sobrero each played the second half. German forward Maren Meinert is tied for the league's scoring lead with Atlanta's Maribel Dominguez at six goals.

— MARK ZEIGLER

sistent, which is what you want in a goalkeeper."

After Smolak finished out the season with a 2-3-2 record and the team embarked on a major face lift (new general manager, new coach, new players), the Spirit had to pick a No. 1 goalkeeper. It chose Pagliarulo, trading Smolak to the New York Power and drafting Jenni Branam from North Carolina as a backup.

Branam has one of the best kicking games in women's soccer and has pushed Pagliarulo in practice, so much that the Spirit coaches awarded her a start two weeks ago at Boston (a 1-1 tie). But Pagliarulo has responded, improving her own kicking game and returning to the form — always steady, often spectacular — that defined her rookie season.

"I've been consistent, and at this level that's all you can do," says Pagliarulo, 26, who grew up in Hershey, Penn. "You don't have to go out there and be the superstar every game. Coming out of college, that's your mentality sometimes because most of us were the go-to players on our teams."

"But you're stepping onto the field with the best in the world, so you've got to adjust. I think a lot of good players didn't make it in this league because they couldn't adjust to that."

# 'Air Scotland' is a force for Spirit

By Jeff Goldblatt 4154  
SPECIAL TO THE UNION-TRIBUNE

ATLANTA—Julie Fleeting's goal in the 67th minute last night was the San Diego Spirit forward's fourth consecutive game with a goal. And true to Fleeting's nickname "Air Scotland," three of those four goals have come on headers.

"When you have a player like Fleeting who's just so brilliant in the air, you've just got to give her half a chance," said Shannon MacMillan, who served Fleeting the goal-scoring opportunity with the eighth of San Diego's nine corner kicks in a 1-1 tie with the Atlanta Beat.

"I think she was marked well, but she just got up above it and she got such power on it that I don't think (goalkeeper Brianna Scurry) really had a chance at it."

But as quickly as MacMillan credits Fleeting with a great finish, Fleeting is just as quick to pass the credit on to her.

"Shannon serves it with so much pace on the ball that I'm just looking to connect and if I get on it then there's a chance it's going to go in," said Fleeting. "It was just a great cross to the back post."

The goal gave San Diego a 1-0 lead. Minutes later it was Spirit goalkeeper Jaime Pagliarulo who temporarily preserved that lead with a diving save on a hard low shot by Atlanta's leading scorer, Mirabel Dominguez.

But perhaps Pagliarulo's best save of the game came early on in the 23rd minute on a point-blank shot by Beat midfielder Homare Sawa from 8 yards out.

"She's been great all season," said Spirit coach Omid Namazzi of Pagliarulo. "Almost every game she's had to come up with one or two great saves to keep us in the game. Her reaction save against Dominguez was world-class."

But San Diego couldn't keep the WUSA's leading scorer quiet for long.

Mexico's Dominguez (six goals, two assists on the season) fired a shot in the 75th minute that grazed off the leg of Spirit defender Lisa Krzykowski before finding the back of the net to knot the score.

The Spirit arrived in Atlanta tied with the Beat for third place in the WUSA. The 1-1 tie left both teams with a record of 2-1-2.

"We could have squeezed out a win, but we had an unlucky deflection," Namazzi said.

The Spirit returns home riding a four-game unbeaten streak, two shy of the club record. The Spirit hasn't lost since opening day against Boston, the team it will face Sunday at USD's Torero Stadium.

## SUMMARY

### Spirit 1, Beat 1

SPIRIT	0	1	-	1
Atlanta	0	1	-	1

First half—No scoring.

Second half—1, San Diego, Fleeting (MacMillan), 67th minute. 2, Atlanta, Dominguez (Crumpton, Parlow), 75th.

Goalies—San Diego, Pagliarulo; Atlanta, Scurry.

A-8,362.

### Lineups

Spirit: Jaime Pagliarulo, Kerry Connors, Joy Fawcett, Kim Pickup (Ronnie Fair 84), Lisa Krzykowski, Julie Foudy (Jennifer Nielsen 88), Aly Wagner, Daniela, Shannon MacMillan, Julie Fleeting, Christine Latham (Zhang Ouying 61). TOTAL SHOTS: 15 (Julie Fleeting 5).

Atlanta: Brianna Scurry, Kylie Bivens, Nancy Augustyniak, Sharolta Nonen, Leslie Gaston (Julie Augustyniak 51), Cindy Parlow (Conny Pohlers 81), Marci Miller, Nikki Serlenga (Abby Crumpton 45), Homare Sawa, Mirabel Dominguez (Emily Burt 89), Charmaine Hooper.

Total shots: Spirit 15 (Julie Fleeting 5); Atlanta 14 (Dominguez 5).

Shots on goal: Spirit 6 (Fleeting 4); Atlanta 6 (Dominguez 3).

Offsides: Spirit 3 (Foudy 2); Atlanta 5.

Corner kicks: Spirit 9 (MacMillan 9); Atlanta 4.

Saves: Spirit 5 (Pagliarulo 5); 5 (Scurry 5).



Spirit goalie Jaime Pagliarulo (rear) collides with Atlanta Beat forward Charmaine Hooper (10). Alan Mothner / Associated Press

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