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USD News Print Media Coverage

May 2002

USD News Print Media Coverage May 2002

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Hughes Career Achievement Awards

Distinguished Alumni To Be Honored At USD

Two University of San Diego business school alumni, whose family business, Xignux, has become one of Mexico's leading industrial conglomerates with exports to more than 40 countries, will be honored at this month's Author E. Hughes Career Achievement Awards.

Brothers Andres and David Garza Herrera are the honorees from the School of Business Administration. Bill Gore, special agent in charge of the San Diego division of the FBI and a leader in the fight against terrorism and illegal drugs, is the honoree from the College of Arts & Sciences. Lynn Schenk, the first congresswoman from San Diego and now Gov. Gray Davis' chief of staff, is the honoree from the School of Law. From the School of Education, Judy Rauner will be honored for her work in organizing thousands of USD students to volunteer as tutors and mentors to local youth. Ruth Grendell, who has led yearly expeditions to provide immunizations in Africa, South America and China, is the honoree from the Hahn School of Nursing and Health Science.

"Our alumni are making a difference in the world," says USD President Alice B. Hayes. "This distinguished group of Hughes honorees represents a proud tradition of excellence and service to the community."

Both Andres and David Garza earned master's degrees at USD, using the lessons in finance and international business to help Xignux grow into a conglomerate with more than 27,000 employees selling auto parts, lighting, chemicals, food, electrical and other goods.

The Hughes Awards, a black-tie gala, take place at 6:30 p.m. May 11 at the Manchester Grand Hyatt. Individual tickets are \$100 and tables can also be purchased. For information, call (619) 260-4819 or go to <http://alumni.sandiego.edu/hughesawards>.

— San Diego Metropolitan Staff

Distinguished USD Alumni To Be Honored at Awards Ceremony

ALCALÁ PARK — A nursing professor who has led yearly expeditions to provide immunizations and health services in Africa, South America and China, and an administrator who has organized thousands of University of San Diego students to volunteer in the community are two of the honorees at the Author E. Hughes Career Achievement Awards Saturday, May 11.

'These distinguished honorees represent a proud tradition of excellence and service to the community.'

The awards, named for the school's former president, honor USD alumni who have achieved outstanding success in their fields.

Nursing professor Ruth Grendell, who earned her master's and doctorate degrees at USD, is the honoree from the Hahn School of Nursing and Health Science. She has organized yearly expeditions of students to bring health services to people in the Third World.

"When students come back from a trip with Ruth, they have such an appreciation for what we have in America that it changes their lives forever," says Dottie Crummy, chair of the nursing department at Point Loma Nazarene University where Grendell taught for 18 years.

Judy Rauner, USD's director of Community Service-Learning, is the honoree from the School of Education. Rauner, who earned a doctorate in educational leadership at USD, began a program that puts hundreds of students to work each year as tutors and mentors at juvenile hall, the Linda Vista Teen Center, Head Start and other local agencies. Rauner, who also started a program for pre-school religious education for the Catholic Diocese of San Diego, has received national recognition and participated in significant research on what makes university-community partnerships work.

"We address real projects and we do it by combining service and learning," says Rauner who will retire from USD in June. "To see the tremendous collaboration and the reciprocal learning among students and neighbors has been such a joy."

"Our alumni are making a difference in the world," says USD Pres-



HONOREES: Clockwise from top left, Judy Rauner, David Garza Herrera, Bill Gore, Ruth Grendell, Lynn Schenk and Andres Garza Herrera.

COURTESY USD

ident Alice B. Hayes. "These distinguished honorees represent a proud tradition of excellence and service to the community."

Bill Gore, special agent in charge of the San Diego division of the FBI and a leader in the fight against terrorism and illegal drugs, is the honoree from USD's College of Arts and Sciences.

Lynn Schenk, the first congresswoman from San Diego and now Gov. Gray Davis' chief of staff, is the honoree from the School of Law.

Brothers Andres and David Garza Herrera are the honorees

from the School of Business Administration. Their family business, Xignux, has grown into one of Mexico's leading industrial conglomerates.

The black-tie Hughes Awards gala begins at 6:30 p.m. at the Manchester Grand Hyatt. Individual tickets to the Hughes Awards are \$100 and tables can also be purchased.

For more information call 619-260-4819 or go to USD's Web site at <http://alumni.sandiego.edu/hughesawards>.

The Southern Cross

May 9, 2002

Southern Cross

Diane Bell Maggie is missing no longer



Saved by the belt . . . Laura Buxton, former voice of the KUSI TV morning show, is recuperating with a broken

shoulder blade after her car hydroplaned on a rain-slick I-15 by Gopher Canyon Road north of Escondido and rolled three times down an embankment. Her dog, Maggie, was with her. While grateful for her seat belt and her relatively minor injury, she was devastated that Maggie ran off. KUSI/Channel 51 viewers know Maggie well. The Heinz-variety hound with the smiling underbite was home-

SEE **Diane Bell, B6**

San Diego Union-Tribune

May 11, 2002

▶ DIANE BELL CONTINUED FROM PAGE B1

Friends dubbed her 'Sir Mary, Lady of Walshok'

less when Buxton adopted her on the air two years ago. Maggie has been on the show several times since.

Word of the lost dog spread among animal rescue groups. Searchers patrolled the area and FOCAS (Friends of County Animal Shelters) set baited traps. Someone reported seeing a pooch fitting Maggie's description running with a pack of dogs. A visitor staying at Lawrence Welk Village said his son had tried to befriend a stray dog that could have been Maggie. By Day 12, Buxton had all but given up hope — it is coyote territory, after all — and FOCAS was preparing to dismantle the traps.

That's when a Caltrans worker found the missing Maggie, who was exhausted but unharmed, in the bushes near a market on Old Castle Road. Buxton was ecstatic to get her pet back — and philosophical about the whole ordeal: "Oh, God, now I'm going to have to do something meaningful with the rest of my life."

Ode to moms

USD administrator Esther

LaPorta is one proud mom this weekend. Her grown sons, Robert and Richard, are well-represented at Robert De Niro and Jane Rosenthal's inaugural Tribeca Film Festival in NYC. Following in the footsteps of their dad, Robert, a San Diego film producer, they collaborated on a full-length independent feature film, "One Man's Ceiling." Richard wrote, directed and edited it, while Robert starred in it and produced it. The film was among 15 selected from some 600 feature film entries for the Tribeca contest. Plus, Robert created an animated short film, "Long Walk," one of 36 chosen for the May 8-12 competition.

Unfortunately, their parents can't attend because Robert Sr. is involved in USD's career achievement tribute tonight to local FBI chief Bill Gore, Mexican business operators Andres and David Garza Herrera, USD educator Judith Rauner, Gov. Gray Davis' staff chief Lynn Schenk and nursing professor Ruth Grendell . . . Another proud mother is Estha Trouw. The XETV/Channel 6's Fox 6 News anchor gave birth Tuesday to a 7-pound, 12-ounce boy. Coupled with the station's 32 regional Emmy award nominations announced Wednesday, her husband, station news director Alberto E. Pando, told *U-T* arts writer Preston Turegano, "I feel like a proud papa twice over."

She's a knight

Mary Walshok, associate vice chancellor of UCSD's Extended Studies and Public Programs, became a knight last week. Swedish Consul General Andreas Ekman awarded her the rank of knighthood, First Class of the Royal Order of the Polar Star, established by the king in 1748. The knighting, authorized by the present King Carl XVI Gustaf, rewards Walshok's entrepreneurial efforts in Sweden, where she started a program modeled after UCSD's business networking CONNECT program. Walshok, now dubbed by friends "Sir Mary, Lady of Walshok," is a visiting professor at the Stockholm School of Economics.

Quotes of note

Mayor Dick Murphy was so elated over *Forbes* magazine's ranking of San Diego County as No. 1 in the nation for business and careers, that he told a gathering of S.D. Regional Economic Development Corp. members they'd better get to the newsstands early today when the new issue arrives "because I'm going to be there buying all I can find."

Diane Bell's column appears Tuesdays, Thursdays, Saturdays. Fax items to (619) 293-2443, call (619) 293-1518 or e-mail to diane.bell@uniontrib.com.

Distinguished Alumni to be Honored at USD

Leaders in Business, Education, Government, Law & Healthcare to Receive Awards



Andres Garza Herrera

Two University of San Diego business school alumni, whose family business, Xignux, has become one of Mexico's leading industrial conglomerates with exports to more than 40 countries, will be honored at the Author E. Hughes Career Achievement Awards May 11.

The awards, named for USD's former president, honor alumni who have achieved outstanding success in their fields.

Brothers Andres and David Garza Herrera are the honorees from the School of Business Administration. Andres Garza earned his M.B.A. from USD in 1994 and David Garza received a master's in international business in 1997. Their brother Eugenio Garza is CEO and president of the board of the firm, which was founded by their father in 1956.

Both Andres and David Garza used the lessons in finance and international business to help Xignux grow into a conglomerate with more than 27,000 employees selling auto parts, lighting, chemicals, food, electrical and other goods.

Andres Garza, who has an undergraduate degree in mechanical engineering, says he chose USD because of the small classes where he would have lots of interaction with professors and students. He says a class in international negotiations, with students from France, Greece and other countries, taught him a lot about how people think about business "based on our (respective) cultures."

The class has been critical to the firm's success. "It really

helps to know the culture to get ventures going," says Andres Garza, who puts together deals with the Japanese for the firm's auto parts division.

Xignux' partners include corporate giants like General Electric and Sara Lee. The company hasn't done a lot of business with San Diego firms, but that's likely to change, given the region's focus in telecommunications and automakers' interest in integrating high-tech communications into the cars of the future, Andres Garza says. "The environment is so dynamic, some type of deal is bound to pop up."

Andres Garza says he and his brother have many good



David Garza Herrera

memories of USD and are proud to receive the award. "We feel we are representing our university and our country, and we feel a need to succeed not only for ourselves, but also for USD."

"Our alumni are making a difference in the world," says USD President Alice B. Hayes. "These distinguished honorees represent a proud tradition of excellence and service to the community."

The Hughes honoree from the College of Arts and Sciences is Bill Gore, special agent in charge of the San Diego division of the FBI and a leader in the fight against terrorism and illegal drugs. Lynn Schenk, the first Congresswoman from San Diego and now Gov. Gray Davis' chief of staff, is the honoree from the School of Law. From

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The black-tie Hughes Awards gala takes place Saturday May 11 at the Manchester Grand Hyatt at 6:30 p.m. Individual tickets are \$100 and tables can also be purchased. For more information call 619-260-4819 or go to <http://alumni.sandiego.edu/hughesawards>.

Distinguished alumni to be honored at USD

Leaders in business, education, government, law and healthcare to receive awards

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ANDI GARZA

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"The environment is so dynamic, some type of deal is bound to pop up," he said.

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DAVID GARZA

Both Andres and David Garza used the lessons in finance and international business at USD to help Xignux grow into a conglomerate with more than 27,000 employees selling auto parts, lighting, chemicals, food, electrical and other goods.

Around the Town

● Co-author and dermatologist **Mitchel Goldman** recently was given a surprise 47th birthday party by his wife **Dianne York Goldman**. Among the 250 guests who partied with the couple at the Hyatt Regency-Aventine in La Jolla was singer **Rita Coolidge**, who belted out tunes to the crowd. Guests contributed to a local San Diego charity Saint Germaine Auxiliary, which helps prevent child abuse. "We feel with everything that's going on, with the murder of Danielle van Dam and the abduction of the 2-year-old boy Jahi Turner, child abuse is ongoing," she said in a post-event interview. "Often it's not reported and local agencies need our help," said Dianne Goldman. The couple have cowritten three books titled *You Glow Girl* to help improve teenagers' self-esteem.

● Artist **Hilda Pierce** painted the portrait of UC San Diego's founding librarian, **Melvin J. Voigt**, which was unveiled during ceremonies on April 28 at La Valencia Hotel. The portrait will hang permanently in the lobby of UC San Diego's Geisel Library. The artist has created works of art for the ships of Carnival Cruise Lines, including 1,304 original works that hang in the public rooms, cabins and suites of the cruise ship Fantasy.



● **Lynn Schenk** will be honored with the Author E. Hughes Career Achievement Award from USD's School of Law on Saturday night. Schenk, a 1970 law school graduate, is chief of staff to California Gov. Gray Davis and is a former member of Congress. The black-tie gala begins at 6:30 p.m. at the Manchester Grand Hyatt. Tickets for the Hughes Awards can be purchased by calling (619) 260-4819.

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By Peggy Scott 4154

'Wings Over Gillespie' air show salutes U.S. air power

Off they go, into the wild blue yonder — and you can enjoy the spectacle at “Salute to American Airpower,” the eighth annual Wings Over Gillespie World War II Static Airshow, May 3-5 at Gillespie Field in El Cajon.

Presented by CAF-AIR Group One, the aircraft extravaganza will include amazing exhibitions such as an F16 fly-by on Saturday; as well as the chance to get up close to legendary planes and even take rides aboard vintage airplanes. This is an event that has something for every member of the family. And to really get into the spirit of the period, don't miss the big band dance, 7 to 11 p.m. May 3 at Gillespie Field.

Gates are open from 8 a.m. to 5 p.m. Admission to the air show is \$10; children under 10 and, appropriately, uniformed military will be admitted free.

For information, call (888) 215-7000 or (619) 448-4505.

USD Hughes Awards honors distinguished alumni

Six exemplary figures in law, government, education, health care and business will be honored May 11 at the University of San Diego's Author E. Hughes Career Achievement Awards. The prestigious awards, named for the school's former president, honor USD alumni who have achieved “outstanding success in their fields.”

Bill Gore, special agent in charge of the San Diego division of the FBI and a leader in the fight against terrorism and illegal drugs, is the honoree from USD's College of Arts and Sciences. **Lynn Schenk**, the first congresswoman from San Diego and now Gov. Gray Davis' chief of staff, is the honoree from the School of Law. **Ruth Grendell**, who has led yearly expeditions to provide immunizations in Africa, South America and China, is the honoree from the Hahn School of Nursing and Health Science. **Judy Rauner**, from the School of Education, will be honored for her work in organizing thousands of USD students to volunteer as tutors and mentors in the community. The honorees from the School of Business are brothers **Andres and David Garza Hererra**, whose family business, Xignux, has grown into one of Mexico's leading industrial conglomerates.

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For more information, call (619) 260-4819 or visit online at <http://alumni.sandiego.edu/hughesawards>.



“A university is measured by what its graduates become...”

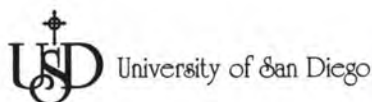
— DR. ALICE B. HAYES, USD PRESIDENT

The USD Alumni Association Presents

THE AUTHOR E. HUGHES CAREER ACHIEVEMENT AWARDS

6:30 P.M., SATURDAY, MAY 11
MANCHESTER GRAND HYATT, SAN DIEGO
For Information, Call (619) 260-4819
<http://alumni.sandiego.edu/hughesawards>

The Author E. Hughes Career Achievement Awards honor University of San Diego alumni who have attained outstanding success or achievement in their career fields. The awards are named in honor of Dr. Author E. Hughes, who served as president of the university from 1971 to 1995.



PRESENTING SPONSOR *Donald and Darlene Shiley*

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CIRCLE OF SCHOLARS

The Tsakopoulos Family



WILLIAM D. GORE '69

College of Arts and Sciences

William Gore is the special agent in charge of the Federal Bureau of Investigation's field office for San Diego and Imperial counties. After the terrorist attacks of September 11th, Gore led the effort to unearth information about terrorist connections to San Diego and to identify potential security threats in the region.

ANDRES GARZA HERRERA '94 AND DAVID GARZA HERRERA '97

School of Business Administration

Andres Garza Herrera and David Garza Herrera own Xignux, a Mexican company with more than 24,000 employees in 40 countries. The company produces auto parts, lighting, chemicals, food, cable, foundry and electrical goods.

DR. JUDITH RAUNER '95

School of Education

During her 16 years as USD's director of community service-learning, Judith Rauner helped thousands of student volunteers make San Diego a better place to live through their involvement with a variety of organizations, including the Linda Vista Teen Center and Head Start.

THE HONORABLE LYNN SCHENK '70

School of Law

A former member of the House of Representatives and currently chief of staff and senior policy advisor to Governor Gray Davis, Lynn Schenk has worked throughout her political career to advance women's rights, transportation improvements and environmental issues.

DR. RUTH GRENDALL '81, '91

Hahn School of Nursing and Health Science

A nursing professor, Ruth Grendell has led more than 23 missionary trips to provide medical care and supplies to people in South Africa, Costa Rica, the Philippines, India, Romania, Swaziland, Uganda, Peru, China and Tibet.

Commencement

At 66, he's embarking on a new career as a lawyer

Graduate among 420 receiving law degrees from USD

By Sherry Parmet
STAFF WRITER

Watson Branch had a career as a newspaper reporter, legislative aide, author and English literature professor before many of his fellow law school graduates were born.

Many of his peers were former students.

Branch, 66, received his law degree yesterday from the University of San Diego alongside younger classmates and prepared to embark on a new career.

"It's been fun here," said Branch. "They haven't made me feel like some old codger, and I'm sorry it's going to be all over."

USD sent 420 law school graduates into clerkships, private practice and full-time job searches yesterday. Parents and friends filled the Jenny Craig Pavilion to recognize the class of 2002.

Dean Daniel Rodriguez thanked the students for a relatively scandal-free three years. The closest thing to a protest was the outpouring of student

concern when Rodriguez decided to close the law building from midnight to 6 a.m.

"While this suggests that you might be the most nerdy class in the history of USD, it also suggests that you are the nicest as well," he said.

Valedictorian Katherine Parker reminisced about tough classes and exams, and the lack of parking.

"Good luck on that little quiz at the end of July," she said, referring to the state bar exam.

Many students expressed excitement about their upcoming careers. Branch plans to do pro bono work, possibly for the San Diego office of the American Civil Liberties Union, where he interned.

Branch first worked as a reporter for the *Truth*, a daily newspaper in Elkhart, Ind. Then he became chief of staff to former U.S. Rep. John Brademas, D-Ind.

He taught English at the University of California Santa Barbara and worked as a Fulbright professor at Upsala University in Sweden.

He authored "Melville: The Critical Heritage" before moving to San Diego in 1985, where he spent two years as a stay-at-home father.

For 12 years, Branch worked at The Bishop's School in La

Jolla and became chairman of the English department before turning to law.

Many of his former students began law school at USD before he did. In the hallways, they continued to refer to him respectfully as Dr. Branch.

He always taught his students to focus on knowledge rather than grades, so not once at USD did he peek at his own report cards.

"Of course, for most of the students here if they don't get really good grades they don't get good jobs," he said. "For me doing pro bono work it doesn't really matter. People will always hire you to work for free."

During his first year, he played on the law school's intramural basketball team.

At the graduation ceremony his wife presented him his diploma. Eren Branch is an English professor at USD.

The Roman Catholic university will conclude its graduation ceremonies today, awarding 1,556 diplomas to students in the College of Arts and Sciences, School of Business Administration, School of Education, Hahn School of Nursing and Health Science and Diversified Liberal Arts.

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NEVER TOO LATE



Watson Branch, 66, was hugged by his wife, Eren Branch, after she awarded him his diploma from the School of Law at the University of San Diego yesterday. *K.C. Alfred / Union-Tribune*

STORY ON B2



Watson Branch, who graduated from the School of Law at the University of San Diego yesterday, plans to do pro bono work, possibly for the San Diego office of the American Civil Liberties Union, where he interned. *K.C. Alfred / Union-Tribune*

Market

Lessons

New grads take their
 knocks with other job
 seekers in tough economy

By Michael Kinsman
 STAFF WRITER

4159050

The future looked much brighter to Mesa College student Steve Smith last fall.

He had an internship working on a made-for-TV movie that was about to complete filming, he had straight A's in his multimedia classes and he counted on landing a good job as soon as he finished his degree.

Yet, like others graduating from college this year, Smith is learning about the unpredictability of the job market. He has not received a single nibble in his job search, nor is he optimistic he will soon.

"I'm now thinking I might leave the area to get a job," Smith said. "The people I know here with multimedia degrees are working as night security guards."

Hot sectors

According to college career services directors and the California Employment Development Department, the following industries have high demand for skilled workers in San Diego County:

- Health care
- Biotechnology
- Communications
- Security
- Defense
- Software
- Information technology
- Accounting
- Financial services
- Government
- Education

The economic turbulence that is driving unemployment up and putting all job seekers on edge is no different for college graduates this spring than it is for older workers with lots of experience. On-campus recruiters are expected to hire 36 percent fewer graduates than they did last year, according to the National Association of Colleges and Employers.

"After having such a robust job market for so long, this year is a dramatic departure," said Neil Murray, director of career services at University of California San Diego. "Things are very, very different now."

UCSD saw the number of college recruiters visiting campus drop by nearly one-half this year, with fewer jobs to offer the university's 5,000 graduates.

"This particular down-spin has been across the board, except for teaching jobs at the secondary level," Murray said. "Everyone is affected by it."

While graduates with expertise in traditional areas such as accounting or finance are still in demand, the sputtering economy and a reluctance by employers to hire permanent employees have made it tougher to land jobs.

John DeWitt, an outplacement counselor with Lee Hecht Harrison in San Diego, draws a clear connection

SEE Outlook, H6

► OUTLOOK

CONTINUED FROM PAGE H1

Employers are being very picky about applicants

tion between the frustrations of experienced job seekers and college graduates.

"What young college graduates are facing is exactly the same as the experienced worker is facing," he said. "We're hearing from headhunters that they have never seen employers being as picky as they are today. They want every exact requirement, degree or certification to be there before they hire someone."

Compounding the problem for college graduates, he said, is a recent trend by experienced workers to take jobs that pay less or carry less prestigious job titles.

"There is downward pressure that is filling job slots," DeWitt said. "When it reaches the bottom, it means experienced workers are taking jobs that might otherwise go to college graduates."

Demand is down

A survey released last week by Manpower Inc., the nation's largest staffing company, found that 26 percent of employers in San Diego County plan to add jobs between July and September this year, down from 48 percent a year ago.

Unemployment nationwide

is at an eight-year high, and most employers seem to want more of a guarantee that the economy is recovering before they add to their payrolls. The high-tech slump has spread to other industries and, while San Diego's technology sector has shown some signs of weakening, regions such as Silicon Valley are reeling. Unemployment there has jumped from 2.7 percent in April 2001 to 7.4 percent in April of this year.

"We're fortunate in San Diego that we have a more diversified economy," said Cheryl Mason, a labor market analyst for the state Employment Development Department. "We still have some industries that are doing fairly well: health care, biotech, communications — particularly businesses involved in homeland security and defense — and the software and information technology industries."

At least one college official thinks recent graduates may hold an advantage in the job-search realm.

"When the market declines, new college graduates usually have better luck finding jobs first," said Judy Gumbiner, career services director at San Diego State University. "Some employers will lay off mid-level employees so they can hire fresh, young talent that is more cost-effective."

Linda Scales, career services director at the University of San Diego, says that while on-campus recruiting has declined, jobs are still available. The county's unemployment rate of

"When the market declines, new college graduates usually have better luck finding jobs first. Some employers will lay off mid-level employees so they can hire fresh, young talent that is more cost-effective."

Judy Gumbiner, career services director, San Diego State University

3.8 percent in April is fourth lowest in the state and is well below the national jobless rate of 6 percent and the California jobless rate of 6.4 percent.

"San Diego doesn't have a lot of large employers, so students are learning to use the Internet and networking to find jobs in smaller companies," she said. "They are finding that jobs don't just fall into their laps."

Flexibility pays

USD student Tricia Wynn is one of those who adjusted her career plans based on the cli-

mate of the job market. The 22-year-old business administration major, who graduates later this month, wanted to go into marketing, one of her fields of study.

"I found out that marketing jobs are very, very hard to get, and those entry-level jobs don't pay that much," Wynn said. "I decided that I would have a better chance in procurement."

Wynn researched the procurement industry last year and targeted Raytheon as the company she wanted to work for. Eight months ago, she shipped resumes off to two people at the company, but when she got no response, she found a job fair Raytheon was to attend. She carefully prepared herself and landed an interview — and eventually a job — with Raytheon in the Los Angeles area.

"A lot of people are having trouble because they haven't been realistic," Wynn said. "Students need to realize that they've got to get their foot into their career right now, whether it is their perfect job or not."

John Challenger, chief executive of the Chicago-based outplacement firm Challenger, Gray & Christmas, agrees that the slumping market means college graduates need to revise their career strategies.

Even though they may want to hold out for a job in their chosen career field, they may be making a mistake if they wait too long, he said.

"Graduates will simply have to work harder to find jobs," Challenger said. "They will likely have to consider jobs that

they may never have dreamed of applying for — jobs that are entirely unrelated to their career aspirations.

"What college seniors must realize is that the first job is inconsequential to long-term career goals. The primary objective, at this point, is to get any job that will provide experience on which to begin building a solid resume."

Setting goals

For some, the troubled economy hasn't been much of a stumbling block.

Rudy Moujaes, who will graduate this spring from USD, knew early on that he'd have to work to land the job he wanted.

"I had heard all these stories that three or four years ago you would just fall into a job, but I never really believed that would happen," he said.

Moujaes landed internships while in college with Warner Brothers, MP3.com and Morgan Stanley as he prepared for his future.

"I could have done a waiter job and made more money, but at this point in time I wanted to figure out where I wanted my career to go," he said. "I think it was the best decision I ever made."

The business administration major set a goal of working for Warner Brothers in Burbank, primarily because he enjoyed the entertainment industry and the perks of the movie business.

"I wanted to go back to Warner Brothers after I completed my internship," he said.

"I kept up with people who worked there and eventually got a job that starts Aug. 1."

Smith, the 33-year-old multimedia student at Mesa College, is particularly frustrated by his job prospects because he gave up a career as a machinist to move into film editing.

"Every employer wants experience and most of them want to see some leadership, such as time as a project manager," he said. "How am I supposed to get that if I can't even get an entry-level job?"

Last fall, Smith figured he was well on his way to a career in film editing. He did an internship in the production of a TV movie that was aborted only weeks from the completion of filming after the Sept. 11 terrorist attacks.

"We had a distributor and everything, but the distributor backed out after 9/11," he said. "Unfortunately, the villains in our movie were terrorists. The project was suspended."

Scales, USD's career services director, said the poor job market might hold valuable lessons for recent graduates.

"It's sort of their first dose of reality about the job market," she said. "Many of them have just been concentrating on getting educations for four years, but now they are finding out that the job market is very competitive and that they'll have to figure out a way to get what they want. That's not necessarily a bad lesson."

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Father Hesburgh to Address USD Graduates

Father Theodore M. Hesburgh, president emeritus of the University of Notre Dame, will deliver the principal address and receive an honorary degree – his 150th – from the University of San Diego during its commencement May 26. Father Hesburgh, who will turn 85 the day before the ceremony, holds the highest number of honorary degrees ever bestowed on one person, according to the *Guinness Book of World Records*. Father Hesburgh served as Notre Dame's president from 1953-87, directing the University's rise to national prominence.

Diane Bell

County's still bedeviled by communications



Our county government's communications system has been dogged by problems even though a consortium of high-tech firms was awarded a seven-year, \$644 million contract in

1999 to create a state-of-the-art system. Earlier this year the county withheld a \$44 million payment and accused the firms of defaulting on the contract. But as talks to resolve issues continue, so do communications snafus. The county's entire Web site, which publishes the Board of Supervisors' meeting agenda, was down in the days before this week's meeting. One issue on the closed-session agenda: the contract status report.

Screen and stage

Sheeee's back! Kelly Goldsmith, who became an instant celebrity on TV's "Survivor 3," joined her La Jolla Country Day

SEE **Diane Bell, B4**

► **DIANE BELL**

CONTINUED FROM PAGE B1

ed from high school on his 16th birthday.

Troops delighted with Girl Scout cookie-lift

alumni on stage in a musical salute Thursday to their former music teacher, Keith Heldman, who is retiring. Goldsmith sang a medley from "Guys and Dolls" with fellow 1997 cast members . . . It was San Diego Opera's final performance of "The Flying Dutchman" when, shortly into the second act, lights in the orchestra pit went out, bringing the music to a halt. Smoke drifted up from the pit, and musicians began evacuating. The show was recessed, the electrical glitch was repaired and about 15 minutes later the second act began again. But it left some cast members wondering if maybe the Dutchman's ghost really was on the prowl that night!

Diploma time

At USD, a 62-year-old university employee is getting a degree tomorrow that was 23 years in the making. Kay Norton has been sandwiching in classes on and off since 1979. One of her most recent was "History of the '60s." "The professor and I," says Norton, "were the only ones who'd actually lived through it." . . . Last weekend, SDSU graduated its largest class ever. In fact, it was the largest class in the history of the Cal State University system — 9,165 students. The oldest grad was George Berg, 70, a retired nuclear and aerospace researcher, who got a master's degree in rehabilitation counseling. The youngest was Jeremiah Shultz, 19, earning a B.A. in accounting. He had graduat-



BACHELOR'S DEGREES awarded to Hispanics

RANK	INSTITUTION NAME	State	All Bachelor's	TOTAL	Males	Females
51	NORTHERN ARIZONA UNIVERSITY	Arizona	2,969	329	109	220
52	UNIVERSITY OF CALIFORNIA-SAN DIEGO	California	3,530	319	150	169
53	FLORIDA ATLANTIC UNIVERSITY-BOCA RATON	Florida	3,194	317	103	214
54	CUNY-CITY COLLEGE	New York	1,039	317	123	194
55	ST MARY'S UNIVERSITY	Texas	513	315	118	197
56	UNIVERSITY OF CALIFORNIA-SANTA CRUZ	California	2,393	314	120	194
57	OUR LADY OF THE LAKE UNIVERSITY-SAN ANTONIO	Texas	429	285	59	226
58	UNIVERSITY OF HOUSTON-DOWNTOWN	Texas	1,155	279	118	161
59	UNIVERSITY OF THE INCARNATE WORD	Texas	554	272	74	198
60	ST JOHN'S UNIVERSITY-NEW YORK	New York	2,180	270	110	160
61	CALIFORNIA STATE UNIVERSITY-STANISLAUS	California	1,210	268	86	182
62	CUNY-QUEENS COLLEGE	New York	2,058	264	60	204
63	THE UNIVERSITY OF TEXAS AT ARLINGTON	Texas	2,863	256	102	154
64	CALIFORNIA STATE UNIVERSITY-HAYWARD	California	2,277	252	76	176
65	DEPAUL UNIVERSITY	Illinois	2,115	251	89	162
66	UNIVERSITY OF NORTH TEXAS	Texas	3,406	246	115	131
67	NEW YORK UNIVERSITY	New York	3,972	244	88	156
68	UNIVERSITY OF MARYLAND-COLLEGE PARK	Maryland	4,971	242	103	139
69	UNIVERSITY OF ILLINOIS AT URBANA-CHAMPAIGN	Illinois	6,370	241	109	132
70	NATIONAL UNIVERSITY	California	1,352	240	84	156
71	MONTCLAIR STATE UNIVERSITY	New Jersey	1,747	234	80	154
72	CALIFORNIA STATE UNIVERSITY-BAKERSFIELD	California	959	228	60	168
73	METROPOLITAN STATE COLLEGE OF DENVER	Colorado	2,172	226	94	132
74	KEAN UNIVERSITY	New Jersey	1,621	220	74	146
75	BOSTON UNIVERSITY	Massachusetts	3,773	215	77	138
76	LOYOLA MARYMOUNT UNIVERSITY	California	991	214	74	140
77	PARK UNIVERSITY	Missouri	1,908	213	102	111
78	NOVA SOUTHEASTERN UNIVERSITY	Florida	950	212	53	159
79	UNIVERSITY OF MICHIGAN-ANN ARBOR	Michigan	5,603	211	106	105
80	NORTHEASTERN ILLINOIS UNIVERSITY	Illinois	1,039	210	54	156
81	UNIVERSITY OF WASHINGTON-SEATTLE CAMPUS	Washington	6,148	210	98	112
82	UNIVERSITY OF COLORADO AT BOULDER	Colorado	4,734	209	104	105
83	NEW JERSEY CITY UNIVERSITY	New Jersey	901	206	70	136
84	UNIVERSITY OF PHOENIX-ALBUQUERQUE NM CAMPUS	New Mexico	441	206	83	123
85	CALIFORNIA STATE UNIVERSITY-CHICO	California	2,401	204	85	119
86	PENNSYLVANIA STATE UNIVERSITY-MAIN CAMPUS	Pennsylvania	8,981	202	85	117
87	SUL ROSS STATE UNIVERSITY	Texas	365	202	73	129
88	UNIVERSITY OF NEVADA-LAS VEGAS	Nevada	2,594	196	88	108
89	GEORGE MASON UNIVERSITY	Virginia	2,792	189	81	108
90	UNIVERSITY OF MASSACHUSETTS-AMHERST	Massachusetts	4,038	180	81	99
91	UNIVERSITY OF SAN DIEGO	California	1,079	178	52	126
92	STANFORD UNIVERSITY	California	1,737	173	88	85
93	BAYLOR UNIVERSITY	Texas	2,315	172	67	105
94	WAYLAND BAPTIST UNIVERSITY	Texas	1,545	172	103	69
95	RUTGERS UNIVERSITY-NEWARK	New Jersey	995	168	49	119
96	NEW MEXICO HIGHLANDS UNIVERSITY	New Mexico	226	168	23	145
97	COLORADO STATE UNIVERSITY	Colorado	3,621	167	81	86
98	SAM HOUSTON STATE UNIVERSITY	Texas	2,058	165	74	91
99	FORDHAM UNIVERSITY	New York	1,172	164	57	107
100	NORTHERN ILLINOIS UNIVERSITY	Illinois	3,277	155	69	86

**HISPANIC
Outlook
TOP
100**

University of Phoenix was ranked No. 68 in 2001 list and is now No. 41. This is a 69.7% increase in graduating Hispanics.

University of Northern Arizona moved from No. 66 in 2001 list to No. 51 now with a 40% increase.

DePaul University moved from No. 86 to No. 65 with 37.4% increase.

National University moved from No. 87 to No. 70 with 36.4% increase.

Montclair State University from No. 90 to No. 71 with 36% increase.

MASTER'S DEGREES awarded to Hispanics

RANK	INSTITUTION NAME	State	All Master's	TOTAL	Males	Females
51	UNIVERSITY OF MICHIGAN-ANN ARBOR	Michigan	2,783	89	45	44
52	CALIFORNIA STATE UNIVERSITY-FULLERTON	California	889	86	21	65
53	NEW MEXICO HIGHLANDS UNIVERSITY	New Mexico	149	86	18	68
54	SAN FRANCISCO STATE UNIVERSITY	California	1,187	85	27	58
55	CALIFORNIA STATE UNIVERSITY-SACRAMENTO	California	910	77	23	54
56	UNIVERSITY OF ILLINOIS AT CHICAGO	Illinois	1,587	77	21	56
57	ST. JOHN'S UNIVERSITY-NEW YORK	New York	863	77	22	55
58	TEACHERS COLLEGE AT COLUMBIA UNIVERSITY	New York	1,401	77	21	56
59	UNIVERSITY OF ARIZONA	Arizona	1,254	76	29	47
60	CUNY-QUEENS COLLEGE	New York	1,040	76	18	58
61	MERCY COLLEGE-BRONX BRANCH CAMPUS	New York	251	73	15	58
62	DEPAUL UNIVERSITY	Illinois	1,964	71	28	43
63	JOHNS HOPKINS UNIVERSITY	Maryland	2,774	71	34	37
64	GEORGE MASON UNIVERSITY	Virginia	1,915	71	26	45
65	UNIVERSITY OF CENTRAL FLORIDA	Florida	1,280	69	33	36
66	SAINT THOMAS UNIVERSITY	Florida	197	69	25	44
67	GEORGE WASHINGTON UNIVERSITY	DC	2,729	68	30	38
68	FLORIDA STATE UNIVERSITY	Florida	1,400	67	23	44
69	UNIVERSITY OF SAN DIEGO	California	592	65	22	43
70	BOSTON UNIVERSITY	Massachusetts	3,063	65	24	41
71	NATIONAL-LOUIS UNIVERSITY	Illinois	1,808	64	13	51
72	GOLDEN GATE UNIVERSITY-SAN FRANCISCO	California	1,303	63	32	31
73	LOYOLA MARYMOUNT UNIVERSITY	California	389	63	22	41
74	UNIVERSITY OF THE INCARNATE WORD	Texas	218	63	18	45
75	TEXAS A&M UNIVERSITY	Texas	1,388	63	34	29
76	UNIVERSITY OF COLORADO AT DENVER	Colorado	1,517	61	26	35
77	RUTGERS UNIVERSITY-NEW BRUNSWICK	New Jersey	1,403	60	19	41
78	ST. MARY'S UNIVERSITY	Texas	192	60	24	36
79	CHAPMAN UNIVERSITY-ACADEMIC CENTERS	California	821	59	14	45
80	UNIVERSITY OF PENNSYLVANIA	Pennsylvania	2,252	58	32	26
81	ADELPHI UNIVERSITY	New York	1,050	56	12	44
82	UNIVERSITY OF CHICAGO	Illinois	2,126	55	26	29
83	DUKE UNIVERSITY	North Carolina	1,088	55	40	15
84	CENTRAL MICHIGAN UNIVERSITY	Michigan	2,542	54	36	18
85	UNIVERSITY OF ST. THOMAS	Texas	284	54	22	32
86	UNIVERSITY OF WASHINGTON-SEATTLE CAMPUS	Washington	2,021	54	26	28
87	UNIVERSITY OF ILLINOIS AT URBANA-CHAMPAIGN	Illinois	2,281	53	35	18
88	UNIVERSITY OF WISCONSIN-MADISON	Wisconsin	1,744	52	19	33
89	LESLEY UNIVERSITY	Massachusetts	2,304	51	5	46
90	HERITAGE COLLEGE	Washington	307	51	20	31
91	AMERICAN UNIVERSITY	DC	1,310	49	18	31
92	CUNY-BROOKLYN COLLEGE	New York	741	49	6	43
93	LOMA LINDA UNIVERSITY	California	439	48	15	33
94	TEXAS TECH UNIVERSITY	Texas	835	48	22	26
95	CALIFORNIA STATE UNIVERSITY-HAYWARD	California	901	47	18	29
96	CLAREMONT GRADUATE UNIVERSITY	California	406	47	13	34
97	UNIVERSITY OF REDLANDS	California	378	47	29	18
98	EMBRY RIDDLE AERONAUTICAL UNIVERSITY	Florida	1,003	47	41	6
99	UNIVERSITY OF NORTH TEXAS	Texas	1,128	47	16	31
100	UNIVERSITY OF DENVER	Colorado	1,291	46	18	28

HISPANIC OUTLOOK TOP 100



University of South Florida



St. John's University



University of The Incarnate Word

DOCTORAL DEGREES awarded to Hispanics

RANK	INSTITUTION NAME	State	All Doctor's	TOTAL	Males	Females
51	MASSACHUSETTS INSTITUTE OF TECHNOLOGY	Massachusetts	475	8	7	1
52	MICHIGAN STATE UNIVERSITY	Michigan	444	8	4	4
53	COLUMBIA UNIVERSITY IN THE CITY OF NEW YORK	New York	461	8	1	7
54	UNIVERSITY OF PENNSYLVANIA	Pennsylvania	427	8	4	4
55	UNIVERSITY OF CALIFORNIA-SANTA CRUZ	California	90	7	5	2
56	PACIFIC GRADUATE SCHOOL OF PSYCHOLOGY	California	37	7	2	5
57	UNIVERSITY OF GEORGIA	Georgia	352	7	4	3
58	INDIANA UNIVERSITY-BLOOMINGTON	Indiana	409	7	5	2
59	UNIVERSITY OF IOWA	Iowa	317	7	4	3
60	SUNY AT STONY BROOK	New York	244	7	4	3
61	TEACHERS COLLEGE AT COLUMBIA UNIVERSITY	New York	176	7	2	5
62	UNIVERSITY OF SAN FRANCISCO	California	75	6	1	5
63	COLORADO STATE UNIVERSITY	Colorado	180	6	3	3
64	YALE UNIVERSITY	Connecticut	334	6	2	4
65	YESHIVA UNIVERSITY	New York	126	6	1	5
66	TEMPLE UNIVERSITY	Pennsylvania	263	6	2	4
67	RICE UNIVERSITY	Texas	115	6	1	5
68	TEXAS A&M UNIVERSITY-KINGSVILLE	Texas	10	6	3	3
69	NORTHERN ARIZONA UNIVERSITY	Arizona	52	5	3	2
70	THE FIELDING INSTITUTE	California	123	5	2	3
71	UNIVERSITY OF LA VERNE	California	67	5	2	3
72	SAN DIEGO STATE UNIVERSITY	California	32	5	2	3
73	THE WRIGHT INSTITUTE	California	37	5	2	3
74	FORDHAM UNIVERSITY	New York	96	5	1	4
75	SUNY AT BINGHAMTON	New York	100	5	4	1
76	THE UNION INSTITUTE	Ohio	192	5	1	4
77	UNIVERSITY OF OREGON	Oregon	138	5	3	2
78	THE UNIVERSITY OF TEXAS SOUTHWEST MED CTR-DALLAS	Texas	55	5	3	2
79	THE UNIVERSITY OF TEXAS AT EL PASO	Texas	20	5	4	1
80	TEXAS TECH UNIVERSITY	Texas	141	5	2	3
81	THE UNIVERSITY OF TEXAS HEALTH SCIENCE CENTER	Texas	87	5	2	3
82	UNIVERSITY OF UTAH	Utah	215	5	3	2
83	PURDUE UNIVERSITY-MAIN CAMPUS	Indiana	468	5	3	2
84	FULLER THEOLOGICAL SEMINARY IN CALIFORNIA	California	182	4	1	3
85	UNIVERSITY OF SAN DIEGO	California	33	4	0	4
86	WALDEN UNIVERSITY	Minnesota	98	4	1	3
87	UNIVERSITY OF DENVER	Colorado	114	4	2	2
88	EMORY UNIVERSITY	Georgia	160	4	1	3
89	GEORGIA INSTITUTE OF TECHNOLOGY-MAIN CAMPUS	Georgia	230	4	2	2
90	ILLINOIS SCHOOL OF PROFESSIONAL PSYCH-CHICAGO	Illinois	90	4	1	3
91	UNIVERSITY OF NOTRE DAME	Indiana	147	4	4	0
92	UNIVERSITY OF KANSAS MAIN CAMPUS	Kansas	246	4	2	2
93	TULANE UNIVERSITY OF LOUISIANA	Louisiana	126	4	3	1
94	MASSACHUSETTS SCHOOL OF PROFESSIONAL PSYCH.	Massachusetts	33	4	1	3
95	WAYNE STATE UNIVERSITY	Michigan	222	4	1	3
96	UNIVERSITY OF NEBRASKA AT LINCOLN	Nebraska	251	4	3	1
97	ADELPHI UNIVERSITY	New York	45	4	2	2
98	SUNY AT BUFFALO	New York	303	4	1	3
99	SYRACUSE UNIVERSITY	New York	147	4	1	3
100	UNIVERSITY OF OKLAHOMA NORMAN CAMPUS	Oklahoma	167	4	2	2

HISPANIC OUTLOOK TOP 100



*Of the 517
institutions offering
a doctoral degree
in '97-98, 231 were
public and 286
were private. The
same year, 1,910
institutions offered
a bachelor's and
1,416 a master's.*



UNIVERSITY OF SAN DIEGO

SALUTES



THE CLASS OF 2002



At USD, we are infinitely proud of our graduates, knowing they leave our campus fully prepared to excel in their professional and personal endeavors.

Our students must meet a rigorous academic challenge. They also are encouraged to enrich their lives with lessons of ethics, values and community service.

USD graduates are ready to make a difference in all they do. We wish each of them a bright, successful and fulfilling future.

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



University of San Diego

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College of Arts and Sciences

San Diego Home/Garden
May 2002

Ce Sera la Dernière, Petit Père
(*This Will Be the Last Time,*
Father!) by George Rouault at
USD's Fine Art Galleries



SAN DIEGO READER

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Calendar
CLASSICAL MUSIC

No Strings Attached

Even ardent fans of the Baroque know little about this particular aspect of music history.

USD's invaluable Festival of Early Music continued with a truly unusual program featuring a German wind group called Les Hoboïstes de Prusse. The concert was largely of historical interest and might have been a rather arid affair. But the historical context of the music was explained in

such lively detail in the excellent program booklet (in essays by the Festival's organizer, Marianne Pfau, and by the visiting musicians) that the educational value alone would have been enough to satisfy the numerous early-music aficionados in attendance. To this was added the brilliance of the musicians, whose first-rate performances on period instruments were impressive. (The most prominent among them — the group's leader, Georg Corall — is as fluent and expressive an exponent of the Baroque oboe as I have heard.)

The subject of the instructive musical experience was the German wind band of the 18th Century. Even ardent fans of the Baroque know little about this particular aspect of music history; I myself had never heard any of the individual pieces before, or anything from the (apparently quite extensive) repertoire. The story seems to begin in the 17th Century with French military bands consisting of three or four oboes and a bassoon or two. Such a band would play for parades, processions, and public ceremonies, at first purely military but then civic as well. The tradition migrated to Germany; the band was expanded by the use of horns and occasionally a trumpet; and its functions expanded as well, to include entertainment as well as ceremonial occasions. By the mid-18th Century, clarinets were sometimes added — and eventually, in Germany and especially in Austria, the wind band developed into the refined *Harmonie* of two oboes, two clarinets, two bassoons, and two horns, which Mozart made such magnificent use of in many of his wind serenades and *divertimenti*.

The program of Les Hoboïstes, however, did not extend so late or so high. It focused on the popular band music of the first half of the century — and much of this music, it must be said, was routine hackwork, not lacking in compositional skill, and suitably written for the

instruments, but utterly without originality or imagination. Most of the works performed in the Founders Chapel concert were anonymous, taken from the private music library of Friedrich Otto von Wittenhorst-Sonsfeld (an 18th-century Prussian general) at Schloss Herdringen.

The undistinguished authors of these Overtures, Concertos, and Symphonias were either minor French composers of the period

or German imitators of the French style. Rarely — well, never — did any movement call attention to itself with an especially fetching tune, an interesting treatment of the banal musical materials, or even a noticeably inventive use of the instruments. Furthermore, since the members of the such 18th-century bands were obviously fairly limited in their abilities, and since the music was clearly meant to be played in the background (where no listener would pay close attention to it), there were no instances of the breathtaking instrumental virtuosity that characterizes Baroque music at loftier levels. (In the two trumpet concertos on the program, for example, the instrumentalist did a sturdy job with this extremely difficult instrument, but there was nothing in the music to tax the performer's powers the way the trumpet compositions of Vivaldi, Torelli, or J.S. Bach do.)

On the other hand, this music was itself the background to the more lasting creative achievements of Baroque music, speaking (in its drab accents) the common language that the great composers of the period raised to such heights of eloquence; and the cacophony of the early oboes and bassoons and the natural horns and trumpet gave the listener a vivid sense of what wind music really sounded like 300 years ago. All these instruments inevitably played off pitch in certain parts of their range and certain keys. A group of diverse winds playing together produced a pungent chaos of dissonance, at a far remove from the sleek harmoniousness of a modern orchestral wind section. One would not like to listen to this sound for a prolonged period, but a couple of hours of it can be delightful, as it was at USD. And it is sobering to be reminded that this was the sound early 18th-century audiences would

REVIEW

JONATHAN SAVILLE

have heard when listening not only to humdrum pieces from the *Sonsfeld'sche Musikaliensammlung* but also to wind instruments playing Handel or Telemann.

There was, in fact, a work by Telemann on the program, a little Concerto in D — not by any means one of his more memorable works, but (as one would expect from this master composer) well-crafted, and attractive for its nonstandard orchestration, in which the oboes are replaced by the veiled and somber sounds of the *oboe d'amore* (the other instruments being horns and bassoons in pairs). The playing was — as always with this group — admirable. It was only in the second half of the concert, however, when the musicians came to a five-movement Suite in G Minor by the otherwise unidentified “Monsieur Barre” (probably one of the numerous musician members of the well-known La Barre family), that the quality of the music assumed some of the stature that the music-making had exhibited all evening.

Whoever Monsieur Barre may have been, he was evidently a Frenchman of a considerable degree of musical culture, not a provincial *routinier* churning out workmanlike pieces for a German street band (in her notes, Marianne Pfau helpfully suggests that the closest modern equivalent of these 18th-century wind ensembles would be the Mariachi band). Monsieur Barre was writing for sophisticated musicians who would have been capable of playing anything he set before them. Instead of seeking loud, colorful sounds that would be audible in a noisy open-air environment, he confined himself to a small, unified, beautifully blended combination of familiarly related instruments: two treble oboes, a *taille de hautbois* (a large tenor oboe), and a bassoon — precisely the distribution which, in the equivalent bowed instruments, would make up the string quartet of later in the century. With this group, the composer made the most of the luxurious embellishments of the French style, the clever rhythmic play, the subtleties of expression, the range of affects, and the elegant refinement of dance meters and structures. Monsieur Barre had no doubt studied with care the *concerts* of François Couperin and had mastered that great composer's



ILLUSTRATION BY CHARLES POWELL

Oboist

**Les Hoboïstes de Prusse
Founders Chapel, University of San Diego**

Music for oboe bands from the first half of the 18th Century

techniques. He also had significant abilities of his own — among them the talent for inventing a really striking melody (a talent in short supply among most of the other composers on this program).

It was surely the outstanding quality of the Barre Suite, as well as the fact that it must have been written for an interior space rather than for street performance, that induced the fine musicians of Les Hoboïstes de Prusse to change their mode of presentation for this one piece. For everything else, they stood on the raised platform of the chapel's sanctuary, as their predecessors might have done in front of some German *Rathaus*. But for their single illustration of refined 18th-century wind music, they descended the stairs and took seats at the head of the aisle, as though they were performing in a princely salon and as though the audience, in their stiff-backed pews in Founders Chapel, were actually nobles and opulent burghers ensconced in comfortable rococo chairs and enjoying the aristocratic style to which they considered themselves entitled. ■

SAN DIEGO UNION-TRIBUNE

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**Pedophilia must be
condemned unconditionally**

u154
Re: "Postmodernism and pedophilia" (Opinion, April 26):

University of San Diego sociology professor Anne Hendershott wrote, "The American Psychological Association published a study in the psychological bulletin which concluded that child sexual abuse does not cause harm — and recommended that pedophilia should instead be given a "value neutral" term like adult-child sex." No other explanation or clarification was offered about this assertion.

Regarding the study in question, in July 1998, it was published in one of the 37 journals published by the APA. The study combined the results of 59 previous studies to examine the long-term impact of child sexual abuse. Using a broad definition of sexual abuse that included incidents ranging from witnessing indecent exposure to experiencing repeated rape, the authors found sexual abuse to be not as harmful as generally believed. The article led to considerable controversy about both the journal review process and understanding APA's position regarding child abuse.

What is the position of the APA regarding sexual abuse? It strongly endorses the position that sexual abuse of children is a criminal act that is reprehensible in any context. Psychologists devote considerable time to protecting and helping children from being victimized by all forms of abuse, and the APA always has condemned the sexual abuse of children.

While there is doubtless a continuum of harmfulness depending upon the nature, intensity and duration of abuse, there is no way to be certain that even the mildest forms of non-contact sexual encounter might not cause serious damage to a vulnerable child.

As reported in Hendershott's article, readers likely would conclude the APA did not believe child sexual abuse to be harmful to children. The APA is comprised of 159,000 members and affiliates and repeatedly has reaffirmed its long-held position that child sexual abuse is never trivial, never justifiable

and always wrong.

It totally rejects the contention that child sexual abuse is not particularly harmful, and supports to the fullest extent the criminalization and punishment of such behavior.

STEVEN N. SPARTA
Chair, Ethics Committee
American Psychological Association
Former chief psychologist
Children's Hospital, San Diego

Climbers

41-54-Sub. V. of Sen. Diego
By Jennifer Yachnin

Jumping Jack. Jack Belcher is the new staff director of the House Resources subcommittee on energy and mineral resources.

He fills the shoes of **Bill Condit**, who moves to New Mexico for a consulting post in the private sector.

Most recently, Belcher, 36, worked for the D.C.-based energy consulting firm Hart Downstream Energy Services as deputy director of energy and refining policy. He has also served as deputy director for renewables and special energy systems at the firm.

Before moving to the consulting group, Belcher worked for Hart Publications as editorial director and Washington director.

Belcher's work experience also includes a stint at the Independent Petroleum Association of America in communications and government relations. The Houston native has worked for Texaco Exploration and Producing and the Republican National Committee.

A 1990 graduate of the University of Texas at Austin, Belcher has a degree in political science.

Condit, 54, had served as the subcommittee's staff director since 1997 after spending two years as a professional staff member.

He came to Capitol Hill in 1989 after working as a minerals examiner for the state of Virginia and a geologist for the Bureau of Land Management.

Condit served as a staff consultant to the then-House Interior and Insular Affairs Committee until 1991. He then served as a minority consultant for the subcommittee on mining and natural resources.

He earned his bachelor's degree from the University of Delaware in 1973 and went on to receive his master's in 1977 from Dartmouth College.

Keystone Staff. **Scott Boos** and **Chris Bradish** are the newest faces in Sen. Arlen Specter's (R-Pa.) office.

Boos, a Philadelphia native, and Bradish, who hails from San Francisco, will serve as staff assistants.

Boos, 23, is a 2001 graduate of Pennsylvania State University. He has a degree in economics.

A member of the University of San Diego's class of 2001, Bradish, 23, has a degree in political science.

He has interned at the Republican National Committee and the State Department.

ROLL CALL

WASHINGTON, DC
THURSDAY 17,000
MAY 23 2002



Photo by Tom Williams

Chris Bradish (left) and **Scott Boos** are replacing **Lisa Biedrzycki** (center) and **Erin Buechel** as staff assistants in Sen. Arlen Specter's office. **Biedrzycki** and **Buechel** will become director of special projects and legislative correspondent, respectively.

The pair replace **Erin Buechel** and **Lisa Biedrzycki**, who advance to legislative correspondent and director of special projects, respectively.

Buechel, 23, is also a 2001 graduate of Penn State. The Pittsburgh native received her degree in political science.

Biedrzycki, who hails from Swarthmore, Pa., earned her degree in English from Wake Forest University in 2001.

Homeward Bound. The government relations firm Cassidy & Associates/Weber Shandwick has hired Hill veteran **David Oliveira** as senior vice president and general counsel for its

Boston-based New England office.

Oliveira, who hails from New Bedford, Mass., most recently served as staff counsel to Sen. Edward Kennedy (D-Mass.).

Before joining the Bay State lawmaker, Oliveira worked in Rep. John Olver's (D-Mass.) office as legislative director. The 34-year-old has also served as a staff member on the House Judiciary subcommittee on the Constitution.

A 1990 alumnus of the University of Massachusetts, Oliveira has a bachelor's in political science. He received his law degree in 1994 from the University of Connecticut School of Law.

Neighbors

Connecticut Opera's managing director is at home in Newington

by Nancy Thompson

4154

Mexico City ... San Diego ... Pittsburgh ...

Maria Levy has lived in some of the most exciting cities in North America. Now she's here in Newington, and she loves it.

"I only had one weekend to find a place," said Ms. Levy, the managing director for the Connecticut Opera. "When I got here, I knew it was the right place. It's a great little town."

Ms. Levy spent her childhood in Mexico, between Mexico City and the Baja Peninsula south of California. Her grandparents moved to the United States during the time of Pancho Villa and the Mexican revolution, and when her parents divorced, she moved with her mother to California.

"I grew up on both sides of the border," she said. "Thinking back, it was so different then." She recalled how the border technically closed at 6 p.m., making it impossible for her and her friends to scoot across for an evening movie on the American side. "We'd talk to the border patrol and ask them to leave the gate open for us," she said with a smile. "Now you'd get shot."

Ms. Levy learned English while living in San Francisco and after high school enrolled in the University of San Diego, where she majored in languages and communication marketing. From college, she went to a local ABC television affiliate, where she worked at an entry level job writing copy and doing some reporting. It didn't take long for her to realize

that, although well-qualified, she was in the wrong line of work.

"I think I was the world's worst reporter," she said, explaining that she hated the idea of sticking a microphone into someone's face, especially when that person was caught in an embarrassing situation. "It was horrible," she said. "I was totally bad. I just hated it."

She did soft news for a while and eventually moved to the sales department where she got some very valuable experience. "It was very good money and very good experience," she said. The job also led her to a new career and a new passion.

Capo Bianco, the head of the San Diego Opera, showed up at the station to do a public service announcement and met Ms. Levy, who had gone to the opera as a child and spent countless hours listening to famed tenor Enrico Caruso on her grandfather's old 78-rpm records. "He was Beverly Sills' stage director," she said. "He was a big deal in the opera world." When he left San Diego to take a job with the Pittsburgh Opera in 1985, she followed him.

NEWINGTON LIFE
WETHERSFIELD, CT
MONTHLY
MAY 2002



"I thought that was the East Coast in the beginning," she said with a chuckle.

Mr. Bianco became her mentor, and she discovered her life's work. "When I started working in opera, it was like a dream job," Ms. Levy said. "I was fascinated by how much goes into putting it together."

She also was hobnobbing with some of the biggest stars in opera, including Luciano Pavarotti and Placido Domingo. "I've always worked with high-profile people," she said.

Ms. Levy started as director of communications, eventually becoming the opera's artistic administrator.

In that position, she was responsible for budgets for the opera's artistic endeavors. "All I had to do was keep it within budget," she said. "I wasn't responsible for finding the money."

That changed when she left Pittsburgh three years ago to take a job as managing director for the Connecticut Opera.

Ms. Levy and Willie Waters, the opera's artistic director, were hired together and both report to the organization's board of directors. She said the decision to split the opera's

"Were not the Metropolitan Opera, but it's an advantage because we can hire Met singers. People who get smaller roles at the Met can get bigger roles here. It's good for them."

—Maria Levy, managing director of the Connecticut Opera



Maria Levy is the managing director of the Connecticut Opera.

administration into artistic and administrative realms was part of an ongoing effort to bring the company to a new level.

"It's a 60-year-old company with a terrific tradition, but it needed some help," she said. "We want to show an improved artistic product and are trying to make the company financially stable." That task became harder after the terrorist attacks last September.

"Corporate contributions are down since 9-11," she said, adding that the general decline in the nation's economy also has hurt. But she is optimistic about the company's future as it looks to expand its reputation throughout the state.

"We really want to be the opera company for the State of Connecticut," Ms. Levy said. "Willie has an education background, and we believe very strongly that we must give to the whole community, not just those who go to the Bushnell."

With that philosophy in mind, the company has been performing in schools throughout Hartford, presenting "The Magic Flute" and a 20-minute piece called "The Telephone," and in long-term care facilities in the area.

In addition, Ms. Levy said, four young artists have been performing as The Opera Express in community outreach activities. It's a great program because the performers, all in their 20s, get valuable experience performing in front of children, whom Ms.

Levy described as "a tough audience."

While some might think the Connecticut Opera is at a disadvantage having the Metropolitan Opera down the road in Manhattan, Ms. Levy sees many advantages.

"We're not the Metropolitan Opera," she said. "But it's an advantage because we can hire Met singers. People who get smaller roles at the Met can get bigger roles here. It's good for them."

She cites a July 2000 concert at Bushnell Park that drew 5,000 people and a recent concert by Denyce Graves that took place at the First Cathedral in Bloomfield as some of the best experiences she's had here so far.

"Everything went exactly as planned," she said of the Graves concert, which was underwritten by Northeast Utilities. "We sold it out and closed with the 'Battle Hymn of the Republic.'" The concert in the park, also sponsored by Northeast Utilities, was equally successful. "People were talking about that for years," she said.

So what does the woman who grew up on the West Coast and thought Pittsburgh was the East Coast think of Connecticut and the real East Coast?

"I just think Connecticut is the most beautiful state," Ms. Levy said. "I've got the Silas Deane, the Berlin Turnpike, Franklin Avenue and the beach. And Newington is a great little town. I love it." **NL**

MAKING NOISE



Justin Flores (left), Josh Ramirez (center) and Ross MacBaisey await their turn on the mat. *Fred Greaves photos*



Ross MacBaisey (right) prepares to throw Josh Ramirez during a practice.

Judo artists preparing for Olympic glory

By Whitelaw Reid *4154*
COMMUNITY SPORTS WRITER

VISTA — Loud thuds could be heard from the parking lot outside the San Shi Judo Club, an old schoolhouse that's been transformed into a judo studio.

Inside the club, it was a wonder the simple training exercises weren't causing the athletes serious bodily harm.

Teamed in pairs, competitors interlocked arms and flipped each other onto mats.

"You learn how to slap the mat and distribute your weight evenly so it doesn't hurt," Ross MacBaisey said.

MacBaisey and fellow San Shi club members Justin Flores and Josh Ramirez repeated the exercise over and over. The threesome is hoping the repetitions and hard work pay off someday in the form of an Olympic medal.

It's already paid dividends. All three fared well in recent competitions.

Flores took first in the 66-kilogram division at the USA Judo National Championships in Cleveland. Flores also won the Best Technique award for all male competitors.

In the same meet, Ramirez took third in the 60-kilogram division.

At the USA Judo High

School Nationals in San Jose, MacBaisey took second in the 73-kilogram division.

Flores and Ramirez, who are both shooting for the 2004 Olympics in Athens, each wrestled in college.

Flores, 22, went to the University of Nebraska on a wrestling scholarship but hurt his knee. After recovering from the injury, Flores decided to take time off from school and refocus his energy on his first love — judo.

Within the last few years,

he's competed in numerous events around the world.

"Now I'm determined to make the Olympic team," said Flores, who attended Temecula Valley High. "I'm doing everything I can. The glory's in the journey. I'm getting to travel the world and meet new people.

"It's been a good journey. Hopefully the destination is the Olympics and a medal."

No American has ever won a gold medal in judo, which made its Olympic debut at the

1964 games in Tokyo.

"Ever since I started judo when I was 8, I've wanted to be the first gold medalist for the USA," said Ramirez, 19, a Rancho Buena Vista High alum who now attends USD. "I just have to stick with the training and I think I can do it."

Ramirez, who wrestled at UC Davis last year before transferring to USD, said he prefers judo.

"I love the sport," Ramirez said. "In wrestling, the same moves from 30 years ago work today. In judo, there are moves that have been around a while, but there are also variations. It allows you to be more creative."

Judo involves throwing your opponent to the mat, pinning your opponent with a hold-down technique, or causing your opponent to submit with

an arm lock or a choke.

Ramirez said you don't necessarily need great strength to excel in the sport.

"You can outmaneuver a person," he said. "If you're skillful, have speed and really good technique, you can beat anybody. You can use someone else's momentum against them and use as little energy as possible."

MacBaisey, a sophomore at Torrey Pines, finished third at the CIF-San Diego Section Division I wrestling finals in the 162-pound class this past season. He also played on the school's junior varsity football team.

Like Flores and Ramirez, MacBaisey's sport of choice always has been judo.

"I love the challenge of it," said MacBaisey, 15, who said he is shooting for the 2008 Olympic games.

Taking second in San Jose was quite an accomplishment for MacBaisey, said Jacob Flores, who is Justin's father and the instructor at San Shi.

"Everybody there is about 17 or 18," he said. "He's a sophomore and most people who place or win are usually seniors. He's extremely talented. He's the up-and-comer in the program."

The elder Flores, who was an alternate for the 1980 U.S. Olympic team, said all three of his pupils have Olympian potential.

"I have the strength, speed and coordination and also a very strong fighting spirit," he said.

And they know how to take a hit.

Whitelaw Reid can be reached at (619) 293-1829 or whitelaw.reid@uniontrib.com

May 2002

MUSIC

University of California, May 1: Lila Downs sings in Mayan, Mixtec, Zapotec and Spanish. 7:30 p.m. \$17/general, \$15/seniors, \$10/students. Mandeville Auditorium, 9500 Gilman Dr., La Jolla. 858/534-TIXS.

San Diego State University: Jazz Week (May 1-May 5), Electronic Music Marathon (May 3) and Annual Student Composition Concert (May 8). Times/prices vary. 5500 Campanile Dr., college area. Events line 619/594-6020. Tickets 619/594-1696.

University of San Diego: ¡Zarzuela! Spanish Baroque opera excerpts and Villancicos (May 2) and ¡Españoleta! Spanish- and Latino-influenced songs through the ages benefit concert (May 10, 12). Times/prices vary. 5998 Alcalá Park, Linda Vista. 619/260-4600, ext. 4901.

San Diego Symphony Masterworks Series, May 3-5: Don't miss the season finale — Salute to Jung-Ho Pak featuring Stravinsky and Debussy. Fri.-Sat. 8, Sun. 2. \$15-\$70. Copley Symphony Hall, 750 B St., downtown. 619/235-0804. www.sandiegosymphony.com.



San Diego Reader
Thursday, May 2, 2002

¡Zarzuela! Spanish baroque opera excerpts and *villancicos* are on tap when the USD Choral Scholars are joined by members of San Diego Baroque, La Monica, and the San Diego Opera for a concert today, Thursday, May 2. The event includes a pre-concert lecture at 11:30 a.m. and the concert at 12:15 p.m., all in the French Parlor, Founders Hall, at the University of San Diego (5998 Alcalá Park). Admission is \$8 general. Call 619-260-2280 for information.
(LINDA VISTA)

Psycopathia Sexualis

The Globe Theatres/University of San Diego MFA Program present John Patrick Shanley's "wacky comedy" about "two couples, a therapist, and a strange fetish!"
Richard Seer directed.

STUDIO THEATRE, SACRED HEART HALL,
UNIVERSITY OF SAN DIEGO, THROUGH
MAY 4; THURSDAY THROUGH SATURDAY
AT 8:00 P.M.

School of Business Administration

Accounting 'flu' testing investors' faith | Peregrine woes mirror auditors' cultural shift

The San Diego Union - Tribune; San Diego, Calif.; May 9, 2002; Dean Calbreath;

Abstract:

In many ways, the problems at software-maker Peregrine Systems mirror much of what happened in other companies, down to the involvement of the Arthur Andersen accounting firm, which also audited the books at Enron and Global Crossing.

Peregrine paid \$185,000 for Andersen to audit its books in fiscal 2001, as well as \$863,500 for other unspecified services. The accountants apparently misstated Peregrine's revenue by as much as \$100 million, according to KPMG, Peregrine's new auditor.

In September 2000, for instance, Peregrine swapped software with Critical Path of San Francisco, but reflected the swap as a monetary transaction, inflating the revenue on its books. As a result of that deal, among others, Critical Path's former president David Thatcher has pleaded guilty to criminal charges of misstating his company's revenue, saying that he and Peregrine rigged their books to hide the transaction. No charges have been filed against Peregrine, which cooperated with regulators in the investigation of Critical Path.

Full Text:

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FOR THE RECORD | A story yesterday about Peregrine Systems that quoted Robert Phillips misstated his affiliation. Phillips is an accounting professor at the University of San Diego, not San Diego State University. The Union-Tribune regrets the error. (05/10/ 2002, A-2)

Some call it Enron-itis. Or the Andersen flu.

The financial illness that has spread throughout the country hit San Diego this week, as Peregrine Systems revealed that it may have up to \$100 million in overstated revenue.

The symptoms are easily recognizable.

Analysts who don't analyze. Accountants who miscalculate. Corporate directors who don't ask enough questions. Executives who cash out their stock. And investors who put their faith in financial statements, corporate directors and analysts' reports as they decide where to trust their money.

The victims of the disease in the past year have included a number of once-highflying companies: Enron, Global Crossing, Tyco, Critical Path.

But market watchers worry that the biggest victim has been the public's faith in the market, which is not only hurting Wall Street - - despite its dramatic gains yesterday -- but also is slowing the economic recovery.

"It's really scary," said Ross Starr, market economist at the University of California San Diego. "Since the 1930s, the great virtue of the U.S. markets has been the availability of detailed information, checked by certified public accountants. But the culture at U.S. accounting firms has clearly changed over the last decade. You can't rely on them now."

Robert Phillips, who teaches accounting at San Diego State University, said the problems have been "brewing for a long time." A decade ago, he helped develop course material warning students about "aggressive accounting" practices.

But the accounting problems accelerated in the 1990s, when the upswing in the stock market was partly fueled by optimistic financial reports. Many market watchers, including Ross De Vol, economist at the Milken Institute in Santa Monica, say that revenue on the tech-heavy Nasdaq stock exchange may have been inflated by as much as 30 percent last year.

Even when some companies were on the verge of collapse, the accountants failed to warn the public.

A recent study by Bloomberg News found that among the 673 largest bankruptcies of publicly traded companies

since 1996, auditors failed to warn investors more than half of the time. Financial statements published weeks before the bankruptcies did not mention the possibility of collapse.

The Bloomberg study found that the bigger the company was, the less likely it was that the auditors would report the problems.

"My sense is that there are going to be a few more companies with similar stories (of inflated earnings), although most of the smoking guns will probably be worked out by the second half of the year," De Vol said. "In the meantime, however, this whole issue is weighing very heavily on the market. It seems like every other day you hear about a company needing to restate earnings."

In many ways, the problems at software-maker Peregrine Systems mirror much of what happened in other companies, down to the involvement of the Arthur Andersen accounting firm, which also audited the books at Enron and Global Crossing.

Peregrine paid \$185,000 for Andersen to audit its books in fiscal 2001, as well as \$863,500 for other unspecified services. The accountants apparently misstated Peregrine's revenue by as much as \$100 million, according to KPMG, Peregrine's new auditor.

Some of Peregrine's financial dealings would have raised eyebrows.

In September 2000, for instance, Peregrine swapped software with Critical Path of San Francisco, but reflected the swap as a monetary transaction, inflating the revenue on its books. As a result of that deal, among others, Critical Path's former president David Thatcher has pleaded guilty to criminal charges of misstating his company's revenue, saying that he and Peregrine rigged their books to hide the transaction. No charges have been filed against Peregrine, which cooperated with regulators' investigation of Critical Path.

Howard Schilit, who heads the Center for Financial Research and Analysis in Rockville, Md., said that giving a customer something as part of a quid pro quo is one of the most common ways that companies use to improperly boost their income. He wrote a book on how to detect fraud in financial reports.

During a recent visit to San Diego, Schilit said the most likely companies to use such gimmicks were "small, fast-growth companies" -- a description that fits Peregrine.

Market watchers say that all the Big Five accounting firms have engaged in such gimmickry in recent years, not just Arthur Andersen.

"Andersen was just the firm that was unlucky enough to get caught," said De Vol, the Milken Institute economist. "I've talked to people at the other accounting firms and privately most of them will say they're only one Enron away -- meaning one big mistake away -- from finding themselves in a similar situation to Andersen."

But if Andersen may have helped inflate Peregrine's revenue, as KPMG now suggests, Wall Street analysts also helped boost its stock price through their positive ratings of the company's financial performance.

Last month, seven stock analysts issued a "buy" recommendation on Peregrine, with one analyst urging a "strong buy." Those recommendations remained upbeat even after the company's involvement with Critical Path became known.

Even today, only one analyst is telling investors to sell the stock. The others have downgraded the stock to such innocuous-sounding ratings as "neutral," "market-perform" or "hold." Although most institutional investors understand that those words often translate to "abandon ship," they are mild enough that some investors might think the stock is more valuable than it is.

UCSD economist Starr is not surprised by the glowing reviews of failing companies on Wall Street.

"Only the gullible listen to what the analysts say," he said. "The problem of the 1990s was that you had a new crop of unsophisticated investors who weren't cynical enough, being misled by a new crop of financial analysts who seemed to be only interested in generating an active market for companies underwritten by their firms."

Starr said that the current doubts about analysts and accounting could have long-lasting repercussions if the problem is not corrected.

Optimism abounds despite decline in local indicators

4154
Economic index drops 0.3 percent, led by job losses and national economy

FRONT PAGE
By TIM COFFEY
San Diego Daily Transcript

San Diego's economic indicators in April declined for the first time in four months, but a strong showing from an important indicator lessened the impact.

The University of San Diego's Index of Leading Economic Indicators fell 0.3 percent last month to 138.5. It was the first time the monthly index declined since December 2001.

The index was down from 138.9 in March and 143.7 in April last year.

The six indicators were evenly split with the size of the declines pushing the index lower. Claims for unemployment, which increased more than 4 percent, led the decliners.

High consumer confidence levels kept the index from registering a larger loss. The indicator, which tracks two-thirds of local economic activity, rose 2.46 percent, the biggest one-month percentage gain ever for the local index.



Despite the decline, San Diego's economy is not in trouble, said the economist that tracks the index.

"It's not necessarily a sign of an impending downturn in the local economy, but it is an indication that we've still got some rough spots, that everything is not smooth sailing from here on out," said Alan Gin, an economics professor with USD.

Gin's near-term outlook for the

San Diego economy is "erratic behavior" in the coming months, leveling toward the end of 2002.

He sees the national economy now entering the second decline in a "W" shaped recovery. In this scenario, a recovery takes longer than the "V" theory and is more volatile than a "U" recovery.

For the local economy to

See **Local indicators** on 2A

Local indicators

A *Continued From Page 1A*

weather the national downturn, Gin believes consumer confidence must support the expected declines in unemployment and the psychological effects of a terrorist attack or threat.

"But right now things look good and people are feeling pretty good about their prospects," he said.

The best indication for strong consumer confidence is the sales of big-ticket items. The biggest purchase a single consumer can make is a home.

A survey from the first quarter, the latest available, by **MarketPoint Reality Advisors** showed that 2,683 single-family homes were sold in the first three months of this year. It was nearly

24 percent higher than the same period last year.

Offsetting consumer confidence is the local unemployment rate, which hit 3.8 percent in April, according to the California Employment Development Department.

In San Diego, 21,843 claims for unemployment insurance were filed last month, a surprise and potential danger for the local economy, Gin said.

"That is really surprising because April is usually a relatively low month for claims filed," he said. "This is a sign that there was considerable job loss in April."

Because there were no mass layoffs publicly reported in April,

it could mean that the loss of jobs was broad-based.

"It's a sign to me that the unemployment rate is going to be picking up soon," Gin said. "I think unemployment is going to top 4 percent in the next couple of months."

Along with unemployment claims, the national economy slipped 0.65 percent and the number of locally issued building permits declined 0.23 percent. The total number of permits is still 1 percent higher than last year.

On the positive side in April, the stock prices of San Diego's public companies increased 0.47 percent and help wanted advertising grew almost 0.40 percent.

March indicators

Because of a problem collecting the data, Gin released the leading indicators from March at the same time as April's index.

In March, the index was 138.9, an increase of 0.5 percent from February.

"The breadth of the advance was good, with four components up and only two down," Gin said.

Consumer confidence led the positive indicators with an increase of 1.86 percent and was followed by the stock prices of local public companies, which grew 1.16 percent.

Help wanted advertising also increased by 0.26 percent, as did the national economy that grew 0.11 percent.

Marginal declines were felt in the number of issued building permits, a drop of 0.36 percent, and an increase in unemployment insurance, which grew 0.14 percent.

"Despite the rough spots, the economy of San Diego County is projected to outperform the state and national economies throughout 2002," Gin said.

tim.coffey@sddt.com

Source Code: 20020523tba

Local unemployment steady despite weakness

4154
Volume of new jobs declines
for third straight year in April

FRONT PAGE

By TIM COFFEY
San Diego Daily Transcript

The continued weakness in the regional economy remained hidden in the April unemployment rate released Friday.

Regional unemployment dropped to 3.8 percent last month from a revised 3.9 percent in March, but the volume of total job creation for a year-to-year basis in April declined for the third straight year, according to

California's Employment Development Department.

Total employment typically increases in April for San Diego County as the tourism industry gears up for summer visitors, said Cheryl Mason, the local employment analyst with the EDD.

The unemployment rate in April 2002 was higher than the previous April, when it topped 2.7 percent. Last month marked the third consecutive month that San Diego County's jobless market was below 4 percent.

In California, the rate climbed to 6.3 percent. Nationally, it was 5.7 percent.

The local economy created 3,300 jobs last month, Mason said. The increase was directly attributed to amusement venues and restaurants.

"I think what we're starting to see is the increase in employment due to the tourism expansion," she said. "We usually start to see that this time of year. It will continue to grow and peak, usually, in August. That's what we're starting to see with some of the increases in the amusement, eating and drinking places and we'll see some of that next month."

However, San Diego County added just

24,500 new jobs from April 2001 to April 2002, an increase of 2 percent.

In the previous year-to-year period, the region's non-farm employment grew by 34,200 jobs or 2.8 percent. The year before that, total jobs increased by 39,200 or 3.3 percent.

The steady decline in local job creation shows that San Diego County's economy has not completely rebounded from the tech bubble implosion of early 2000, said Alar Gin, an economics professor with the

See **Unemployment** on 6A



Unemployment

Continued From Page 1A

University of San Diego. Gin has seen the same weakness in help wanted advertising — one of criteria included for the USD Index of Leading Economic Indicators.

“Help wanted advertising has fallen tremendously and some people think that’s due to the fact that people are using the Internet more now in terms of their job ads,” he said. “That might be the case, but I think there’s got to be some underlying weakness as well.”

The help wanted indicator has shown positive results in two of the last 12 months ended February 2002, the last time the index was issued.

The continued slow demand for new employees could mean the regional economy needs more time to right itself, Gin said.

“I don’t think that we’re not of the woods yet,” he said. “It may take another quarter or so, before things work out.”

But “it is better than it was a few

months ago,” Gin said.

The addition of 2,100 jobs in service companies, 1,300 jobs in retail and 500 in construction aided total new jobs in April, according to the EDD.

Manufacturing lost 300 jobs, while government, wholesale trade and transportation, and public utilities cut 100 jobs each.

There were no changes in the business services sector or the local mining industry.

Source Code: 20020510tba

**SAN DIEGO DAILY
TRANSCRIPT**

**SAN DIEGO, CA
MONDAY 10,500
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Students help animal center

Marketing students from the University of San Diego raised \$2,100 for the Helen Woodward Animal Center late last month at the Del Mar Fairgrounds. At least 18 students from USD's corporate sponsored Student Marketing Agency arranged the fund-raising event for the animal center in Rancho Santa Fe. The event also doubled as a marketing event for **Guy Hill Cadillac**. The students were given \$2,500 from the General Motors Marketing Internship program to identify a target audience, arrange the event and then evaluate it. The students presented the agency's final results to the dealership and **General Motors** (NYSE: GM) on Friday. Source Code: 20020503tlg 4154

By Daily Transcript staff writers.

San Diego Union-Tribune
Monday, May 13, 2002



CALENDAR

MEETINGS AND SEMINARS

TOMORROW

● Panelists from the FBI, SAIC, Internet Security Systems and the San Diego District Attorney's Computer Technology High-Tech Response Team discuss post-Sept. 11 Internet security at 7:30 a.m. at the University of San Diego's Joan B. Kroc's Institute for Peace and Justice Auditorium. Free and open to the public. Reservations recommended. Register at <http://isec.sandiego.edu/itmi> or e-mail carlr@sandiego.edu

SATURDAY

● Tom Perrine of the San Diego Supercomputer Center demonstrates how to detect if someone has hacked your system at the San Diego Linux Users Group (SDLUG) meeting, 9 a.m. to 1 p.m. at 3954 Murphy Canyon Road, Suite D-200, San Diego. Free. Information: visit <http://www.sdlug.org> or e-mail info@sdlug.org

EDUCATION

TOMORROW

● San Diego Community College Centers for Education and Technology offer the following free classes at the San Diego Career Center, 8401 Aero Drive, Kearny Mesa: Improving Your Computer's Performance, 1 to 5 p.m. weekly through June 4, Room 130; Dreamweaver 4.0 Intermediate / Advanced, 5:30 to 9 p.m. weekly through June 4, Room 140. Register in class. Information: (858) 627-2545 or <http://www.ncc.sdccd.net>

● The Lakeside Community Center, 9841 Vine St., offers Very Basic Computer from 9 a.m. to 11 a.m. The three-part class continues Wednesday and Friday. Cost for each session is \$10. Information: Dolores at (619) 443-9176.



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Robert 'Bob' Papera Builds A Family Business Of His Own

Small Business Person of the Year has been integral in the area's growth and development

BY PATRICIA MORRIS BUCKLEY

When Bob Papera travels around San Diego, he can't help but have a huge smile on his face. As president of Expo Builder's Supply Inc., he knows most new construction projects use his building products.

"I take a lot of pride in driving around and seeing the buildings that we contributed to," says Papera, 59. "It's not like a widget that we shipped overseas. It's something concrete that stays here."

Papera was heir to a family-owned can manufacturing business in New Jersey. But after a stint in the Navy during Vietnam, he fell in love with San Diego and wanted to stay. In 1976, he accepted a friend's offer to join Expo (founded in 1929), which Papera eventually bought in 1982.

Expo is a manufacturer of stucco products and a distributor of lathing, plaster, dry-wall, steel framing, acoustical and high performance coating products. Expo has one location in North County and two in the South County. With a client base of 350 companies, mainly in Southern California, Expo supplies building materials to Mexico, China, Japan and the Philippines.

Papera, who has a bachelor's degree in accounting and finance from St. Bonaventure University and a certificate in international business from the University of San Diego, has served as president of the California Materials Dealers Association and now sits on its board. He's active with the La Jolla YMCA, Children's Home



Bob Papera

Society, Door of Faith Orphanage and St. Vincent de Paul.

But he's most proud of helping his company survive the recession of the '90s, a time when many builders and building supply companies struggled to stay alive.

"Our darkest hours were from 1989 to 1994, when we started making money again," says Papera, who credits his faith in God for the victory. "Filing for bankruptcy was never an option for me. And I am blessed with wonderful

employees who are like family to me."

Much of Papera's business philosophy comes from his father, who retired from the family business last year at the age of 95 (his grandfather worked until he was 101). "I was raised to do the right thing," says Papera, who calls his father his role model. "That's why I'm more proud of building the company up since the recession than I am of any other successes we had before then."

That family tradition may continue at Expo.

Papera's son, John, works for him, and although his son might take over the business some day, Papera has no intention of retiring early. "It's kind of in our genes to enjoy our work," he says, and a plus is the satisfaction he gets from viewing the San Diego skyline and knowing he contributed to it in some small way.

"I absolutely love this business," he says. "I've never had a day when I woke up and said, 'Oh, I have to go to work.' That says a lot about the business." ♦

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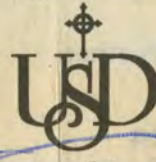
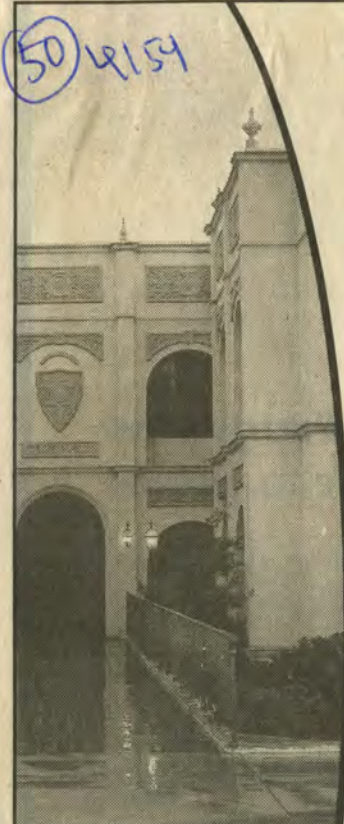
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**FOR THE
RECORD**

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● Gary Ackerman, executive director of the Western Power Trading Forum, said he was misquoted in yesterday's story about allegations of market rigging by electricity traders. In a reference to allegations, Ackerman maintains he said: "I was under the impression traders did this on the fly." He said he did not say "on the sly."

● A story yesterday about Peregrine Systems that quoted Robert Phillips misstated his affiliation. Phillips is an accounting professor at the University of San Diego, not San Diego State University.

The Union-Tribune regrets the error.

It is the policy of the Union-Tribune to correct all errors. To discuss accuracy or fairness in the news, please write:

Gina Lubrano, readers representative
P.O. Box 120191
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San Diego Business Journal

May 13, 2002



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ADVERTISING DEPARTMENT

Retail Trends



By Peggy Scott *4154*

Emerald "M" Growers holds first public sale event

There's an opportunity growing in the Rancho Bernardo area. Emerald "M" Growers & Pottery Manufacturers, a popular commercial source for high-quality palm trees and pottery, is holding its first ever public sale.

Through June 2 — on weekends only — Emerald "M" Growers is open to the public for a sale that offers 40 percent off everything. Shoppers can browse through acres of palms, and check out the variety of terra cotta and glazed pottery, wrought-iron decor, birdbaths and water gardens.

Emerald "M" Growers is making this sale a real family event — there's a food court and an astro jump for the kids. You can also enter to win a water garden.

Hours are 8 a.m. to 5 p.m. Saturdays and Sundays only.

Emerald "M" Growers & Pottery Manufacturers is at 9000 Artesian Road. For more information, call (760) 943-7256 or visit online at www.springsaleevent.com.

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Interior Wood millwork completed at Peace & Justice

Interior Wood of San Diego Inc. has completed cabinetry and millwork for the new 90,000-square-foot Joan B. Kroc Institute of Peace and Justice at 5998 Alcala Park on the campus of the University of San Diego. Dan O'Brien and Phil Rockhold of Interior Wood were project managers on the approximately \$500,000 millwork project. Mary Whelan, director of institutional design, provided project oversight for USD.

The institute opened in the fall of 2001. Rudolph & Sletten was the general contractor

with Mike Conroy as the project manager. Carrier Johnson was the architect with Debra Elliott as the project designer.

Interior Wood installed custom cabinetry and millwork throughout the facility. It also crafted the 42-foot-long, 27-foot-wide oval conference table in the conference center. The 12-section table seats 36 and was crafted entirely of burgundy-stained oak. Interior Wood is a member firm of the Woodwork Institute of California.

San Diego Union-Tribune

Wed., May 8

fyi

San Diego

Datebook

Robert Muller, chancellor at the Universidad de la Paz in Costa Rica, will present "**World Peace Is Inevitable**," 5:30 to 7 p.m. tomorrow, Joan B. Kroc Institute for Peace and Justice Auditorium, University of San Diego. Free. Information: (619) 260-7509.

San Diego Union-Tribune
Saturday, May 11, 2002

fyi

San Diego

Datebook

"Uneasy Neighbors," a **documentary** about the growing tensions between residents of migrant-worker camps and affluent homeowners in North San Diego County, will be shown at 6 p.m. Monday, Joan B. Kroc Institute for Peace & Justice Auditorium, University of San Diego. A discussion with film director and producer Paul Espinosa will follow. Information: (619) 260-7509.

School of Law

CONSTITUTIONAL LAW

Appointment of judges held hostage



BERNARD H. SIEGAN

Mr. Siegan is distinguished professor of law at the University of San Diego Law School. His latest book is "Property Rights: From Magna Cart to the Fourteenth Amendment."

James Madison is credited with being the father of the U.S. Constitution. His original draft with some amendments became the law of the land. At the Constitutional Convention of 1787, he strongly supported the separation of government powers into three different branches, legislative, executive and judicial.

The Constitution limits each branch to its function. In addition, each has certain veto powers (checks and balances) over the two other branches. The objective of separation is to protect liberty by preventing any one branch from acquiring dictatorial powers.

An example of checks and balances is provided by the president's power to appoint federal judges but only, in the words of the Constitution, "by and with the advice and consent of the Senate." The president selects the judges. The Senate as a whole may confirm or reject his nomination.

The Constitution is clear about the selection of federal judges. But apparently it is not sufficiently clear to prevent what is now occurring. The Senate's advice and consent function is not being

exercised, as the Constitution requires.

The Senate's practice is to submit the president's nomination to its judiciary committee. That committee has the power by majority vote to kill a judicial nomination. The fate of the president's nomination of judges is presently in the hands of a majority of the committee, not in a majority of the Senate. This outcome is not a correct interpretation of the Constitution.

Madison warned against encroachment and aggrandizement of the separation process. By this he meant the "hydraulic pressure inherent within each of the branches to exceed the outer limits of power." This would plainly apply to the Senate granting the majority of the judiciary committee veto powers that belong to a majority of the Senate. The U.S. Supreme Court has over the years invalidated laws that accord a single branch powers to which it is not entitled.

The situation in California is even worse for constitutional meaning. The president has agreed to nominate for federal judgeships only those selected by various six-person committees. The two

U.S. senators from the state agreed to defer to those committees – half of whose members they appoint – and not exercise the veto that the Senate accords its members on the judicial and other nominations within their state.

The Senate power over presidential appointments is one of the few powers that one branch of Congress enjoys. In contrast, both the Senate and the House are given joint powers for most governmental matters.

To this extent, the Senate is acting as representative of the nation. That the Constitution grants such extraordinary power to the Senate requires that this branch should act strictly within constitutional mandates.

However, the current Senate practices threaten the constitutional integrity of the executive power of judicial nomination. To grant part of the Senate the power that should be exercised by 100 senators makes a travesty of the advise and consent function. Regrettably, President Bush has allowed this to occur in California and he even acquiesced to it.

The fact that the Senate has long en-

gaged in these practices does not make them constitutionally sacrosanct.

Beginning in 1932, for example, the Congress authorized either the House or Senate to veto regulations imposed by federal agencies. That procedure has been labeled as the one-house veto. This procedure was followed in 295 instances before it was struck down. In 1983 the U.S. Supreme Court held that the one-house veto violated the Constitution. That's because it granted one-house powers that required concurrence by both houses. The court stated that "the fact that a given law or procedure is efficient, convenient and useful in facilitating functions of government, standing alone, will not save it" if it violates the Constitution.

While Senate committees are useful and proper, they should not have veto powers over the composition of the judiciary.

The judiciary committee should send judicial nominations to the floor with recommendations or no recommendations, and allow the Senate to exercise its constitutional responsibility.



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EDITORIALS

EDITORIAL

A brief for principled judges

Partisan debate over judicial appointments has grabbed national headlines, as Republicans protest the way the Democratic-controlled Senate Judiciary Committee is bottling up qualified federal judicial nominees. It's a clear-cut case of Democrats trying to stop the appointment of federal judges whom they view as insufficiently liberal.

Getting far less attention but even more troubling is the way the judicial-selection process in California has been reworked in a way that keeps principled libertarian and conservative-minded judges off of the district court.

Astoundingly, the Bush administration agreed to this questionable set-up, at the behest of the president's top adviser in the state, Los Angeles investor Gerald Parsky.

Mr. Parsky, a Republican moderate who has complained that the Republican Party is too extremist, orchestrated a deal with U.S. Sens. Dianne Feinstein and Barbara Boxer, both Democrats. The stated goal was to avoid partisan conflict in judicial appointments, which has led to the sort of bottleneck occurring in the Senate today.

The more likely goal was to create a system by which only moderate judges could pass muster early in the selection process.

Typically, a generally conservative party will appoint generally conservative nominees and will then fight for their approval in broad daylight. The new Parsky system quietly vets only those candidates who can get the nod from the state's two Democratic senators and lets committee members make key decisions out of the light of public scrutiny.

In the past, the state's senior senator from the president's party would lead a panel selecting candidates for district court vacancies. If there is no sitting U.S. senator from that party, the task would fall on top U.S. representatives from the party in that state. In any case, the party selected the nominees.

Under the new committee system, subcommittees of three Democrats and three Republicans are selected for each of the four judicial districts in California, according to a report in the Los Angeles Daily Journal, a newspaper that covers legal topics. "Four members of each subcommittee must approve a candidate for that person's name to be forwarded to committee chair Parsky and his deputy."

In other words, Republicans are allowing Democrats to share in the judge-selection process. Naturally, the plan has been lauded by Democrats and liberal interest groups,

who feared that more conservative nominees would be selected.

Interestingly, the Parsky deal was arranged before Sen. James Jeffords switched parties and gave the Democrats control of the U.S. Senate. In the current Democratic-dominated climate, a compromise might be arguable. But conservatives cannot understand why the Bush administration was so willing to share judicial appointment power.

We can't understand it either.

There are several problems with the new arrangement:

First, a process designed to assure the selection of middle-of-the-road legal scholars will assure that principled thinkers will rarely pass muster.

Our ideal: judges who rule based on the strict interpretation of the law and the state and federal constitutions. Neither party selects judges exactly to our liking, but Republicans have pledged to appoint strict constructionists rather than the liberal activists favored by many Democrats.

Now that the Democrats and the moderate Mr. Parsky have veto power, any judge with these traditional instincts will be rejected out of hand.

Second, this selection-committee arrangement may have constitutional problems - something argued by University of San Diego Law Professor Bernard Siegan in a Register Op-Ed column last week. By agreeing to accept whatever nominees the committee selects, the president is giving up power the Constitution grants him.

Third, the committees are closed to scrutiny and may fall short of open-meetings and open records requirements. The public has no way of knowing the criteria by which these nominees are selected and federal law appears to require more openness.

The committee idea is spreading to other states, such as Washington, where Democrats are demanding the same generous terms the Bush administration granted to Sens. Feinstein and Boxer.

Given the ongoing Senate Judiciary Committee impasse, supporters of the Parsky committees say that it's far better to have moderate judges than no judges at all. We disagree. It's far better for Republicans to send forth strongly principled judges and then fight for them in Washington, than to give up before they get started.

President Bush can and should demand an end to these committees and spend more of his political capital in Washington fighting for Senate approval of qualified federal judges.

A crisis over federal judicial nominations

By Gall Heriot 4154

It has been a year since President Bush sent his first batch of judicial nominations to the Senate. Overwhelmingly, they've been met with stony silence. Senate Republicans are so frustrated that some have threatened a work stoppage to mark the anniversary on Thursday.

Among the original nominees are:

- Michael McConnell, the Presidential Professor of Law at the University of Utah. McConnell is one of the nation's leading constitutional law scholars and perhaps the leading scholar on freedom of religion.

- John Roberts, one of the country's most distinguished appellate attorneys. As principal deputy solicitor general during the previous Bush administration and as an attorney at Hogan & Hartson, one of the nation's premiere law firms, he has argued 36 cases before the Supreme Court.

- Miguel Estrada, a former federal prosecutor who has argued 15 Supreme Court cases. If confirmed, he will be the first Hispanic judge on the D.C. Circuit Court of Appeals.

These nominees and others that followed them have hit a brick wall. Only three of the original 11 have even received a hearing. Of the 101 nominations Bush has made, only 50 have been confirmed. Court of appeals confirmations have been especially slow; only seven of 29 have been confirmed. As a result, the number of court vacancies is at an all-time high — a situation Chief Justice William Rehnquist has called “alarming.”

Senate Democrats respond — correctly — that whenever the presidency and the Senate are held by different parties, the confirmation process is slow. It is understandable that, in discharging their constitutional duty to advise and consent,

Senate Democrats will be less deferential to a Republican president than their Republican colleagues.

But enough is enough. In the spring of his second year in office, President Clinton had a 58 percent confirmation rate on his nominations. At the same point, President Bush's confirmation rate stood at 43 percent. For whatever reason, the Committee on the Judiciary under the leadership of the irascible Sen. Patrick Leahy, D-Vt., has not only failed to keep pace with Bush's nominations, it has, in some ways, failed to keep pace with previous committees under the leadership of more conciliatory chairmen like Republican Orrin Hatch of Utah and Democrat Joseph Biden of Delaware. It's time to crank it up.

Leahy tries to blame President Bush for the problem, arguing that his nominations are controversial and that he should choose nominees “for their ability instead of their ideology.” But this is hogwash. Professor McConnell, for example, is supported by hundreds of Democratic law professors, including well-known liberals like Lawrence H. Tribe. Yet no hearing has been scheduled.

Moreover, Leahy's strategy has

not been to speed up uncontroversial nominees and take time to ponder controversial ones. It has been just the opposite: When nearly half-century-old statements written by then-law-student Charles Pickering were brought to light and pronounced “racially insensitive” by liberal groups, Pickering's nomination hearing was leap-frogged over the others. Leahy hoped to score some points on the nightly news and he succeeded — at the expense of a nominee who was strongly supported in his home state by people of every political stripe.

Contrary to Leahy's assertions, none of Bush's nominees is out of the political mainstream. It's true that they are mainly Republicans and conservatives — just as most of Clinton's were Democrats and liberals — but that's hardly a ground for rejection. Bush ran on a platform of appointing such judges. It would be a violation of his campaign promise not to do so.

Perhaps the real reason for the slow pace was argued recently by Clinton White House operative Paul Begala. According to Begala, Senate Democrats have a duty to drag their feet on judicial nominations. “The issue is legitimacy,” he declared on

CNN's “Crossfire,” pointing out that “the president did not get the majority of votes.”

This late in the game, Begala's argument sounds almost quaint. But it continues to be fashionable among inside-

the-beltway types looking to justify obstructionist tactics. It is whispered along Capitol Hill corridors by staff members who should be back at their desks working on judicial confirmations. So let me respond to it one more time:

George W. Bush is the duly elected president of the United States under every vote count that has ever been made, official and unofficial. Some may not like the Electoral College system, but it is our system, and all the presidential candidates conducted their campaigns with that in mind. And while it's true that Bush did not receive a majority of the popular vote, it is worth pointing out that he did better than Clinton who received only 43 percent of the vote in 1992.

Heriot is a professor of law at the University of San Diego and a former counsel to the Senate Committee on the Judiciary.

Moreover, the legitimacy of the Democratic majority in the Senate is every bit as questionable. No doubt Republican voters in Vermont backed Senator Jim Jeffords precisely because they wanted to preserve the Republican majority in the Senate. If they had known he would jump ship, they never would have nominated him.

But that's our system — a senator may switch parties for good reason, bad reason or no reason at all. Unless and until the rules are changed, Patrick Leahy is the legitimate chairman of the Committee on the Judiciary, just as George W. Bush is the legitimate president of the United States.

Meanwhile, there's work to be done — unglamorous work. Ordinary criminal cases must be tried. Civil lawsuits must be decided.

Judicial vacancies mean judicial delays. And justice delayed, as always, means justice denied. McConnell, Roberts, Estrada and Bush's other nominees deserve a hearing. It's time to roll.

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The reverse discrimination dilemma continues

By Gail Heriot

The late Justice Lewis Powell was a man of integrity; his Supreme Court decisions reflect an unbroken devotion to principle and good sense.

Almost unbroken, anyway. He is best known today for his most ill-conceived opinion — *UC Regents v. Bakke*, the reverse-discrimination decision that may have done more to weaken the integrity of the law than all his other work did to strengthen it.

It's an unhappy legacy for such an honest and decent man. But, as the Austrian economist Joseph Schumpeter put it, "History sometimes indulges in jokes of questionable taste."

A decision last week by the Sixth Circuit Court of Appeals — *Grutter vs. Bollinger* — is the latest chapter of that unhappy legacy. It's a case much like *Bakke*. Barbara Grutter, a white, was denied admission to the University of Michigan Law School despite having strong academic credentials — much stronger than students admitted under Michigan's diversity program. There is little doubt she would have been admitted had her skin color been different.

Unlike *Bakke*, however, Grutter was told by the appellate court that she had no grounds for complaint. In a 5-4 decision that broke down along party lines, the Democratic appointees reversed the trial judge's decision in Grutter's favor and held that achieving a racially diverse student body is a "compelling state interest" sufficient to justify even a large gap in academic credentials between students.

But, while Republican appointees dis-

agreed vehemently with the majority's conclusion, judges on both sides insisted that Powell's opinion in *Bakke* supported their position. Go figure.

Only one thing seems certain: Powell would have been horrified by the allegations of procedural irregularities surrounding the *Grutter* case. He would have known, as Judge Alice Batchelder wrote in her dissent, that "public confidence is premised on the certainty that the court follows the rules in every case." Indeed, *Grutter* may well be the first case in history in which three federal judges have gone on record to cite multiple improprieties.

But the seeds of this unfortunate situation unwittingly were planted by Powell himself in 1978. Racial preferences have exerted a subtle, corrupting influence on university admissions processes for years. Should anyone be surprised to learn that influence may be reaching out to the courts?

Diversity wasn't the point

Bakke resulted in no majority opinion. Four justices declared that racially discriminatory admissions policies could not be tolerated in a nation dedicated to equal protection under the law. Four justices considered them benign so long as minorities were not disadvantaged.

Powell agreed that Allan Bakke had been treated unlawfully, but didn't want to close the door on race discrimination in admissions entirely.

He suggested that race could be regarded as a "plus factor" to help in obtaining the educational benefits of a diverse student body. But he specifically rejected the notion that preferences could be used to ensure that a particular racial group got its "fair" share of the lecture hall seats.

Powell should have known better. He

naively envisioned that race would be used as a tie-breaker in otherwise close cases, just as other unusual facts in an applicant's background might be used. But he was not as explicit as he should have been.

His opinion was thus transformed by zealots into a green light for far more ambitious plans. Across the country, affirmative action programs were rechristened "diversity programs" to fit Powell's opinion.

But diversity was never the point. If it had been, universities would be beating the bushes for Afghani monarchists, free-market environmentalists and Brazilian free masons. But they aren't. No attention beyond that needed for cosmetic purposes is given to non-racial diversity.

Moreover, if the educational benefits of diversity were the goal, universities would insist that its students actually mix. Again, they daren't.

Separate dormitories, separate student organizations, separate student lounges and even separate graduation ceremonies are commonplace on many university campuses. Diversity is simply a pretext for racial set asides — exactly the kind of thing Powell had rejected. He had lost control of his own opinion.

Such an admissions policy is inevitably grounded in secrecy and deceit. The heavily racial nature of the diversity criteria must be downplayed, and the magnitude of the preference must be closely guarded.

When a Georgetown University law student working in the school's records office exposed the gap between the academic credentials of White and African-American students, he was fired and efforts were made to prevent him from practicing law in the future. Academics who questioned the system, like Lino Graglia at Texas, Thomas Sowell (for-

Heriot is a professor of law at the University of San Diego.

merly at UCLA) and Stephan Thernstrom at Harvard — were vilified.

This may come to bear in the case of Barbara Grutter. The University of Michigan deputy general counsel insisted on national television that it was “simply not the case” that Grutter was the victim of race discrimination.

Yet Michigan’s own data reveal that the odds of a minority applicant being accepted were 234 times that of a non-minority with the same college grades and standardized test scores.

What makes otherwise decent people willing to engage in deceit? They convince themselves — wrongly, in my view — that their support for racial preference programs puts them on the side of the angels, and that justifies their indiscretions. Indeed, one of the more prominent student advocacy groups for racial preferences calls itself “By Any Means Necessary.”

The question is whether some members of the court may have succumbed to the intoxicating temptation to “do good” as well.

Bending the rules?

The University of Michigan was a formidable opponent, but Grutter believed the courts would ensure a fair fight. It turns out, however, that some of their procedures were not followed. And it isn’t just Grutter who thinks so. Several of the judges involved in the case complained similarly on the record.

Court rules require that all cases be assigned to a randomly-selected judge. In Grutter’s case, that was Bernard Friedman. Evidently dissatisfied, the university made a motion to Chief Judge Anna Diggs Taylor that the case be reassigned — something she could have done only with Judge Friedman’s consent.

That started a complicated series of rule-bending (and sometimes rule-

breaking) legal maneuvers by Taylor, whose husband sits on Michigan’s Board of Regents, and her designees that culminated in the issuance of an advisory opinion designed to strongarm Friedman into giving up the case.

Obviously furious, Friedman refused to do so. The efforts of his fellow judges to cause him to give up “a case properly assigned ... by blind draw” were “an affront to the dignity and independence of the court and an unlawful intrusion upon ... this court’s business,” he wrote.

Remarkably, as appellate Judge Danny Boggs catalogued in his dissent, further deviations from procedures occurred on appeal. Contrary to usual procedures, Chief Judge Boyce Martin appointed himself to the three-judge panel. When his colleagues complained, he initially did nothing.

Martin knew — but had failed to inform the other judges — that the university had requested the case be put before the entire court en banc rather than the usual panel of three.

After a few months, two more Republican-appointed judges retired, temporarily creating a Democratic majority. The university’s motion then appeared and was hurriedly pushed through, while Bush’s Sixth Circuit nominees languished in the Senate.

Were these actions an improper effort to influence the case’s outcome? We may never know. But surely the judges involved should have been more sensitive to appearance.

And, if it’s true that some members of the court were motivated by a misguided desire to weigh in on the side of the angels, they would do well to remember that the job of judging is difficult enough without adding the impossible task of determining who’s an angel and who’s not in advance.

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COLUMN ONE

Killers Slip Away to Mexico

FRONT PAGE

■ Fugitives facing possible life terms now are protected from extradition. One father went south to seek his own justice. *4/54-Sun*
Diego Univ

By JESSICA GARRISON
TIMES STAFF WRITER

Saul Zavala tucked a gun into his Levi's and drove for hours up and down the hot, dusty streets of a tiny Mexican village, studying each face he passed.

If U.S. and Mexican law enforcement authorities would not punish his daughter's killer, this grieving father from Lynwood felt he had no choice but to cross the border and "make justice with my own hands."

The man he believes shot his daughter is among scores of Los Angeles County murder suspects who have sought refuge in Mexico. That government has long refused to extradite anyone who may face the death penalty in the United States. Recently, the Mexican Supreme Court extended that protection to fugitives who may face life in prison, provoking outrage among law enforcement officials in several border states.

Mexican officials say the policy arises from a philosophy that criminals should be rehabilitated, not locked up for life or killed, both of which they consider cruel and unusual punishment.

But for many U.S. authorities, their neighbor's refusal to extradite means that criminals are literally getting away with murder—and flouting the U.S. justice system.

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"A terrorist can commit a horrendous act . . . and Mexico would be a haven," said Los Angeles Dist. Atty. Steve Cooley. "It's inevitable. It's happening. It's becoming a haven for murderers."

One of those, authorities say, may be the man who shot Los Angeles County Sheriff's Deputy David March last month in Irwindale and is suspected of fleeing home to Mexico. Another is a man who allegedly killed a Drug Enforcement Administration agent in Arizona.

"We have several fugitives down there who have participated in the murder of law enforcement [officers] and other serious crimes, and we can't get them back," said Janet Napolitano, Arizona's attorney general. "It's a total disaster."

Although the Los Angeles district attorney's office does not have an exact figure, officials estimate that more than 60 suspected killers from Los Angeles County are in Mexico, along with countless more fugitives suspected of rape, child molestation or attempted murder. Some have been picked up and prosecuted in Mexican courts, but others remain free.

Earlier this year, all 50 state attorneys general signed letters to U.S. Atty. Gen. John Ashcroft and Secretary of State Colin Powell pleading with them to negotiate a solution to the extradition problem. The letter warned that Mexico has created "a dangerous incentive for people to commit grievous

Please see FUGITIVES, A8
Continued from A1 *71*
crimes and escape" and that if terrorists involved in the Sept. 11 attacks were found there, even they could not be extradited unless the United States agreed not to sentence them to life in prison.

Zavala has put a face—a sad, haunted face—to the problem. Cooley calls him a symbol of the policy's injustice.

Zavala's anguish began the June morning three years ago when his daughter Jessica, 15, and her cousin Olivia, 17, were gunned down.

The inseparable cousins, who both dreamed of becoming soap opera stars, had set out together on foot that Tuesday for Lynwood High School.

They got only three blocks.

Olivia was shot first. Her body slumped onto a utility pole as Jessica stood beside her, screaming. Then the bullets ripped into her.

It took less than a month for Los Angeles officials to file a criminal complaint charging Juan Manuel Casillas, Olivia's ex-boyfriend, with murder. Casillas, 24, who authorities say is a gang member from an affluent Mexican family, reportedly had been furious that Olivia had broken up with him.

A few weeks later, law enforcement officials located Casillas in Mexico.

Prosecutors in the Los Angeles County district attorney's office met with the girls' parents and explained that Casillas most likely would remain south of the border. Gil Garcetti, who was then district attorney, refused to waive the death penalty at the outset in any case, saying it would set a bad precedent.

Another option for Casillas was prosecution in Mexico. Under a provision of Mexico's treaty with the United States, boxes of evidence from the United States can be translated into Spanish and shipped south. Mexican officials say that since 1993, more than 150 U.S. criminals have been convicted under such circumstances, 109 of them from California.

But California officials say that

many of those convicted in Mexico receive light sentences, and that some cases just seem to vanish, said Janice Maurizi, director of branch operations for the district attorney's office.

That possibility wasn't acceptable to the Zavalas.

"I want him here. He did it here," Zavala said. "I am from Mexico. I know Mexico. If his father pays the money, he'll get out right away."

Meanwhile, without an agreement to waive the death penalty or a request from Los Angeles authorities to go forward with foreign prosecution, Mexican authorities did not arrest Casillas. It took Los Angeles officials nearly a year after the killings to ask Mexico to begin a foreign prosecution of Casillas.

The thought of him riding horses on his family's ranch near

Guadalajara tormented Zavala. The obsessed father made frequent visits to the district attorney's office, carrying a white plastic photo album devoted to Olivia and Jessica and begging Garcetti to waive the death penalty and bring Casillas back.

With each refusal, Zavala grew angrier. Once, after a chance meeting with Garcetti at a march for victims of gun violence, he screamed at the prosecutor until friends pulled him away.

Finally, Zavala said, one of Garcetti's secretaries took him aside and whispered that he should go see Cooley, who was then challenging Garcetti for the district attorney's job.

Cooley seemed the answer to Zavala's prayers. He met with Zavala, looked at Jessica's photographs, and vowed to get Casillas extradited if he won the election.

Zavala, who had never been involved in politics, began organizing marches and parties in support of Cooley's campaign. He went on Spanish-language radio stations and told the story of his daughter's death, urging people to vote for Cooley. A month after taking office, Cooley kept his promise, sending a letter to Mexico promising not to seek the death penalty in Casillas' case.

For Cooley, it was to be a new era for justice in Los Angeles. Hundreds of victims' family members across Los Angeles County could prepare for the closure of confronting perpetrators in court. But by then, Casillas' trail had grown cold, and Mexican authorities said that they couldn't find him.

About this time, Zavala and his wife, Petra, visited their hometown in the Mexican state of Michoacan. One morning before sunlight, without a word to his wife, Zavala rose. With his brother-in-law, Olivia's father, he made the three-hour drive across the hills to Jalisco. After getting a tip from a woman who had heard Zavala speak about his plight on the radio, they thought they knew where to find Casillas.

It was early afternoon when their battered truck rumbled to the

town plaza in Ayotlan, and the sun was beating down. The two men had guns, once used for hunting, in their waistbands. They carried pictures of Jessica and Olivia as well as a sketch of Casillas.

They approached merchants and shoppers. Had they seen this man, or anyone in his family?

They found Casillas' house, but no one was home. Finally, they drove home. The next day, Zavala wanted to return to Casillas' house, but Olivia's father refused.

Thank God, Zavala now says.

"I was going to do something terrible there," he said. "Even if I saw his mom, or his sister . . . I was doing something terrible." Last fall, a few months after that clandestine trip, Casillas was arrested at a gas station in Mexico City as he filled his car to flee to Veracruz, officials there say. American officials quickly moved to have him extradited, and the Zavalas began to prepare themselves for the bitter-sweet victory of facing their daughter's killer in court.

Then, on Oct. 2, the Mexican Supreme Court issued a one-page ruling that dashed their hopes. Life without parole is not rehabilitation, the court ruled. Casillas' extradition was denied. Other suspects sought in California and other border states also had their tickets back to the United States canceled.

The extradition picture was further complicated last week. A Mexican federal tribunal ruled that drug kingpin Jesus Amezcua, wanted in San Diego, would not be extradited, even with the U.S. guarantee that he would not face a possible life term, indicating that the assurance wasn't sufficient.

Maurizi, from the Los Angeles County district attorney's office, said that decision "just makes an impossible situation worse."

Jorge Garcia-Villalobos, a federal prosecutor with the Mexican attorney general's office in Los Angeles, said Mexican legal authorities haven't yet figured out if the ruling will have broad application.

"We have to understand that Mexico and the United States have two different legal systems," Gar-

cia-Villalobos said. "The penalty should help rehabilitate them in order to reincorporate them into society. If the requesting country doesn't give a less-serious punishment, we cannot extradite."

But he added that Mexican officials were committed to working with their U.S. counterparts to put criminals where they can't hurt people.

"These days, if we don't join forces, we cannot fight these guys," he said. "These guys do not have borders."

By international human rights standards, Mexico's position on the death penalty is consistent with most of the rest of the world, especially Europe, said Jorge Vargas, an expert on Mexican law at the University of San Diego.

While not defending the Mexican system, Vargas said the United States "is exactly the same when it comes to the death penalty as Saddam Hussein and Iraq. We're one of the few countries in the world with the death penalty."

This reasoning makes U.S. prosecutors crazy.

"Let's talk about justice," Cooley said. "Not someone's view of humanity. The murders occurred here. We get to set the standards of justice in our community. The [Mexican] Supreme Court should not be interfering with the sovereignty of the United States."

Meanwhile, this spring the Mexican government began prosecution of Casillas, which means he could not be prosecuted here even if he did return.

For Zavala, this is a torment. Even though he can think of no solution, anymore than prosecutors can, he won't give up.

"I promised her that it's never going to stop until I make justice for her," he said.

Jessica's mother, agrees—to a point.

"Here is where he committed the murders," Petra Zavala said. "But if they bring him here, or don't bring him here, still, my daughter is not here."

Times staff writer Hector Becerra contributed to this story.

May 2002

Indian Tribal Sovereignty Explored

Mark C. Tilden, a staff attorney from the Native American Rights Fund in Boulder, Colorado, and a San Diego lawyer specializing in American Indian law were featured speakers when the University of San Diego School of Law convened a legal issues workshop on April 18.

Organized by Professor Nancy Carol Carter of the law school, A Nations Within: Aspects of Tribal Sovereignty was one of the educational offerings at USD's 1st American Indian Celebration.

American Indian tribal sovereignty and self-government, Tilden explained, pre-date the United States Constitution. Indian nations were independent before European settlement of the continent. From the earliest days of our republic, the federal government legally recognized tribal powers of self-government through court decisions, federal policies, Congressional enactments, and the hundreds of Indian treaties that remain the law of the land.

Tribal governments continue to be a national force, despite adversities such as widespread reservation poverty, political isolation, and hardships resulting from broken treaty promises. Recent federal court decisions muddy some once-clear areas of tribal independence. Tribal exercise of powers can lead to frictions with state governments. Colin Cloud Hampson, of the law firm Sonosky, Chambers et al., offered some specific examples in his talk on the special state and federal tax issues arising in



Fund Law Professor Nancy Carol Carter and Mark C. Tilden, a staff attorney from the Native American Rights Fund made presentation

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Andersen Lawyers Question

*Enron Ex-Lead Partner Says
He Knew He Faced Penalties
Unless He Cooperated in Case*

By ALEXEI BARRIONUEVO
And JONATHAN WEIL *4154*

David Duncan testified yesterday that he knew he could face a stiff prison sentence and possible accounting-fraud charges related to Enron Corp.'s collapse if he didn't cooperate with the government in its prosecution of Arthur Andersen LLP.

Mr. Duncan, the government's central witness in Andersen's criminal trial on an obstruction-of-justice charge, said yesterday in his third day of testimony that he knew he "primarily faced" being charged with obstruction of justice for leading a massive effort to destroy Enron-related documents last fall. But the former lead partner on Andersen's Enron account said he knew he also risked being charged with fraud for his role in Enron's "accounting issues." Under the terms of his cooperation agreement with the government, Mr. Duncan can't be prosecuted for other crimes to which he confesses while aiding Justice Department investigators.

The testimony, elicited on cross-examination by Andersen's lead attorney, Rusty Hardin, will play a major role in the firm's defense. Prosecutors maintain that Mr. Duncan's obstruction-of-justice guilty plea alone is enough to convict the firm itself of obstruction. But Mr. Hardin yesterday sought to cast doubt about the legitimacy of Mr. Duncan's plea, suggesting his recent admissions aren't genuine and instead are motivated by fear of more-severe prosecution.

Mr. Duncan, who is expected to be on the witness stand for the remainder of this week, said his lawyers had told him before his April guilty plea that he faced "increased exposure" if prosecutors concluded he played a significant role in Enron's accounting problems. And Mr. Duncan said he understood the punishment for a fraud conviction could be based on "the monetary damage involved" in Enron's collapse. Mr. Duncan, the married father of three young girls, said he was mindful of the risk. "Any exposure to me was considered to be important and significant," he said.

Duncan Guilty Plea

"You were in the middle of a nightmare, weren't you?" asked Mr. Hardin. His voice cracking slightly, Mr. Duncan replied softly: "This has not been my favorite year."

Mr. Duncan's testimony over the past three days has been notable for the lack of new evidence it has produced to directly support the government's case. Nearly every detail he described about Andersen's shredding campaign had been disclosed previously, many by Andersen attorneys before and during the trial. Indeed, perhaps the most significant development to emerge from Mr. Duncan's testimony this week is the fact that he changed key portions of his own story over the course of several interviews this year with the Justice Department, leading up to this week's testimony.

When first questioned in January, Mr. Duncan had maintained he had done nothing wrong and only was acting in response to an Oct. 12 e-mail by an Andersen lawyer reminding another Houston partner of the firm's document policy. The policy required the destruction of all files that weren't going to be saved in Andersen's permanent client records. Now, Mr. Duncan is testifying that a primary reason he ordered his staff on Oct. 23 to begin destroying records is that he feared the prospect of coming litigation and inquiries by the Securities and Exchange Commission, fitting with prosecutors' theory. And now, Mr. Duncan says he believes he committed a crime by destroying Enron-related documents in the weeks leading up to a Nov. 8 subpoena from the SEC.

Mr. Duncan said he continued to believe he was innocent of a crime throughout a three-day period in mid-January, during which Andersen fired him and he voluntarily submitted to interviews with Justice Department and congressional investigators. But after a period of "soul searching" starting later that month, Mr. Duncan said yesterday, he began to worry that his actions actually did constitute a crime. Mr. Hardin attacked Mr. Duncan's statements that he simply had a change of heart, tracing what Mr. Hardin called his "evolution" from loyal Andersen partner to a man who turned on his own.

On Jan. 14, Mr. Duncan recounted, he went to Washington, where he was interviewed by nearly 20 federal investigators, including prosecutors and Federal Bureau of Investigation agents from the Justice Department's Enron Task Force, as well as officials from the Internal Revenue Service. That meeting lasted more than five hours, and Mr. Duncan said he was feeling nervous.

The next morning, Andersen fired him. Mr. Duncan said he found out from one of his attorneys, just hours before Andersen announced it in a news release. That afternoon, Mr. Duncan said, he met at his Washington attorney's law office for more than four hours with about 10 congressional staff members investigating Enron's collapse. "I did not believe what I'd done was against the law," he said yesterday. He granted a shorter interview to a smaller group of Enron Task Force and IRS representatives the next day.

In the weeks that followed, Mr. Duncan testified, he began studying the law. Unsure of what his status was at the firm—though he had been given notice of his termination, Andersen partners hadn't formally voted to expel him yet—Mr. Duncan said he felt shut out by former Andersen colleagues. He said he was having a tough time getting answers

to questions about "transition issues," such as whether he still was covered under Andersen's insurance plan.

Mr. Duncan said he "discussed the fact that I might have committed a crime" with his attorneys and with family members. He said he arrived at his eventual conclusion slowly. "I had to do a lot of soul-searching about what I believed to be my motivations around these activities," he said. "At some point along that process, I began to realize the law was certainly not that clear-cut."

On March 19, five days after Andersen's indictment, Mr. Duncan said he flew to Washington again to meet with Justice Department officials, who by that time had made him a "target" of their probe. He still gave no indication in government interviews that he believed he had committed a crime. Mr. Hardin, seeking to show that Mr. Duncan took a long time to change his mind, pressed Mr. Duncan to reveal exactly when he finally concluded he had committed a crime. Mr. Duncan said he wasn't sure. But he said that by a March 21 meeting with Justice Department officials he "was beginning to accept" that he "had done something wrong."

By the time he met with FBI agents and Enron Task Force prosecutor Andrew Weissmann on April 5 in New York, he had decided. He signed his cooperation agreement with the government, understanding he might receive probation and not have to serve a day in prison. He agreed to "be truthful" with the government and to testify against the firm. The prosecutors now pursuing Andersen will be the same people who determine whether Mr. Duncan has lived up to his agreement. Mr. Hardin noted during his questioning yesterday. Mr. Duncan's sentence ultimately will be up to a federal judge, who isn't bound by prosecutors' recommendations and could sentence him to as many as 10 years in prison.

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The Reaction to Duncan

What are experts in law and accounting saying about the testimony of David Duncan, the former Arthur Andersen partner who was in charge of the Enron account? Below, excerpts from a Wall Street Journal Online roundtable. For more, go to WSJ.com.

"It was for the lawyers to say whether Enron's disclosures were in accordance with law, not for Enron's accountants."

*Susan Koniak, legal ethics specialist,
Boston University law school*

"Duncan's testimony, thus far, appears to be tremendous for the government. As a matter of law, his admission that he destroyed documents knowing of a pending SEC investigation is enough to convict Andersen of the crime with which they have been charged."

*Stan Twardy, criminal defense attorney
and former U.S. attorney for Connecticut*

"In sum, so far we are left with a witness doing his best to support the government's case (and thereby avoid jail time), but not offering testimony that fits the government's charges under the relevant statute. The jury may very well convict Andersen, but based on the evidence so far it would be well within the bounds of the law to acquit. Even if convicted, Andersen will have a strong argument on appeal, based on the relatively narrowly circumscribed law the government chose to use in this case."

*Frank Partnoy, professor of law,
University of San Diego*



Former Arthur Andersen partner **David Duncan**, left, arrives at the federal courthouse in Houston last week with his attorney **Sam Seymour** for the accounting firm's trial on an obstruction-of-justice charge.

AP Photo/Pat Sullivan

DAILY COURT REVIEW

HOUSTON, TX
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POWER PLAY

4154 Reliant confession shakes credibility

Reliant Resources Inc.'s admission Monday that it engaged in sham electricity trades to bulk up its market status dealt another blow to the already shaken power industry and raised new questions about just how widespread such practices might be.

"We certainly have heard rumors of it before, but we have never seen anyone admit to it. It certainly could be widespread," said analyst Robert McCullough of Portland, Oregon-based power industry consultants McCullough Research.

"We have seen the utter demise of the industry leader and how many of their numbers do you believe? Certainly we are getting quite suspicious," he added.

Houston-based Reliant Resources said Monday it arranged with other power traders to buy and sell power to each other at the same price — called wash trades — to inflate revenue and the create the impression they own a bigger market share.

The company said it conducted most of the deals with Dearborn, Michigan-based CMS Energy Corp., which Friday said the U.S. Securities and Exchange Commission was investigating similar deals it conducted with another of the industry's leaders, Houston-based Dynegy Inc.

A spokeswoman for another industry leader, Tulsa, Okla.-based Williams Cos Inc., said her company was "not volume driven" and the possibility it engaged in such deals was "pretty slim."

"We are certainly looking at all of our past trading reports just to ensure that it has not happened," said spokeswoman Paula Hall-Collins, noting that if any irregularities were found, they would be dealt with decisively.

The bankruptcy of industry leader Enron Corp. last year was accompanied by a host of questions about the accuracy of financial statements, with hundreds of partnerships used to move debt off its books and enhance profits.

And last week, the industry's credibility received another crippling blow with federal regulators releasing Enron memos outlining trading strategies with names like "Death Star" and "Fat Boy" used to manipulate supplies and boost profits.

Industry experts said pre-arranged deals such of those conducted by Reliant Resources have long been forbidden on a regulated exchange such as the New York Mercantile Exchange. Their legality in the less regulated world of the wholesale power trading was, however, less clear.

Over-the-counter electricity trading was specifically exempted from regulation by Congress under December 2000's Commodity Futures Modernization Act.

"Most of the market for electricity trading is deregulated. There are different pockets of it that are under different jurisdiction. But in general, over-the-counter trading of electricity is exempt from regulation," said Frank Partnoy, San Diego University law professor and derivatives specialist.

"The SEC (Securities and Exchange Commission) regulates these companies because it regulates their financial disclosures . . . But it doesn't have anything to say about their business practices."

But energy traders said any reputable accounting firm would likely refuse to record revenue generated by wash trades if uncovered in the company's books.

Reliant Monday said it did similar deals with Encana Energy Services, a unit of EnCana Corp., Public Service Co. of Colorado, a subsidiary of Xcel Energy Inc. and privately owned Merchant Energy Group of the Americas.

Minneapolis-based Xcel said in a separate statement on Monday it had received a total of around \$110,000 in 1999 and 2000 for engaging in such deals.

San Jose, California-based Calpine Corp., which owns a growing fleet of power plants, firmly denied Monday it had ever engaged in such transactions.

"Calpine did not. We have no incentive to. Our primary business is power generation (not trading)," said spokeswoman Katherine Potter.

By Nigel Hunt

malpractice settlements posted online

KATHY ROBERTSON / STAFF WRITER

The state Medical Board, on the hot seat as legislators debate its future, wants to put malpractice settlements by California doctors online.

Doctors detest the idea, saying the public disclosure could ruin their careers. Insurers fear an end to money-saving set-

tlements. But the reform is needed to tell families information they deserve to know, said state Sen. Liz Figueroa, the Fremont Democrat whose bill would make the change.

The policy shift is coming as part of a big fight in Sacramento this spring over the future of the Medical Board of California, an independent state agency that licenses and polices more than 109,000 doctors licensed to practice in California. Critics complain the board doesn't go far enough to protect patients from bad doctors. Physicians counter that current enforcement is arbitrary and weighted against them.

Earlier this year, there was talk of scrapping the agency and transferring authority over doctors to the Department of Consumer Affairs. But the momentum has shifted to Figueroa's Senate Bill 1950, which would give the Medical Board more teeth, monitor how it does, and make more

information available to the public on the agency's Web site, www.medbd.ca.gov.

The state's current policy on disclosing malpractice, in effect for 10 years, is to report judgments but keep settlements private.

Doctors and the California Medical Association, the powerful trade group that represents them, say they settle disputes for many reasons that have nothing to do with guilt — and argue that expanded disclosure could kill their careers, increase the cost of healthcare and make it difficult to get physicians to practice in the state.

Malpractice insurers, who rely on settlements as a cheap and speedy alternative to jury trials, are out to squelch the move.

SB 1950 stems from hearings the Legislature held to review the Medical Board's function and performance before authorizing its continued operation. Figueroa wrote the bill in response to allegations that few of the 10,000-plus complaints received by the board each year lead to any action against doctors. The bill was waiting action on the Senate floor at press time.

Talk of disbanding the board is off the table, she said, because all the players are now focusing on the same outcome.

"The bottom line: Bring information to consumers about physicians," Sen. Figueroa said, "so consumers can make the best decisions about the health of their families."

More complaints, fewer charges: In the fiscal year ended June 30, 2001, the latest figures available, the Medical Board received 10,899 complaints, a record. That's up from 10,445 in fiscal year 1999 and 10,751 in 1998.

Simultaneously, the board filed 259 accusations or charges against doctors in fiscal 2000, down from 290 in fiscal 1999 and 392 in fiscal 1998. The board suspended or revoked licenses for 88 doctors in fiscal 2000 while their cases were investigated, down from 122 in 1999 and 125 in 1998.

Too many cases are closed without investigation, and 65 percent of people who file a complaint with the board are dissatisfied with action taken, according to legislative staffers who did their own investigation of the board.

Further, public information about physicians who have paid significant sums to settle malpractice complaints is kept secret from patients — even though hospitals, medical groups and malpractice insurance companies all demand the information as a prerequisite of doing business with a doctor, the Joint Legislative Sunset Review Committee concluded.

The state ranks 25th in the nation on the basis of serious disciplinary actions by its Medical Board per 1,000 doctors in 2001, according to the Washington, D.C.-based Public Citizen's Health Research Group. That's down from No. 19 in 2000 and No. 20 in 1999.

What the bill would do: SB 1950 would keep the Medical Board going for two more years. Among other changes, the bill would:

- Disclose the number and amounts of medical malpractice settlements over \$30,000, with comparisons to the average number of settlements for each specialty and subspecialty — and information about why lawsuits might be settled for reasons not related to the charges.

- Disclose a board investigation at the point when the board has asked the attorney general to file an accusation.

- Automatically revoke a physician's license if he or she has been found guilty of sexual abuse or sexual contact with a patient.

- Appoint an independent program enforcement monitor to evaluate the board's disciplinary system.

- Increase the penalty for practicing without a license.

- Assess a financial penalty for physicians involved in fraud.

- Add two more public members to the 19-member board.

"Like any bill, we continue to negotiate and try to find middle ground," Figueroa said. "I believe the CMA finally sees something needs to be done in this area. Will they get everything they want? I doubt it. Will we? I doubt it."

Internet inspired a fresh look: Increased use of the Internet makes it possible for people to get access to a lot more information than ever. That caused rethinking at the Medical Board — before the matter came up in the Legislature — about what to disclose to the public.

"Obviously, if we have information available to help patients make decisions about their doctors, the board wants it released," said Dave Thornton, the agency's director of enforcement.

"It's a great idea; we've been fighting for this for 10 years," said Julie D'Angelo-Fellmeth from the University of San Diego's Center of Public Interest Law. In 1993, the board agreed to disclose malpractice judgments, but not settlements.

"Since then, there haven't been hardly any judgments," D'Angelo-Fellmeth said. "Doctors have gotten together with lawyers to settle charges and avoid reporting them."

In 2001 there were 1,300 malpractice reports, she said, and 50 judgments.

In one case, the Medical Board was alerted in April 2001 that a Fremont doctor had paid money to settle a case and decided to investigate. A formal accusation was filed early this year that asks for suspension or revocation of the doctor's license but the case has not yet been resolved.

The patient in this case was born in 1997. The doctor noticed "slight jaundice" in an otherwise normal physical and only routine lab tests were ordered, court records show. The mother was told to feed the baby regularly and expose him to sunlight. There were a number of exchanges between the family and doctor over the next few days. A rash developed. There was a lengthy bout of crying.

The baby was brought to the emergency room when it was six days old with a fever and yellow skin. He was transferred to a special-care nursery at Stanford Medical Center. He survived, but suffered hearing loss and brain damage. The Medical Board concluded the doctor was grossly negligent in failing to fully evaluate the signs of jaundice present at birth.

Under SB 1950, the settlement would be disclosed to the public when the Medical Board heard about it more than a year ago.

How doctors see it: Wait a minute, doctors say. Bad doctors need to be disciplined, but broad disclosure of settlements sweeps a lot of other folks into the trash bin.

The change won't prevent bad medicine, but it will drive up insurance rates and make it more difficult to attract doctors to California, said Bill Sandberg, executive director of the Sierra Sacramento Valley Medical Society.

"It's going to be a real problem, mostly because people settle for a variety of reasons. These are different from judgments, where they were found at fault," Sandberg said. "Often those who get sued the most are those who take the most difficult cases."

Neurosurgery, obstetrics and misdiagnosis of cancer top the list of malpractice lawsuits, Sandberg said.

Dr. James Affleck, a retired ob/gyn who worked for MedClinic Medical Group for 32 years, has seen it all. He sat on the claims committee for NorCal Mutual Insurance Company for 15 years. That's the committee that decides which cases are defended through to go to trial — and which ones to settle.

NorCal is also one of the insurance companies that has filed a lawsuit to stop disclosure of malpractice settlements. In March, a Sacramento Superior Court judge issued a temporary restraining order to block their release. The Figueroa bill seeks to change that.

"There are so many factors that go into a settlement," Affleck said. "To the layperson, the allegations will look horrible. They'll see the money paid and make a judgment about their doctor."

Bottom line: A trial costs roughly \$50,000 a week, he said.

"You have to put that into your computer because insurance companies are trying to protect assets," Affleck said. "Is there negligence? Did the doctor not meet the standard of care? If so, did that actually cause the problem? There can be negligence in one part of the case that has nothing to do with the plaintiff, but a good plaintiff's attorney will find it and you have to put that into the formula, too."

Some doctors don't make good witnesses. Some are too arrogant. Others find the whole process too emotionally draining. The stakes are high when lawyers bring patients, especially babies facing a lifetime of special care, before juries.

Affleck settled a case of his own some 30 years ago.

It involved sterilization of a woman. She signed an informed-consent form that acknowledged sterilizations don't always work. There were some special circumstances; she'd already had an operation on one of her tubes. A year after Affleck performed the procedure, the woman got pregnant. She sued for "wrongful life."

"We felt we'd done nothing wrong," said Affleck of himself and his assistant. The insurance company agreed and the case went to trial. The plaintiff and her attorney came up from Los Angeles for testimony on a Thursday and Friday. The plaintiff's attorney approached Affleck on Friday afternoon saying he and his client didn't want to go back to court on Monday, and would Affleck agree to settle the case for \$20,000 or \$30,000?

"Nobody wanted to continue with it. We could get out of it cheap — it would cost more to even go on with the trial," Affleck said. "It would not be reported. Who would ever want to come to me after a failed sterilization?"

1ST STORY of Level 1 printed in FULL format.

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MAY 12, 2002, SUNDAY, FINAL EDITION

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LENGTH: 898 words

HEADLINE: Opening doctors' records gets OK;

Medical Board votes to support new bill

SOURCE: Chronicle Staff Writer

BYLINE: Todd Wallack

BODY:
Under increasing fire for keeping complaints and legal actions against doctors secret, the Medical Board of California voted unanimously Saturday to push for legislation that would make the board's records of medical malpractice settlements available to the public for the first time.

The Medical Board also voted to inform the public of criminal misdemeanor convictions and other public records that could be related to a doctor's care, such as whether a doctor is registered as a sex offender. The board also decided to make investigations public when they are first referred to the state attorney general for possible prosecution, instead of waiting for the attorney general to file a formal accusation.

"It's a very significant step," said Dr. Alan Shumacher, a former president of both the Medical Board and Federation of State Medical Boards. "I applaud the board and will applaud even louder if the Legislature goes along with it."

The move comes four months after The Chronicle reported that the Medical Board sometimes gives doctors clean bills of health -- even when juries levy multimillion-dollar verdicts against them for harming patients. The board also currently keeps secret misdemeanor convictions, complaints and malpractice settlements.

Prompted by The Chronicle's story and a wave of newspaper articles that followed, the state's Joint Legislative Sunset Review Committee, which was already in the process of reviewing the Medical Board, voted on May 1 to craft legislation that would require the Medical Board to disclose some settlements, misdemeanors and other data.

In a recent interview, state Sen. Liz Figueroa, D-Fremont, who chairs the committee, said she has been pushing to make settlements public for the past five years.

"We have to empower consumers to make the best decisions. We need to provide them with accurate information," she said.

MORE MALPRACTICE INFORMATION

The San Francisco Chronicle MAY 12, 2002, SUNDAY,

But the board's vote Saturday went further than the committee's recommendations in one respect. The board decided to make public all malpractice settlements in its files since 1997, rejecting the committee's proposal to release settlements only when a doctor had three or more worth over \$30,000 each in a 10-year period or a single settlement of more than \$150,000.

Initially, the board only wanted to release the information when there appeared to be a pattern or a large enough settlement to indicate the suit probably had some merit. But in the past few days, board members decided that the cutoff figures were "arbitrary."

Instead, the board decided it would be better to release all the suits and try to put them in context by explaining that doctors in some specialties draw more lawsuits than others.

The legislation is likely to face fierce competition from medical insurers and the California Medical Association, which represents 34,000 doctors in the state.

DOCTORS DISPUTE DISCLOSURES

Earlier this month, CMA officials testified that it would be unfair to doctors to make settlements public, since physicians are sometimes forced to settle groundless suits because it is cheaper than fighting them.

"It would be an outrageous violation of any American's constitutional right of privacy, including physicians, if a public agency could ruin a career by disclosing unproven, speculative information that drives patients away," CMA President Dr. John Whitelaw testified at the May 1 hearing of the legislative review committee.

But Saturday's decision to make all settlements public caught the CMA by surprise.

"This is a new development," said CMA spokesman Peter Warren, reached at his home. "Our leadership will need time to digest it."

OPPOSITION FROM INSURERS

Insurance companies have also lobbied to keep settlements secret, arguing that making them public might discourage doctors from settling suits and drive up litigation costs and insurance premiums.

Earlier this year, a coalition of insurers went to court to obtain a temporary injunction blocking the Medical Board from releasing records of thousands of malpractice settlements requested by The Chronicle under the Public Records Act, arguing that the law currently requires them to be kept secret.

Julianne D'Angelo Fellmeth, administrative director of the Center for Public Interest Law in San Diego, has been pushing the Medical Board to make more information public.

At the committee hearing in Sacramento earlier this month, Fellmeth warned that patients could die if the state insists on hiding possible problems about doctors while taking years to investigate complaints. "The system is

The San Francisco Chronicle MAY 12, 2002, SUNDAY,

unacceptably flawed," she said.

Fellmeth also pointed out that insurance companies insist on seeing settlement records before deciding whether to issue a doctor a policy, and hospitals review the same records when deciding whether to give a doctor privileges. She contends it makes no sense to deny patients the same information.

Although the Medical Board has historically favored keeping settlements and other information confidential, the board membership has changed dramatically in the past few years. Most of the members have been on the board for less than two years.

"This is a new board," said Candis Cohen, the board's spokeswoman. "The new board recognizes that the public wants more information." E-mail Todd Wallack at twallack@sfchronicle.com.

LOAD-DATE: May 12, 2002



This fall, the USD School of Law's Pardee Legal Research Center will celebrate the addition of its 500,000th volume.

USD School of Law: Committed to academic excellence, public service

4154

By GEORGE DECKER

University of San Diego School of Law

An outstanding center of legal education with a distinguished faculty, a talented student body and a dedication to innovation, the University of San Diego School of Law is committed to both academic excellence and service to the community.

"Our vision is to be among the very best at the important task of educating lawyers in this new century," said Dean Daniel B. Rodriguez. "Even more ambitiously, our objective is to train future leaders of the profession. This leadership will include not only great technical legal skills but also ethical behavior, creativity and a commitment to public service."

The USD School of Law is regarded as among the finest private law schools in the western United States. For example, in the last administration of the California bar exam, USD's passage rate for first-time takers was tied for second in the state, and only behind Stanford's, among private law schools.

The law school's 1,100 students share superb credentials, intellectual curiosity and a commitment to learning the law. The demanding but welcoming environment of the law school emphasizes individualized education. The USD School of Law is a worldwide leader in graduate legal education, with nationally recognized programs in taxation, international law, business and corporate law and criminal law. It is also a member of the Order of the Coif, the most distinguished rank of American law schools.

First-rate faculty

The USD School of Law enjoys a long tradition of supporting talented, energetic and innovative teacher-scholars. Faculty members author significant books, treatises and articles on a vast range of legal topics, and participate regularly in national and international academic conferences.

In a recent ranking of law faculties, USD is listed among the top five law schools in the nation in the teaching of criminal law, and among the top nine in jurisprudence. USD's law faculty is also ranked 13th nationally in per capita authorship of books and 19th nationally in per capita scholarly productivity.

On Jan. 24, 2002, Prof. Frank Partnoy, who joined USD's law faculty in 1997, explained to the U.S. Senate how the misuse of derivatives helped lead to the collapse of **Enron** (Pink Sheets: ENRNQ), when he testified before the Senate Committee on Governmental Affairs. His testimony was broadcast live on C-SPAN and the MSNBC Web site, and garnered widespread coverage in the national news media.

Public service

USD School of Law's clinical programs and research and

advocacy centers give students practical experience while serving the community.

The law school's Clinical Education Program is recognized as one of the most extensive and successful in the nation. It provides students with the opportunity to learn lawyering skills and apply their knowledge by representing clients in many different areas of the law.

Last year the law school launched its Entrepreneurship Clinic, which offers students the opportunity to help entry-level entrepreneurs negotiate the regulatory maze of starting and running a small business. The clinic is also devoted to fostering economic empowerment and self-sufficiency in traditionally underserved communities.

"After my first year of law school, I wanted to take a class that would give me some hands-on experience," said Ethan Watts, class of 2004. "The Entrepreneurship Clinic has been a great way to get the experience I was looking for and was very rewarding, in that we got to work with people who may not have been able to start their own businesses without our help."

The USD School of Law is also home to two of the most productive and successful research and advocacy centers in California: the Center for Public Interest Law and the Children's Advocacy Institute. The Center for Public Interest Law, or CPIL, focuses on regulatory and public interest law. Under the supervision of experienced public interest attorneys and advocates, CPIL law student interns study California agencies that regulate business, professions and trades. The Children's Advocacy Institute, or CAI, is dedicated to promoting the health and well being of California's children, and administers the Child Advocacy Clinic — an academic program that trains future lawyers to represent the interests of children.

Pardee Legal Research Center celebrates 500,000th volume

The law school's state-of-the-art Pardee Legal Research Center holds the finest legal research collection in southern California outside of Los Angeles, and is among the top one-third of American Bar Association-accredited law schools in terms of collection size. This fall, the LRC will celebrate the addition of its 500,000th volume.

Founded in 1954, the law school is accredited by the American Bar Association and the Association of American Law Schools. For more information, visit the University of San Diego School of Law's Web site at www.sandiego.edu/usdlaw.

Decker is director of publications at the University of San Diego School of Law.

SAN DIEGO DAILY
TRANSCRIPT
SAN DIEGO, CA
WEDNESDAY 10,500
MAY 1 2002

So. CALIFORNIA LAW SCHOOL INDEX

		Ranked by Total Enrollment					
	Company Address Phone/Fax E-mail/URL	Total Enrollment	Full-Time Faculty	Accreditation	Special Programs	School Administrators	Year Est.
		Daytime Enrollment	Part-Time Faculty				
		Evening Enrollment					
1	Loyola Law School 919 S. Albany St. Los Angeles, CA 90015 (213) 736-1000 Fax: (213) 380-3769 E-mail: eloise.teklu@lls.edu URL: www.lls.edu	1,352	174	ABA and AALS	Three law journals: Loyola of Los Angeles Law Review, International & Comparative Law Review and Entertainment Law Review; Moot Court & Trial Advocacy Competitions; Center for Conflict Resolution; Cancer Legal Resource Center; Western Center for Disability Rights.	David W. Burcham, Dean; Professor Victor Gold, Associate Dean, Academic Affairs; Prof. Robert J. Nissenbaum, Director of Law Library; Ken Ott, Assistant Dean for Development; Graham Sherr, Asst. Dean, Career Services	1920
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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: jdinfo@sandiego.edu URL: www.sandiego.edu/usdlaw/	1,098	150	ABA, AALS and The Order of the COIF	Lawyering skills and trial advocacy programs; child advocacy, civil, criminal, environmental law, immigration law, mental health and public interest law clinics, judicial internship program. Graduate (LL.M.) programs include international law, taxation.	Alice B. Hayes, President; Daniel B. Rodriguez, Dean; Virginia V. Shue, Assoc. Dean for Academic Affairs; Judith C. Bruner, Assistant Dean for Graduate Programs and Academic Planning; Carrie Wilson, Asst. Dean of Students; Susan S. Benson, Career Services; Nancy Carol Carter, Director	1954
		781	35				
		317					
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	80	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 Wertlich, Alumni Relations Director; Amy Berenson Malloy, Assistant Dean, Career Services	1948
		1,000	24				
		0					
4	Southwestern University School of Law 675 S. Westmoreland Ave. Los Angeles, CA 90005-3992 (213) 738-6731 Fax: (213) 736-1205 E-mail: pubinfo@swlaw.edu URL: www.swlaw.edu	902	111	ABA and AALS	Four J.D. programs: three-year, full-time, days; four-year part-time, evenings; four-year, part-time, days for students with children; and a SCALE two-year conceptual approach program. Summer programs in Buenos Aires, Argentina; Vancouver, BC; Guanajuato, Mexico.	Leigh H. Taylor, Dean; Christopher Cameron, Associate Dean; Professor Linda A. Whisman, Librarian; Debra Leathers, Director of Development; Gary Greener, Assistant Dean, Career Planning Services; Leslie Steinberg, Director of Public Information	1911
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		273					
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	815	45	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; Prof. Mazk Weinstein, Associate Dean Administration	1924
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6	Whittier Law School 3333 Harbor Blvd. Costa Mesa, CA 92626-1501 (714) 444-4141 Fax: (714) 444-0855 E-mail: info@law.whittier.edu URL: www.law.whittier.edu	653	79	ABA, AALS, WASC	International Law Symposium, Health Law Symposium, Summer Institute for Intellectual Property, Center for Intellectual Property Law, Children's Rights Fellowships, Public Interest Fellowships, Exchange Programs in France and Spain, tentative Summer Abroad Programs in Israel and Spain.	Neil H. Cogan, Dean and VP for Legal Education; Susan Abracia, Director of Admissions; Sue McGuigan, Assoc. Dean for Student Services; J. Denny Haythorn, Assoc. Dean of Library & Info Resources; Marlene J. Bridges, Director of Business and Human Resources; Bonnie Saito, Director of Career Services	1887
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7	Pepperdine University School of Law 24255 Pacific Coast Highway Malibu, CA 90263 (310) 506-4611 Fax: (310) 506-4266 E-mail: soladms@pepperdine.edu URL: law-www.pepperdine.edu	621	40	ABA and AALS	Straus Institute for Dispute Resolution, IRA Sherman Center for Ethical Awareness, London Study Abroad Program, Center For Entrepreneurship and Technology Law.	Richardson R. Lynn, Dean; Shelley Saxer, Associate Dean, Academics; Phil E. Phillips, Associate Dean, Administration; Dan Martin, Assoc. Dean, Library and Information Services; Carol Allemeier, Director, Career Services; Shannon Phillips, Director, Admissions and Records; Janet Lockhart, Director, Financial Assistance	1971
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8	Thomas Jefferson School of Law 2121 San Diego Ave. San Diego, CA 92110 (619) 297-9700 Fax: (619) 294-4713 E-mail: info@tjstl.edu URL: www.tjstl.edu	613	75	ABA, CBE and WASC	Field placement program, judicial internship program, alumni mentor program and LSAT scholarship program. Special course concentrations in intellectual property, entertainment, sports and media law, business law, international law, criminal law, etc.	Kenneth J. Vandevelde, President; Jennifer Keller, Assistant Dean of Admissions; Marybeth Herald, Associate Dean; Professor Karla Castetter, Librarian; Lisa Kellogg, Alumni Relations Director; Andrea Lamb, Assistant Dean Career Services; Lori Wulfemeyer, Assistant Dean; Nancy Vu, CFO	1969
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9	University of Southern California Law School Main 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	150	ABA and AALS	General law programs include entertainment, intellectual property and business law.	Matthew Spitzer, Dean; Robert Saltzman, Associate Dean; Karen Lash, Associate Dean; Scott Altman, Associate Dean; Tom Tomlinson, Associate Dean; Vicki Brown, Assistant Dean; Albert Brecht, Associate Dean, Librarian	1900
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10	The University of West Los Angeles 1155 W. Arbor Vitae St. Inglewood, CA 90301-2902 (310) 342-5250 Fax: (310) 342-5295 E-mail: info@uwlax.edu URL: ww.uwlax.edu	166	40	CBE, WASC	Investors workshops, employment law workshops, open houses, school of paralegal studies.	Robert W. Brown, Esq., President; Dr. Shelley S. Glickstein, VP Marketing & Institutional Advancement; Anne Arvin, Esq., Acting Dean, School of Law; John Holtz, Esq., Career Development Services; Jimmy Rimonte, Librarian	1966
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11	University of La Verne College of Law 320 E. D St. Ontario, CA 91764 (909) 460-2000 Fax: (909) 460-2082 E-mail: lawadm@ulv.edu URL: www.ulv.edu	165	28	CBE	Tutoring services, computer labs, provisional entry program, placement testing.	Kenneth Held, Dean; H. Randall Rubin, Associate Dean; Lawrence Meyer, Librarian; Alexis Boles, Assistant Dean	1891
		70					
		95	20				
12	Glendale University College of Law 220 N. Glendale Ave. Glendale, CA 91206 (818) 247-0770 Fax: (818) 247-0872 E-mail: admissions@glendalelaw.edu URL: www.glendalelaw.edu	130	3	CBE	Summer criminal law program; spring torts program, fall alternative program.	Darin Greitzer, Executive Dean; Karen Ewen, Director of Library; Judythe Greitzer, VP; Kimberly Greitzer, Director of Admissions/Registrar; Kimberly Greitzer, Career Services	1971
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Listed by Total Enrollment • A complete listing of companies can be found at sourcebook.sddt.com. • Source: The companies • N/A: Not Available • n/a: not available • It is not the intent of this list to endorse its participants, nor to imply that the company's size or numerical rank indicates its quality or service.

SAN DIEGO UNION-TRIBUNE

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Mayor's 3 children disagree on the allure of public office

4154
They're divided by
their politics, too

By Ray Huard
STAFF WRITER

San Diego Mayor Dick Murphy's three adult children think their father's just grand.

Yet when it comes to politics, well, there are some differences.

For starters, son Brian, 30, and daughter Shannon, 26, said they don't see the attraction of holding public office.

"I don't think I'd like that much attention. I'm more of a private person," said Shannon Murphy, who is working toward a master's degree in ecology at UC Davis.

She and her sister, Kelly, 23, also said the mayor's politics are a little too conservative for them.

"They said that?" asked an amused Dick Murphy.

Yes, they did.

"I'm much more liberal than he is on a lot of things," said Shannon Murphy, who plans to

stay in Northern California after getting married in August. Her fiancé has a master's degree in horticulture and is studying for his doctorate.

"Southern California is too conservative and crowded," she said.

The mayor disagrees.

"Don't tell that to the people in Indiana, that Southern California is too conservative," said Murphy, a Midwestern native. "My perspective of people who live in Southern California is that they are open-minded and politically moderate, and so I wish Shannon would change her mind and move back to San Diego."

Shannon Murphy, an outdoors enthusiast who has an undergraduate degree in biology from UC Berkeley and is doing field research on sudden-death syndrome in oak trees, said she finds the environmental activism of Northern California more to her liking. She said she considers her father a strong advocate for environmental protection.

"He's always very proud to

tell me about his (environmental) accomplishments," she said. "I'm proud of him for it."

For relaxation, she said, she recently took up crocheting and sewing. The 1994 graduate of Patrick Henry High School said her career goal is to teach with her husband-to-be at a university.

Brian Murphy, who is studying for a law degree at the University of San Diego, said his political outlook is closer to his father's than it is to that of his sisters.

Still, he said, "I'm not planning on running for office. I'm just trying to get through law school."

He lives at home and works part-time as a claims representative for Progressive Insurance while attending law school. He said he becomes annoyed from time to time at newspaper and television reports about his father.

"I get a little irritated," he said. "Sometimes I feel that the press doesn't focus on the positives of what he's doing; they focus on the negative things."

Sometimes, he said, he is downright mystified by what he reads and hears.

"There was something in the paper that said he was running for governor in 2006," the mayor's son said. "That's the first I heard of it . . . When I came home, I said, 'So, you're running for governor.' He isn't."

Becoming a lawyer has long been his ambition, although not necessarily to follow the path of his father, a former judge.

"Ever since I was a little kid, I wanted to be an attorney," he said, adding that it has taken him a few years to focus on the goal.

"When I graduated from undergraduate school I wasn't prepared to go into it. I think I needed some time off from school," said Brian Murphy, who holds a bachelor's degree in history from UC Riverside. "I don't know that when I was 23 years old I had the maturity to go to law school."

Of the three Murphy children, he said, he was the most rebellious. Mostly, he said, that was evident in the B-plus average he carried, in contrast to the A-pluses of his sisters.

He said he is an exercise buff who climbs Cowles Mountain several times a week and plays guitar to relieve stress. He's also a big Padres fan.



Shannon (from left), Brian and Kelly Murphy chatted recently in their parents' home. Only Kelly said she wouldn't rule out a run for office someday. Sandy Huffaker

Kelly Murphy, soon to graduate with a sociology degree from UCLA, is planning a summer jaunt through Europe with her roommate.

"I want to eventually be a high school teacher," she said. "I'd love to be a coach, too, in high school."

A teaching career would fit right in with the family tradition, Dick Murphy said. His father and mother were teachers, as was one grandfather, he said.

Kelly Murphy, who is minoring in child psychology, works part-time as a volunteer in a day-care center at the universi-

ty. She also works part-time at California Pizza Kitchen in Los Angeles.

She said she has put out a few feelers, looking for full-time work after graduation, but is putting off a determined job search until she finishes her summer travels.

"I just can't get too serious about it when I'm going to be gone for two months," she said.

She matched her brother and sister by being big on sports while growing up.

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Commercial
REAL ESTATE

Developer proposes simulated surfing for Belmont Park

By THOR KAMBAN BIBERMAN

San Diego Daily Transcript

A San Diego native who has developed simulated surfing parks all over the world has acquired the lease to oceanfront Belmont Park and plans to develop a similar project there.

Thomas J. Lochtefeld, who created the Raging Waters theme parks, became the sole leaseholder for Belmont Park this week with the intention of resurrecting the Mission Beach facility.

Funding for the acquisition was provided by **La Jolla Loans Inc.**, a private mortgage lender. The terms of the lease purchase were not disclosed, but about 36 years remain on the lease.

Lochtefeld plans to bring his Wave Loch FlowRider system —

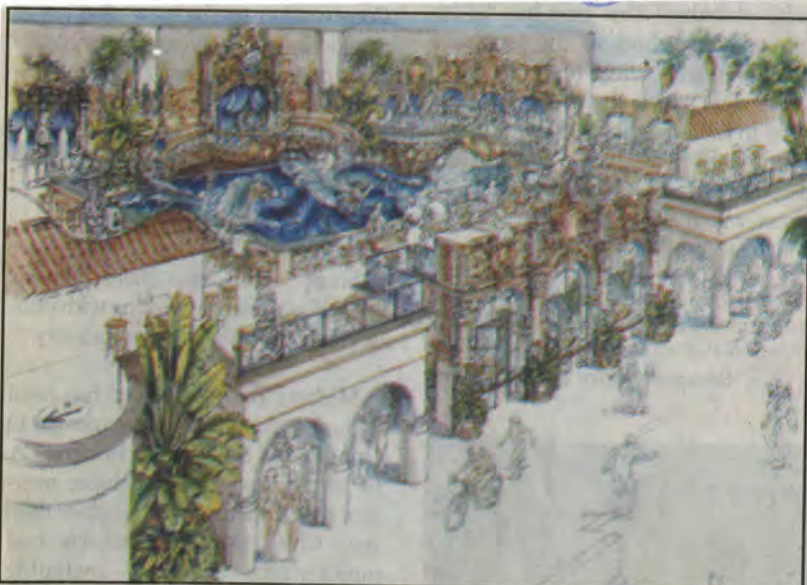
already operating in Durbin, South Africa, and soon to be running in Brazil — to San Diego.

While surf generating machines are nothing new — Tempe, Ariz. has had one for more than 30 years — the FlowRider system is a bit different. Whereas the Tempe wave machine generates actual waves, FlowRider pumps water with submersible propellers over a sheet of stationary, padded fiberglass. The resulting ride, that Lochtefeld likens to riding a mountain, enables riders to slide down, carve a turn, and ride back up the simulated wave's surface.

Lochtefeld said he also plans to add at least two restaurants. Other proposals include exhibits on how surfboards and flowboards, which have no fins, are made, a variety of retail shops, an interactive facility and a live production studio.

Lochtefeld would like to see more surf and beach shops in the Belmont's footprint that could even surround a sort of river ride at some time in the future.

Belmont Park, which was first created by sugar king John Spreckels in 1925, has had more than its share of difficulty over the years. The famous Giant Dipper roller coaster has had to be renovated more than once. The last time was in the late 1980s.



A San Diego native who has developed simulated surfing parks all over the world has acquired the lease to oceanfront Belmont Park and plans to develop a similar project there. (See top story)

The Plunge, the indoor swimming pool and another signature part of the park, has been alternately opened and closed and opened again over the years. Lochtefeld said there is no question that The Plunge needs improvements, but isn't quite sure what they will look like. Ideally, he would like to have a major physical education component with everything from weight rooms to karate classes.

Paying for proposed improvements has been another problem. Lochtefeld said he might have gotten started two years ago had a lender not backed out at the last minute. He is counting on a variety of lending sources that could range from private investors to conventional financing, but suggested that a proven model in Durban, South Africa, should make it easier for lenders to visualize.

Modern efforts to rehabilitate the park date back to the early 1970s when the city commissioned a survey on what should be done with the property. Plans that have come and gone have involved such well-known San Diegans as developer architect Paul Thoryk, who rebuilt Columbia Square in downtown San Diego, and then-Mayor Roger Hedgecock.

BELMONT PARK

CONTINUED FROM Page 1B

See BELMONT or

Belmont Park has a history like the Giant Dipper coaster, but this is something of a homecoming for Lochtefeld, who grew up in the coaster's shadow.

"My first job, at age 16, was at Dino's Corn Cob overlooking the roller coaster," said Lochtefeld. "I am intimately familiar with the original vision for Belmont Park and I am thrilled to be in a position to restore and build on that vision."

"Tom is the right person with the right vision to turn this into one of San Diego's signature parks," said Councilman Byron Wear. "Realizing this concept on this site is a certain win for all of San Diego," Wear added.

William T. (Will) Griffith, the city's real estate assets director, said while "this property has long been neglected, we expect Tom will turn that around. In conjunction with him, the city is looking forward to enhancing community access to, and enjoyment of

Mission Beach."

Lochtefeld graduated from Mission Bay High School in 1970 and University of California, San Diego in 1974. He earned a law degree from the University of San Diego School of Law.

He has pursued the leasehold at Belmont Park since 1981, when the city of San Diego put the project out to bid for redevelopment.

After creating and selling Raging Waters, he set his focus on developing the perfect wave machine. The resulting WaveLoch FlowRider is the medium for a radical new board sport that combines surfing, snowboarding and skateboarding disciplines.

The FlowRider is the centerpiece for Wave House, a complex dedicated to board sports culture. The first Wave House opened in Durban, South Africa in 2001, with others currently in planning for Brazil, Germany, Hawaii and Hong Kong.

Source Code: 20020523tdg

Prenuptial Agreements

Alexandra M. Kwoka, a Certified Specialist in Family Law, is a 1974 graduate of the University of Chicago Law School, who has practiced in San Diego since moving from Chicago, Illinois and leaving the Department of Justice SCRS in 1980. She also has an L.L.M. degree in Taxation from the University of San Diego, and a special interest in complex community property and marital tax issues such as retirement benefits, stock options and QDROs.



Alexandra M. Kwoka

What Is A Prenuptial Agreement? When Is It Enforceable?

When you read newspaper accounts concerning the divorce of a public figure, such as Tom Cruise or Donald Trump, and you see the term "prenuptial agreement" used, do you know what is being described? Are you thinking of marriage, and wondering if you, too, should have a "premarital agreement"? Recent amendments to statutory law have both clarified and made more difficult, answering these and other questions. This article provides an overview.

What is a prenuptial agreement?

A prenuptial agreement is the written agreement of parties contemplating marriage. The provisions of the agreement become effective only upon marriage, and are intended to define the rights and duties of the parties as to those matters addressed in the agreement. Even if the parties agree to a provision, the agreement may not be enforced if any of its terms are "against public policy." For example, a term in a prenuptial agreement that requires children be raised with a particular religion is not enforceable. *In re: Marriage of Bonds* (2000) 24 Cal.4th 1; neither is an agreement whose effect is to relieve either party of his/her statutory duty to support minor children. *Shasta v Caruthers* (1995) 31 Cal.App.4th 1838.

When is a premarital agreement needed?

Because California law provides that all earnings during marriage are "community earnings", and that the "community" has an interest in all assets acquired during marriage if held in joint title, even if those

assets are purchased with a separate property down payment, there is no easy answer to this question. Significantly different views are held by financial advisers, attorneys, and parties — accountants, business lawyers and estate planning attorneys may prefer that "separate property" be defined and remain separate, especially when either or both parties have significant separate assets, or a business acquired and owned prior to marriage. The concept of "co-mingling" — where separate assets become community assets if "co-mingled" with community funds — may prompt parties to enter into a premarital agreement, especially if one party has an inheritance he/she wishes to keep separate. Where parties have children or obligations prior to marriage, a premarital agreement may be necessary or prudent to ensure that both parties are in agreement as to how the children will be supported, or how business or personal obligations will be met.

What may the parties agree to do, or what rights may be waived in a prenuptial agreement?

California law governing prenuptial agreements is set forth both in a statute, the Uniform Premarital Agreement Act, Family Code §1600 et seq., and "case law" — that is, written decisions of the Courts. Enactment of a predecessor statute, Civil Code §§177-180, in 1872 permitted parties by contract to define their rights in marital and other real and personal property. By several amendments over the years, the acceptable topics of a premarital agreement were expanded to include not only ownership in, and disposition of, marital and separate property, and the making of a will, trust or other arrangement, but also "any other matter, including personal rights and obligations not in violation of public policy or a statute imposing a criminal penalty." Relying on this latter "catch-all" provision, premari-

By Alexandra M. Kwoka

tal agreements were drafted and entered into which also set terms for, or waived, spousal support.

However, the first version of the Uniform Premarital Agreement Act as enacted in 1983 in California, did not include a provision that authorized parties to contract with regard to spousal support rights and obligations. When the issue was presented to the Courts, opinions differed as to whether or not such provisions concerning spousal support, or one waiving support, were enforceable, or whether they were "against public policy."

Responding to the conflict among the Courts, as well as several highly publicized divorce rulings by the California Courts, including in the proceedings brought by Mrs. Barry Bonds entitled *Marriage of Bonds* 24 Cal.4th 1 (2000), the California Legislature last year amended Family Code Section 1612. By Stats.2001, c. 286 (S.B. 78)§1. Parties in a premarital agreement now may contract with regard to spousal support §1612(c).

When is a premarital agreement enforceable?

When the Legislature amended §1612, it also amended §1615, which governs enforcement of premarital agreements. Now, the Court must consider whether the agreement was entered into voluntarily or under duress or fraud, questions which determine the validity of contracts in the business arena, and also the requirements of §1615. Summarizing some of these, the agreement will not be enforced if the party against whom enforcement is requested proves that the agreement was "unconscionable when executed" and certain facts relating to the negotiation and drafting of the agreement:

1. The party was not provided a fair, reasonable, and full disclosure of the property or financial obligations of the other;
2. The party did not voluntarily and expressly waive in writing any right to disclosure;
3. The party did not have, or reasonably could not have had, an adequate

knowledge of the property or financial obligations of the other party.

Whether a premarital agreement or one or more of its terms was "unconscionable when executed" will be decided by the Court. The Court is now authorized to consider "any other factors the court deems relevant" in making its decision. In ruling on the validity of a premarital agreement, the Court will presume the premarital agreement was voluntarily entered into, unless certain specific proof is presented, as specified in the Code, including the adequacy of legal representation, and the nature and explanation of rights and obligations relinquished. If an agreement is entered into within 7 days of the document being presented for signature, this fact may permit the Court to find that it was unconscionable.

If the premarital agreement includes provisions regarding spousal support, Family Code §1612(c) provides: "Any provision regarding spousal support...is not enforceable if the party against whom enforcement of the spousal support provision is sought was not represented by independent counsel at the time the agreement was signed, or if the provision regarding spousal support is unconscionable **at the time of enforcement...**"

With the standards for determining what is or is not an enforceable premarital agreement now having been revised and purportedly "clarified", one might expect that resolution of the enforcement issue will be simple. In fact, the many Court opinions written before the Act was amended, which seek to resolve questions raised concerning "undue influence" and "duress", demonstrate that parties in a divorce proceeding often disagree about and litigate the circumstances existing that led them to sign a premarital agreement. Attorneys and the parties now know that an agreement that includes spousal support will not automatically be held in violation of public policy. But now such agreement will be scrutinized to determine "unconscionability" **both** at the time of negotiation/signature and when the Court is asked to enforce support terms/waiver.

The law and rules have not been made simple with recent amendments to the Uniform Premarital Agreement Act. If the agreement includes a provision concerning spousal support, the parties must discuss the future, and document their intentions. Thought must be given by the parties and legal and financial advisers prior to drafting and executing any premarital agreement as to its language and terms.

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Dispute resolution provider JAMS adds Fritz to staff

Law Briefs

By David Hicks

Attorney Linda Fritz, who has worked as a mediator and arbitrator for the last 13 years, has joined the San Diego staff of JAMS, a private alternative dispute resolution provider.

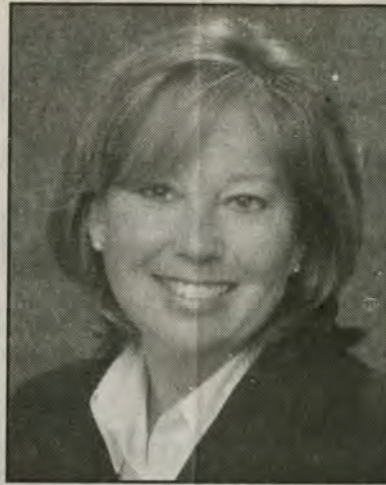
Fritz, 50, has served as the general counsel at the **JacLind Corp.** since 1999. She managed all legal issues and litigation, including overseeing the resolution of Internet and Web-related disputes for the 30 entities owned by the corporation. Fritz was the managing partner of the civil litigation division for **Kimball Tirey & St. John** from 1993 to 1999, and she has served as the lead attorney for more than 100 trials and arbitrations and more than 2,500 municipal court trials.

Fritz has been a member of the American Arbitration Association's national roster of arbitrators and mediators as well as a member of the San Diego County Superior Court's mediator and arbitrator panel since 1990. She has adjudicated more than 600 arbitration cases as a sole or panelist arbitrator and has served as both a mediator and arbitrator in two separate mass tort claims projects. She has successfully mediated more than 1,000 real estate, business, mass tort and other disputes involving complex issues and multiparty proceedings.

As an Adjunct Professor at California Western School of Law since 1994, Fritz teaches negotiation, mediation, arbitration and alternative dispute resolution strategies.

Attorney R. Anthony Mahavier has established his own law firm. The practice, **R.A. Mahavier, a Professional Law Corp.**, is located at 550 West C St. in San Diego.

Mahavier, who was born and



Linda Fritz

raised in San Diego, received his law degree from the University of San Diego School of Law in 1985. His primary practice is in civil litigation, where he has experience in a wide variety of cases.

SAN DIEGO DAILY
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fitness tips

With an idea for every week, here's a year of living healthfully

By LESLIE GARCIA
Staff Writer

Getting fit is just a matter of small steps (quick ones, to rev up that heart rate!) families can take together. The more you do, the better you feel.

Here are 52 ideas to help get you started. Start simply; decide you're going to incorporate one every week for the next year. And who knows? — you may get really into it and do a few at once.

Granted, some may sound a bit corny, but isn't being in shape worth a little silliness?

Food

1 Buy ONE BAG of chips only once a month. When it's gone, it's gone until next month.

2 It's easier to develop good habits than to break bad ones. Start your kids out with green beans instead of french fries, a family outing at the park instead of one in front of the tube.



3 Don't let kids eat when they're distracted — watching TV, doing homework, riding in the car.

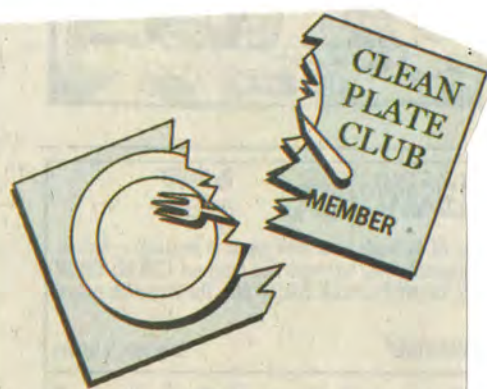
4 Skip the super-size portions. If the extra food's not in front of them (or you!), nobody will miss those hundreds of unnecessary calories and dozens of fat grams.

5 Remember that kid-friendly foods — pizza, cheeseburgers, spaghetti and meatballs — *are* nutritious, says registered dietitian Jessica Setnick of Dallas. Just not gigantic and multiple servings of each.

6 On car trips, take a cooler stocked with healthy foods. They can be a meal in themselves or supplement fast-food meals.

7 Put away your "food police" badge. "It only makes them want to eat more," says Dr. Kathy James of the University of San Diego. "You have to back off."

8 Kids menus are usually just fried-somethings. Order an appetizer or soup instead. Better yet, split your own meal. Restaurant dinners are notoriously huge.



9 Tear up family membership cards for the Clean Plate Club.

10 If you're assigned to after-game or pre-practice or after-practice snack detail, bring plastic bags filled with ice-cold grapes or strawberries. To drink, try 100-percent juice. Or really be a maverick and bring ... water!

11 Read labels together. A bag of chips may have a respectable 160 calories per serving. But then check out the serving size — one of those little bags is supposed to be enough for 2.5 people. Calorie count adjustment: 400.



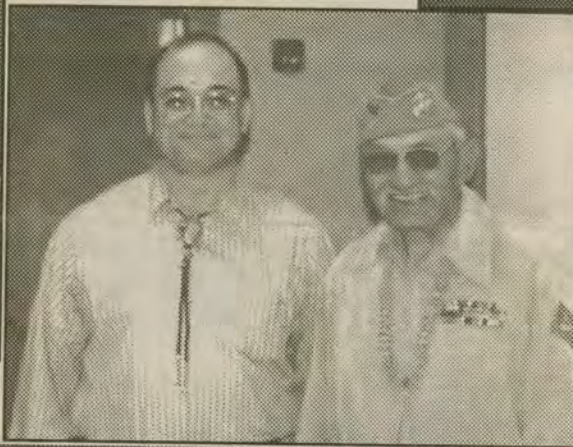
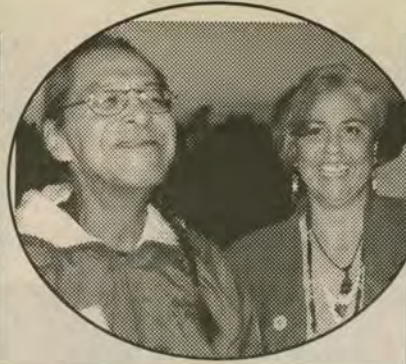
12 If your kids are always *starving* when you pick them up from school, bring a piece of fruit or a container of yogurt to eat in the car. It'll tide them over better than a drive-through order of fries.

Other USD Related News

TRIBAL HERITAGE FOR THE MILLENNIUM

MAY 2002

USD's 1st American Indian Celebration



University San Diego hosted its first American Indian Celebration and Educational Festival April 18-21 The spiritual event included a Proclamation from San Diego Mayor Murphy



Kumeyaay Tribal Elder Jane Dumas blessed the opening of the celebration American Indian artists, storytellers musicians and dancers performed throughout the event

The festival in conjunction with the UCSD's annual Social Issues Conference included lectures by activist Winona LaDuke and World War 11 Navajo Code Talker Albert Smith



SAN DIEGO UNION-TRIBUNE

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Higher costs seen for higher education

4154 FRONT PAGE
Tuition hikes at
local private schools
continue 5-year spiral

By Samuel Autman
STAFF WRITER

Students attending some private colleges and universities in San Diego County next fall will face an average 5 percent tuition hike, continuing a trend that has seen tuition at some campuses increase by more than one-third in the past few years.

In a five-year span, tuition has

climbed nearly 33 percent at the University of San Diego, 29 percent at Point Loma Nazarene University, and 32 percent at Christian Heritage College, according to a survey by *The San Diego Union-Tribune*.

Costs at private schools nationwide and locally have spiraled higher due to increased energy costs, salaries, technology, construction and renovation.

Tuition has held steady at many public colleges and universities across the country, including San Diego State University and the University of California San Diego. These campuses are state-subsidized, and

legislators historically have resisted tuition increases.

At UC campuses tuition is \$3,429 a year, and at CSU campuses it is \$1,428 for in-state undergraduate students, compared with local private universities that can top \$20,000 a year.

"Their bricks cost what our bricks cost," said Jonathan Brown, president of the Association of Independent California Colleges and Universities, representing more than 200,000 students. "Their computers cost what our computers cost, but the differ-

A SEE Tuition, A6

► TUITION

CONTINUED FROM PAGE A1

In 2000, loans paid 58 percent of college fees

ence is that a student who attends UC at San Diego gets a subsidy regardless of financial need. That's why their tuition is low."

A recent study by the National Center for Public Policy and Higher Education showed the cost of attending college has increased more rapidly than inflation and family income. Meanwhile, state and federal financial aid for students has not kept pace with the tuition increases. And as tuition has risen, so has the willingness of college students and their families to go into debt to pay for an education.

Ariela Ronay-Jinich is an 18-year-old La Jolla High School senior who is heading for Brown University in Providence, R.I. Brown will cost her about \$37,900 a year. She will owe roughly \$80,000 to lenders when she graduates, but she's willing to eat the debt.

"There are certain things you invest in in your life that depreciate in value," she said. "But when you invest in an education, that never goes down in value. You can make as much as you want out of it. It is always an asset."

During the past 20 years, Americans have increasingly embraced debt-financed education. According to the report, in 1981 grants accounted for 52 percent of federal student financial aid. Loans were 45 percent. In 2000, grants were 41 percent while loans increased to 58 percent.

Across the nation as costs increase, colleges and universities are struggling to keep higher education affordable. The private schools say they have a more difficult time. Private-school tuition has increased roughly 5 percent annually for the past five years, according to the National Association of Independent Colleges and Universities.

Since 1998, the University of San Diego's tuition jumped 32.8 percent to \$21,880, Christian Heritage College fees increased 32.4 percent to \$13,560 and Point Loma Nazarene University's tuition was up 29.1 percent to \$15,760.

Paul Bisonnette, USD's vice president for finance and administration, said comparing tuition increases at his institution with other schools in the region

is unfair. He said USD is more akin to selective private universities such as Stanford or the University of Southern California, which offer comparable classes.

"That's the illusion of percentages — they don't tell you what you are looking for," Bisonnette said.

In the past five years, tuition at Stanford increased about 23 percent, and USC's grew by about 26 percent. At Stanford, tuition was \$22,110 five years ago. Next fall it will be \$27,204. At USC it was \$20,962 in 1998. Next fall it will be \$26,464.

Arthur Shingler, vice president of financial affairs for Point Loma Nazarene, said Southern California schools endured the energy crisis in the past year,

and those costs have to be absorbed.

"It seems like with the increased cost of technology, construction and reconstruction for needed facilities, the costs have increased more rapidly than our ability to pass those costs along to students," he said.

"It's across the board everywhere," said Laurie Hurl, head guidance counselor at Point Loma High School. "Every institution has their financial woes, but it is the students who are being asked to pay the price."

Brown, whose organization represents 77 private colleges and universities in California, said people need to view paying for college as an investment.

And, he said, a \$21,000 a year price tag to attend a respectable private university is worth the investment.

Akilah Carter Davis and her parents agree. The 18-year-old senior at San Diego School of Creative and Performing Arts in Paradise Hills will attend Stanford next fall.

She got a handful of scholarships to help pay for books, but her parents will pay most of the tuition.

"Stanford does cost a lot of money, but I feel like I am getting my money's worth," she said. "You have award-winning professors and a great student body. It's worth it."

Bridget Terry Long, a Harvard professor of economics and specialist in higher-education

financing, said fewer than 5 percent of students pay \$20,000 a year for college because of a variety of financial aid programs available. Most will pay about \$8,000 a year, she said.

And even for those who do pay more, college degrees significantly boost earning potential, she said. "Remember, higher education is still a bargain when you look at the benefits. It's really a million-dollar decision. People with college degrees on average make over a million dollars more over a lifetime than people with just a high school degree."

So, what are parents and students getting for \$21,000 a year at USD?

"They are getting a quality education that will have a lifetime return on it," Bisonnette said. "The cost of an education is something you have to look at as a lifetime investment."

Private schools say they can offer smaller classes, individually tailored instruction and a more intimate setting than large public universities like San Diego State University or UC San Diego.

"It's a more holistic approach to life and the education process that goes beyond the books," said Shingler of Point Loma Nazarene. "That's what we focus on."

Shingler and many of his counterparts say if higher-education

**"When you invest
in an education,
that never goes
down in value."**

*Ariela Ronay-Jinich,
La Jolla High School senior*

education costs are not brought under control, private schools could alienate people.

"It is terribly affecting to us," said Molly Cook, about the tuition increase at Point Loma Nazarene, where she will be a senior next fall. "That is more money we need to come up with. It's more debt we are incurring to our family. It is troubling, but in the same instance I am so pro-Point Loma that it is totally worth it to get a quality education."

Molly and Jerald Cook, who have two children, decided a few years ago that an education at Point Loma Nazarene was worth every dime. They spent more than 100 hours investigating and applying for scholarships. The bulk of their schooling was paid for by scholarships they got through the San Diego Foundation.

Molly Cook, who majored in nursing, said she and her husband will have about \$5,000 in loans when she graduates next year.

Private schools are hoping parents take advantage of the newly expanded Cal Grants. Under the changes, the program guarantees an award to all needy students who have graduated from high school within the previous 18 months. It is deemed a way to assist students who want to attend private schools. Students with financial need and at least a B average are eligible for a full-tuition grant at a public college — \$3,429 at the University of California — or up to \$9,700 at a private institution.

The federal government offers a few options, too. Undergraduates who qualify can receive up to \$3,300 year through the Pell Grant, which does not have to be paid back. The government also offers billions of dollars in low-interest loan programs, which are being re-examined by Congress.

About \$100 billion worth of financial aid is distributed to students in the form of loans, scholarships and grants.

Despite all the help, Long, the Harvard professor, offered this advice for putting children through a private college: "Plan ahead and save."

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A survey by The San Diego Union-Tribune showed that in a five-year span, tuition has climbed by more than 30 percent at the University of San Diego and Christian Heritage College, and 29 percent at Point Loma Nazarene University. *Union-Tribune file photo*

Higher and higher

Tuition at some Southern California private colleges and universities has climbed steadily over the past five years. Next fall, tuition at all but one private institution in the San Diego region is set to rise.

University	TUITIONS					CHANGE
	1998	1999	2000	2001	2002	1998-02
University of San Diego	\$16,470	\$17,780	\$19,020	\$20,353	\$21,880	32.8%
Thomas Jefferson Law	\$19,375	\$19,950	\$21,150	\$22,180	\$23,450	21.0%
National University	\$9,300	\$9,600	\$9,900	\$10,260	\$10,260	10.3%
Point Loma Nazarene	\$12,210	\$13,186	\$13,900	\$14,800	\$15,760	29.1%
Alliant International University	\$12,000	\$12,600	\$13,200	\$13,950	\$14,370	19.8%
California Western Law	\$20,500	\$21,320	\$22,200	\$23,420	\$24,750	20.7%
Christian Heritage College	\$10,240	\$10,840	\$11,924	\$12,550	\$13,560	32.4%

SOURCE: Colleges and Universities

BRIAN CRAGIN / Union-Tribune





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Rally criticizes sex attacks, safety at USD

Campus officials defend policies, vow to 'work hard'

By Joe Hughes *4154*
STAFF WRITER

Students at the University of San Diego held a noontime rally at the Linda Vista campus yesterday to raise awareness about sexual assaults and criticize administrators over the handling of recent incidents.

"I was raped last semester by a USD student, a guy I had trusted," said one woman. "He violated me and my body. My friends and family are still suffering from his pathetic behavior."

Particularly crushing, she said, was "watching my mom cry while I was given the test for AIDS."

The man was not arrested in connection with the November incident.

University officials said later that there was not enough evidence to prove that a rape had occurred. However, the allegation was investigated by the university, which suspended the student accused in the sexual assault, officials said.

Critics said the student should have been expelled.

University officials who addressed the rally said preventing sexual assaults are of paramount concern.

"We share their goals and



USD faculty adviser Adrienne Lyles-Chockley yesterday embraced a freshman (back to camera) who had just told about having been sexually assaulted by another student on campus. Students Lauren Wolf (left) and Michelle Terrell (right) applauded the speaker. *Laura Embry / Union-Tribune*

will continue to work very hard to create a safe campus environment where our students are comfortable reporting such incidents and are confident they will be dealt with appropriately," said Thomas Cosgrove, dean of student affairs.

Cosgrove said the university is always looking to improve its policies and will re-examine

disciplinary procedures this fall. Among the possibilities is the creation of a panel to review claims of sexual assault. Currently, allegations are reviewed by an administrator.

Police last year arrested, but later released, a former student suspected of raping or otherwise sexually assaulting at least six female students within two

years. He was not charged.

Some students said at the time that the university failed to warn students about the suspected rapist, but officials said they were limited in what they could do because of privacy concerns.

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University Upgrade



Moody's Investors Service upgraded \$115 million of outstanding debt for the University of San Diego and assigned an A2 rating to \$13.7 million of revenue bonds being sold next.

The California Educational Facilities Authority will issue the Series 2002A bonds on Monday or Tuesday in a competitive sale. Proceeds from the sale will help build a new parking facility. They are the obligation of USD.

The rating reflects favorable student demand and growth in the university's financial resources that support a manageable debt burden, according to the Moody's report.

"Favorable enrollment trends and steady increases in tuition have contributed to USD's improved operating performance over the past five years. Net tuition and auxiliary revenues, which together account for nearly 85% of annual operating revenue, grew 46% between 1997 and 2001," Moody's reported.

With this sale included, dependable resources will cover debt service by 1.03 times and total resources will cover it by 1.45 times, below the A rating medians of 2.2 and 3.3 times. Current debt service coverage is 4.8 times based on an operating surplus in excess of 14%.

The university does not intend to sell more bonds during the next few years. Additional capital projects will likely be funded through operating resources and gifts, not debt.

Standard & Poor's and Fitch Ratings do not rate the credit.

— Rochelle Williams

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Athletics

USD throwing its best at Sun Devils

4154
By Kevin Acee
STAFF WRITER

MESA, Ariz. — Standing in the blazing sun toward the end of a short workout at HoHo-Kam Park, on his first official day as the coach of an NCAA Regional participant, Rich Hill acknowledged the real heat will be on tonight.

The temperature should be about 30 degrees cooler, in the mid-70s, when USD faces host Arizona State at 6 in the Toreros' first-ever Regional game. But Hill knows it won't be cool if his team loses with its ace on the mound.

Hill stopped short — just short — of saying it was a must-win, his voice trailing off on a sentence he began, "We have to ..."

The fact is, junior left-hander Ricky Barrett is USD's best hope for a victory from a starting pitcher.

Should the Toreros not win when he starts, something that has happened just four times in his 17 starts this season, it is highly unlikely they will win the four games in two days it would then take to win the Regional.

"With Ricky on the mound, that's your guy," Hill said. "You've got to go (complete game) and get the win."

Barrett has won four consecutive starts, going nine innings in the past two and at least seven innings in nine of his past 10. Opponents are batting just .255 against him on the season.

He has pitched with pressure most of the season and accepted that role for tonight's game.

"If I win, it gives us that much more of a chance," he said. "It's just as important as the Pepperdine series (that he win)."

The Toreros' other two main starters have struggled mightily

of late.

Tom Caple, tired after a season in which he also started 44 games in center field, has lost three straight starts and is 2-4 in his past seven. Aaron Wilson, who has pitched through elbow tendinitis and a rib-cage injury, is 0-4 in seven starts since throwing a four-hitter at Portland on March 24.

Besides 21st-ranked Arizona State (35-19), this Regional features No. 7 Houston (41-14) and New Mexico State (37-23).

The Toreros walked around the Chicago Cubs' spring training home yesterday, clearly feeling the heat, admittedly basking in their being here, but maintaining they are as confident as ever.

"You can be excited to be here," said catcher S.C. Assael. "But we're here to win. Just because it's our first appearance, we're not going to be like, 'All right, we get to play some more games.' We look at it like any series, and we're here to win."

Arizona State coach Pat Murphy said he didn't think USD would be intimidated by playing the host team, one that has been to the Regionals five times in six years and has five College World Series titles in its history.

"I've known about Rich Hill and San Diego for a long time," he said. "I know how his team plays. They'll be ready."

The key will be Barrett's readiness to once again carry his team for a night.

Despite a blister on the middle finger of his throwing hand, he appears strong. With a 12-day rest between them, he has thrown more than 140 pitches in each of the past two starts. He has thrown 114 1/3 innings on the season.

"I can go until my arm doesn't work anymore," he said. He might have to.

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NCAA Baseball Tournament ⁴¹⁵⁴

Teams in Regional at Mesa, Ariz., beginning play today.

TODAY'S GAMES

Houston vs. New Mexico State,
noon; USD vs. Arizona State, 6 p.m.

No. 1 seed Houston

Record: 44-15 (No. 7 by Baseball
America)

Coach: Rayner Noble (290-192)

About the Cougars: This is their
fifth Regionals appearance in six
years. Houston was 21-7 against
ranked opponents... Sophomore
RHP Brad Sullivan (11-1, 2.08) was
the C-USA Pitcher of the Year...
Jesse Crain batted .318 in 55
games at SS, and he was 4-0 with
nine saves and did not allow a run in
31 1/3 innings as a reliever. He was
named to the C-USA first team at
both positions... The Cougars'
staff ERA was 3.16, by far the best
among these four teams.

No. 3 USD

Record: 38-21

Coach: Rich Hill (135-96-2 at USD,
468-317-2 overall)

About the Toreros: They were
25-6 on March 28, then went
13-15 to finish the season... They
earned the West Coast
Conference's automatic berth -
and their first NCAA bid - by
beating Pepperdine in a
best-of-three series last weekend
... USD was 2-5 against NCAA
Regional teams... Junior 3B
David Bagley led the team with a
.401 batting average, 56 RBI and
13 home runs... Junior LHP Ricky
Barrett, tonight's starter, has won
four consecutive starts, pitched
two straight complete games and
is 10-1 with a 3.38 ERA.

No. 2 Arizona State

Record: 35-19 (No. 21)

Coach: Pat Murphy (304-162-1 at
ASU; 622-278-2 overall)

About the Sun Devils: They won
seven of eight to finish the season,
including two of three at USC two
weeks ago... The Sun Devils, who
have been to 18 College World
Series and played in the Regionals
five of the past six years, were
11-3 this season against NCAA
Regional teams... Sophomore
RHP Mike Esposito (9-5, 3.47) had
three 10-strikeout games. He will
start ASU's second game...
Junior RHP Jered Liebeck (2-1,
5.14) will make his seventh start of
the season tonight against USD...
ASU was 27-8 at home this season
and has scored in an NCAA-record
429 consecutive games.

No. 4 New Mexico State

Record: 37-23

Coach: Gary Ward (69-46 at
NMSU; 1,022-359-1 overall)

About the Aggies: Their first
NCAA appearance... They
finished sixth in the nine-team Sun
Belt Conference but went 4-0 in
the conference tournament to get
an automatic berth... Ward took
Oklahoma State to 17 Regionals
appearances and his teams won
their first-round game the past 16
times... The Aggies, whose home
games are played at 4,000 feet,
are 4-10 against NCAA Regional
teams... Outfielder Ryan Kenning
set Sun Belt records with 96 RBI
and 24 homers... Junior
right-hander Jason Williams (8-1,
4.61) will start today.

- KEVIN ACEE

Torero overcomes life's curveball



David Bagley saw a dozen doctors and no progress. His virus defied diagnosis, and it resisted cure. It crawled through his system like a coal barge during a drought, ruining his appetite, robbing him of baseball.

"I didn't think much of it at first," the University of San Diego slugger said. "I thought it was flu. But it stayed with me for 14 months. I lost 30 pounds. I couldn't eat. I started to question if I would ever get over it."

Mainly, Bagley wondered whether his illness was a detour or a dead end; whether his swing could survive a seasonlong layoff; whether his baseball career had grown barnacles.

"I was depressed all the time," he said.

A lot of melancholy thoughts wander through a young man's mind when his dreams get dented by circumstance. There were days, David Bagley admits, when he may not have been the most scintillating company. Yet, if the big-league scouts like raw power and rare persistence, they can find it playing third base in the Toreros' first NCAA Tournament.

David Bagley is one of those guys who doesn't give up, a pit bull with an aluminum bat. Early Wednesday, more than an hour before USD's last pre-tournament workout at Cunningham Stadium, Bagley was at the ballpark for extra batting practice. Not that he needed it.

One year after he was redshirted for medical reasons, Bagley has helped carry USD to the highest plateau in its baseball history. Always a tough out, the 21-year-old sophomore leads the Toreros in batting (.401), home runs (13) and RBI (56). Tonight, in Mesa, Ariz., he will lead them against Arizona State in the first round of the NCAA Tournament.

In hindsight, Bagley says, his illness has made him stronger. It has brought him perspective and patience. He no longer broods so much about the occasional 0-for-4, having adopted the long view on short-term disappointments. This is one of the happier byproducts of poor health. When you've spent a year just trying to keep food down, sporting strife becomes a lot easier to stomach.

"When he has a setback, I think that makes him ever more determined," Cora Bagley said of her middle son. "Determined is probably the first word I ever used about him. He *will* attain his goals."

Almost since the cradle, David Bagley's career plans have involved big-league



David Bagley has put up healthy numbers at the plate, leading USD in average (.401), homers (13) and RBI (56) this season. Jim Baird / Union-Tribune

baseball. Some of his earliest pictures show a child crawling on the floor while clutching a ball. Most of his life has been devoted to chasing a ball or swatting it out of sight.

Three years ago, as a senior at Rancho Bernardo High School, Bagley struck a home run at Qualcomm Stadium in the CIF-San Diego Section Division I championship game. He was named the Most Valuable Player on a high school team that also included Hank Blalock, recently of the Texas Rangers. If Bagley was not on the fast track to the big leagues, neither was he much delayed by the traffic.

He was serving an apprenticeship in the summer Northwoods League, playing for the Mighty Gulls of Brainerd, Minn., when he was first afflicted with his mysterious virus. Though doctors never discovered the source of Bagley's illness, speculation included mosquito bites and lake swimming.

One day, David Bagley called his parents to say he was coming home and feeling puny. When he got off the plane, Cora Bagley remembers, her son was tethered to two intravenous lines.

"I think the frustrating thing was that no one could identify the virus," the mother said. "You always have to believe God is going to help you, but it was hard for him to understand what the heck was happening."

Even now, David Bagley is not exactly sure what it was that hit him, only that it

knocked him flatter than a chin-high fastball.

"If you're not seeing live pitching for a month, it's tough to get your timing back," he said. "When you're out as long as I was, you wonder if it will ever come back."

"When I started back last year, I was just missing the ball. I was 0-for my first 25 and it was real frustrating. It just wasn't me. You overanalyze everything, trying to figure out what you can do to get better."

Finally, in his first at-bat of a summer league game against a team of Marines in Mira Mesa, David Bagley lined a clean single up the middle. By game's end, he had three hits and no doubts. Soon, his confidence was restored and his weight returned.

Cora Bagley came to see higher grocery bills as a good sign. She came to see her son as her role model.

"He is an inspiration to me," she said. "It doesn't surprise me that he's come back. He's always been a kid who takes one step forward, two steps back, assesses the situation and then goes after it."

"Other parents have called me. Their kids have been through something similar and it hasn't been identified. I feel David is giving them hope."

If you're scoring, that, too, is a home run.

Tim Sullivan can be reached at (619) 293-1033 or tim.sullivan@uniontrib.com

SAN DIEGO UNION-TRIBUNE

SAN DIEGO, CA
FRIDAY 374, 133
MAY 31 2002

LOCAL PLAYERS IN THE NCAA TOURNAMENT

Numerous local players will be taking the field today when the NCAA Baseball Tournament begins:

Arkansas: Jeff Fletcher (Rancho Bernardo), Sr., INF.

Baylor: Sean Walker (Helix), Fr, RHP.

BYU: Paul Jacinto (La Costa Canyon), Soph., RHP; Jake Stubblefield (Scripps Ranch), Jr., INF.

Cal State Fullerton: Juan Eichelberger (Marian), Fr., RHP; Travis Esquibel (RB Vista), Fr., LHP; Wes Littleton (Vista), Soph., RHP; Chris Stringfellow (RB Vista), Sr., OF.

Florida: Mark Kiger (La Jolla), Sr., SS.

Harvard: Nick Carter (La Jolla), Sr., 3B/RHP.

Long Beach State: Neil Jamison (Ramona), Fr., RHP; Paul Macaluso (La Costa Canyon), Soph., OF; Steve Velazco (La Jolla), Fr., SS.

Miami: Haas Pratt (Rancho Bernardo), Soph., 1B.

Navy: Will Mahan (Torrey Pines), Jr., 1B/OF.

Oral Roberts: Chad Stewart (Carlsbad), Sr., OF.

Richmond: Matt McLoughlin (Torrey Pines), Soph., RHP.

Stanford: Donny Lucy (Fallbrook), Fr., 1B/C; Chris O'Riordan (Bishop's), Sr., 2B; Danny Putnam (Rancho Bernardo), Fr., OF; Carlos Quentin (USDHS), Soph., OF.

Texas Tech: Gera Alvarez (Vista), Sr., SS.

USC: Matt Chico (Fallbrook), Fr., LHP/OF; Joey Metropoulos (Monte Vista), Fr., 3B; Mark Todd (Patrick Henry), Jr., LHP.

USD: David Bagley (Rancho Bernardo), Soph.; Michael Bass (Santana), Fr., RHP; Tom Caple (Rancho Bernardo), Jr., OF/RHP; Zach Dobek (San Pasqual), Jr., C; Tobias Herrera (Monte Vista), Jr., INF; Joe Lima (Mira Mesa), Sr., OF; Pat Lucy (Fallbrook), Sr., RHP; Mike McCoy (Grossmont), Jr., 2B; Mike Oseguera (La Costa Canyon), Jr., LHP; Tony Perez (Eastlake), Jr., OF/LHP; Joey Prast (Poway), Soph., OF; Freddy Sandoval (Marian), Fr., INF; Erik Verdugo (Montgomery), Soph., INF; Sean Warlop (Bonita Vista), Fr., RHP; Aaron Wilson (Santana), Soph., RHP.

- KIRK KENNEY



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Members of the USD baseball team react to seeing their school's name announced for the NCAA Regionals. *Nadia Borowski Scott / Union-Tribune*

Toreros giddy about NCAA trip

While USD celebrates, Aztecs get left out of Regionals

By Kevin Acee
STAFF WRITER

4154

Gathered in the reception area of the USD baseball offices yesterday morning, dressed to a man in their new "WCC Champions" T-shirts, the Toreros knew they were in. They were getting a little antsy, though, at not knowing where they were in.

The NCAA Regionals brackets kept appearing on the screen, and yet USD's name still had not been called.

"Did they skip our card?" senior S.C. Assael joked after the two California sites had been announced without

NCAA Tempe Regional

At HoHoKam Park, Mesa, Ariz.

FRIDAY'S GAMES

- No. 1 Houston (44-15) vs. No. 4 New Mexico (37-23)
- No. 3 USD (38-21) vs. No. 2 Arizona State (35-19), 6 p.m.

USD at either one.

But a short while later, the Mesa, Ariz., bracket came on the screen and the Toreros grew excited.

When their pairing with Arizona

State appeared, players rose from their seats, shouting as one, their fists raised.

"We just wanted to see our name on TV," junior Tom Caple said later. "We didn't care where we were going; we just wanted to officially finally get there."

Yes, USD has officially arrived.

The third-seeded Toreros (38-21) play the second-seeded Sun Devils (35-19) at 6 p.m. Friday at Hohokam Park. Theirs will be the second game in the four-team Regional that also

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SEE Toreros, C5

► TOREROS

CONTINUED FROM PAGE C1

Host Sundevils are USD's first NCAA opponent

includes No. 1 Houston (44-15) and fourth-seeded New Mexico State (37-23). The winners of each of the 16 regionals advance to next weekend's Super Regionals, with those eight winners going to the College World Series.

"We're one of the 64 best teams in the country," Assael said. "Now people are going to look and go, 'San Diego, all right.'"

As shocked and excited as they were, as fresh as it all still was, the Toreros knew this: Things will never be the same for the USD baseball program.

"The thing that is the toughest is to get over the hump we just got over," coach Rich Hill said. "The jump from being competitive to being a team that is a championship team, that is tough."

Across town, there was only disappointment. As expected, following their defeat in the championship game of the MWC Tournament, SDSU was left out of the 64-team tournament after a season in which it won 43 games and captured the MWC regular-season title.

The Aztecs had 41 wins against Division I foes, the most of any team not to make the tournament. Northwestern State and Delaware State each had 40 Division I victories and did not get in.

It could have been the same story for USD, which had the WCC's best record by far. But the Toreros got it done Sunday at Pepperdine in the final game of the WCC Championship Series, coming back from a two-run deficit with a four-run eighth inning.

The USD players and coaches said before the season that another year of improvement would not be enough. It was time, the Toreros declared, to win their first WCC title and get to the Regionals for the first time in school history.

The Toreros started 10-0 and were 25-6 on March 28 before losing 10 of their next 15. They won five of their next six conference games before losing two of three to second-place Portland on the final weekend of their season. They needed Loyola Marymount to beat Portland once the following weekend in order to get into the WCC Championship.

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NCAA BASEBALL TOURNAMENT

⁴¹⁵⁴
The road to Omaha

■ **Regionals** (Friday-Sunday): 64 teams (four at each of 16 sites) playing double-elimination.

■ **Super Regionals** (June 7-9): Regionals winners at eight two-team sites in best-of-three.

■ **College World Series** (June 14-22): Super Regionals winners advance to the 56th championship at Rosenblatt Stadium in Omaha, Neb. Double-elimination format with final two teams playing one game for the title.

National Top Eight

■ The top eight teams in the nation are seeded and bracketed such that they could only meet at the College World Series. Seven of the eight seeds made it to Omaha last year. This year's top eight:

1. **Florida State** (56-12)
2. **Clemson** (47-14)
3. **Alabama** (48-13)
4. **Rice** (40-11)
5. **Texas** (48-14)
6. **South Carolina** (48-14)
7. **Wake Forest** (44-11-1)
8. **Stanford** (40-16)

In defense of Miami

Defending national champion Miami (29-26) can thank strength of schedule for extending its NCAA record to 30 straight appearances. The Hurricanes played 34 teams ranked in the top 50, although they needed a three-game sweep against New York Tech to finish above .500.

Welcome to the party

USD is one of five schools making its first appearance in the tournament, along with Central Connecticut State, Elon, Louisville and New Mexico State.

Aztecs not in the mix

Division I baseball committee chairman Wally Groff said the last three teams on the bubble that didn't make it in were Mississippi,

Mississippi State and Oklahoma State. Groff said San Diego State wasn't in the final mix. "They had a very poor non-conference schedule," he said. "They played no one in the Top 25 and were 1-3 against teams that were 26-50."

How'd you get in?

Navy (22-23) and Harvard (20-24) lost more than they won, but earned automatic berths by winning conference tourneys.

It's good to be the SEC

The SEC led all conferences with seven teams - Alabama, Arkansas, Auburn, Florida, Georgia, LSU and South Carolina - making the tournament. Favorable bracketing means four of those teams could make it to Omaha.

West side another story

The NCAA's mandate to reduce air travel (trying to keep teams within 400 miles of their regional) knocks things most out of whack in the West. Six of eight teams in the regionals at Stanford and USC are ranked in Baseball America's Top 25 - No. 18 San Jose State, No. 22 Long Beach State and No. 25 Cal State Fullerton at No. 9 Stanford and No. 15 Cal State Northridge at No. 17 USC. No other eight-team grouping includes more than three ranked teams. Last year, Stanford, USC and Cal State Fullerton all made it to Omaha. This year's bracketing means only one can make it.

Pack lunch (and dinner)

Maine has the longest trip to reach its regional - 2,714 miles to Los Angeles. That's because no teams in the Northeast made a bid to host a regional. "They were kind of the oddball out," said Groff. "We knew they were going to have to fly. Once they were in the air, we had to send them all the way out."

- KIRK KENNEY

Showdown victory puts USD in NCAAs

4154
By Ed Graney, STAFF WRITER

MALIBU — The outline read something like this: Assemble a college baseball team in four to five years that could call itself a legitimate conference contender. Build slowly, yet with a definite purpose. Set your sights on one day competing with a program that has dominated your league for, well, forever. Crawl, jog and eventually run alongside mighty Pepperdine.

Toreros 5

Pepperdine 3

Yesterday, amid the kind of breathtaking views this beach community of movie-star looks and million-dollar homes offers, USD caught the Waves.

And then passed them.

The Toreros are champions of the West Coast Conference after rallying late to defeat Pepperdine 5-3 in a best-of-three series final at Eddy D. Field Stadium. NCAA Region-

2
▶ **USD**
CONTINUED FROM PAGE C1

Late rally bags perennial WCC champion Waves

als pairings will be announced this morning at 9:30 on ESPN2, and USD (38-21) will learn whom it will play in the program's first postseason appearance at the Division I level.

Four years ago, Rich Hill drew up that outline as USD's new coach. Yesterday, his was a smile larger than the peaceful sea shifting in the distance.

"This means a lot to our school," said Hill. "What a great feeling for USD. And I think our guys really deserve it."

Of this, there is no doubt.

USD won two of three here against a team that boasts 13 conference titles, 19 NCAA regional berths and the 1992 national championship. The Toreros won despite trailing 3-1 after seven innings yesterday, despite having stranded nine runners entering the eighth in-

ning, despite having never been in such an all-or-nothing situation.

But then Freddy Sandoval began the eighth with a single and it all sort of fell into place. Two more hits, three walks and three Pepperdine pitchers later, USD had scored four. The Toreros then handed their fate to junior left-hander Tony Perez, who retired the last six Waves in order.

He struck out Jason Payne to end it, and the celebration began.

"I just kept reminding myself to relax," said Perez. "It makes it a little sweeter to beat Pepperdine. They are the class of this conference. They always have been. To beat them ... this is awesome."

A gamer. That's what everyone calls Perez, not a hair over 5-foot-10 or an ounce more than 170 pounds. But what moxie, what confidence. He drove in the winning run with a sacrifice fly and allowed just one hit in three innings to earn his third victory to go along with a team-best six saves.

And yet so many contribut-

ed. Where would USD be without Ricky Barrett's complete game in the series opener or Joe Lima's six hits over the weekend or Ben Quinto's diving stops at shortstop?

You had sophomore Aaron Wilson (4 $\frac{1}{3}$ innings pitched, three runs) keep USD in the game yesterday before David Dunn and Perez finished it. For two victories, you had timely hitting and fielding from Mike McCoy and David Bradley and Tom Caple and Jason Marian and S.C. Assael.

The Waves (31-32) are no ordinary fly on your windshield. It took a few swats from everyone to squash them.

"We knew we had this in us," said Lima, a senior outfielder.

Back home, USD held graduation ceremonies yesterday. Lima was one of four players who missed out on walking with classmates.

"For one day, this championship is more important," said Lima. "I couldn't ask for a better (present)."

Four years ago, Hill drew up an outline for success.

How prophetic of him.

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WCC title goes through Pepperdine

By Kevin Acee
STAFF WRITER

When USD and Pepperdine were placed in opposite divisions in baseball this year for the first time since the West Coast Conference went to that format in 1999, Toreros coach Rich Hill said it didn't matter.

"You still have to beat Pepperdine to win the championship," he said.

So it is that West Division champion USD is in Malibu today to begin the best-of-three WCC Championship Series against the Coast Division champion Waves.

The Toreros, trying for their first conference title and NCAA Regionals berth, would prefer the series were at home. Still, they are right

where they want to be.

"We want it to be Pepperdine," catcher S.C. Assael said this week. "You're going to be jazzed, regardless. If we were going to Saint Mary's, it would be the same story. But going to Pepperdine, playing them you get a different feeling."

The Waves (30-30) are playing in their fourth consecutive championship series and are going for their 11th WCC title. The winner of this weekend's series will be the conference's representative in the NCAA Regionals, and it would be the 20th such trip for Pepperdine.

"They're like North Carolina in the ACC in basketball and Michigan in the Big Ten in football," Hill said.

Meanwhile, USD (36-20) is trying

to make a move up. The Toreros finished second in their division behind Pepperdine in 2000 and 2001.

Last year's runner-up finish still feels rotten.

Pepperdine and USD split their six games in 2001, but Pepperdine went 22-2 against the rest of the WCC. So while the Toreros finished 20-10 in conference, they sat home while Gonzaga (17-13) faced Pepperdine in the championship series.

"We sort of felt like they got the shaft last year," Pepperdine catcher Rock Mills said. "It's a good thing for them that they got switched over, and it's a really good thing they are in the championship series this year."

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USD coach Rich Hill shares a few choice words with his players after recent game. *Jim Baird / Union-Tribune photos*

MIRROR IMAGE

USD baseball team reflects personality of coach Rich Hill

4154

What he wants is what they want, and vice versa. He will accept nothing less from his players.

And, finally, they are all his players.

"As you get a chance to get three or four recruiting classes under your belt," Rich Hill said, "those teams are going to mirror what you're all about."

This USD baseball team, like few teams can be, is a reflection of its coach.

In four seasons at USD, Hill has taken the program to a level of success it had not known in Division I. First came USD's first winning season in five years, followed by three years in which the Toreros set records for victories over Division I opponents.

Hill has done it his way, which is, among other things, infectious.

"We all respond to him very well," said freshman pitcher Sean Warlop. "He wants you to do so well, and he wants you to want to do so well. He's kind of like a disease that goes around the team."

Observing Hill during a game, it is clear how that happens.

This is no slight to the Toreros, who begin play today in the best-of-three West Coast Conference Championship Series at Pepperdine, where they will try to win their first conference title and advance to their first NCAA Regional. But the fact is, watching Hill can be every bit as entertaining as watching his team.

Hill expends as much energy in nine innings as anyone in uniform. Mentally, emotionally and often physically, the man is enveloped in every pitch.

Where most head coaches in college baseball are seldom heard from and some rarely seen, Hill is an active participant in games.

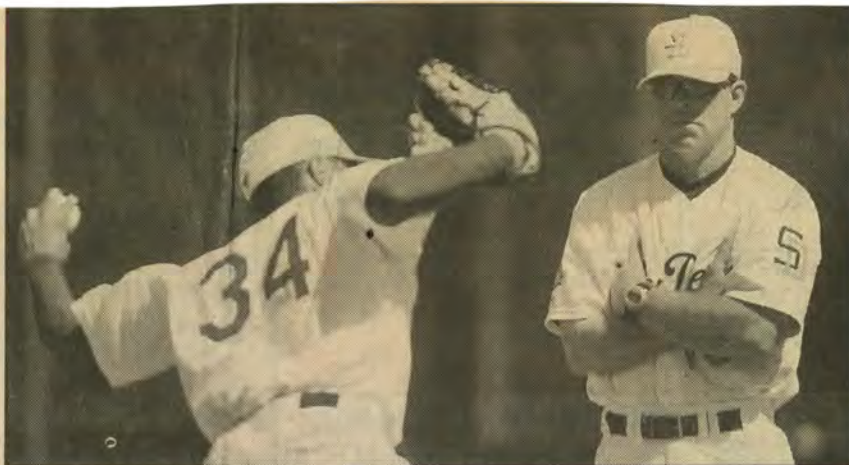
The way he takes part is a dash of theater, a bit of manipulation and a big scoop of Hill just being Hill.

Says Frank Cruz, the Loyola Marymount coach who considers himself a friend and fan of Hill's: "He's the most misunderstood man in college baseball."

Says an umpire who regularly works USD games: "It gets a little tiring."

Says the note from Sparky Anderson hanging on the wall behind Hill's desk: "To Rich: Just remember, coaching is just being yourself."

The words from Anderson, a Thousand Oaks resident Hill met while playing at Cal Lutheran and later got to know well while coaching at his alma mater, are among the many Hill has incorporated into his coaching



Hill, subdued while watching relief pitcher Mike Oseguera warm up, is known for his intensity and animation before, during and after games.

philosophy.

But Hill goes back further than that to sum up his approach to the game, back to a time when he wore a helmet and shoulder pads and the lights and the buzz of the crowd were intoxicating and the coach yelling at him got the adrenaline flowing until hitting someone was the only option.

"Football my senior year of high school was the best sporting experience of my life," Hill recalled this week as he sat in his hilltop office at USD. "I know a lot of that Friday night football mentality has carried over to how I coach baseball."

He reminds his team each Friday it is about to embark on "72 hours of mayhem." He had shirts made up for his team that implore, "W.I.T." for Whatever It Takes. He often quotes Pat Riley and various motivational speakers and comes up with his own gems such as: "Every pitch is its own entity."

Hill leaves no doubt about that.

Rarely a pitch goes by that isn't followed by some word, good or bad, from Hill.

"C'mon," Hill will yell to a pitcher who is killing him slowly with his inability to throw strikes.

"Good spot," he will yell to a pitcher who paints the corner with a well-timed strike.

"You're OK," he yells to a hitter who swings at and misses a second strike.

Most games, at least once, Hill will approach the plate umpire with his arms extended, palms skyward. It is as if he has witnessed not only the worst call in the history of the game but the worst crime ever committed against humanity.

It goes to follow, then, that rarely does a game go by in which an umpire doesn't look over to the USD dugout, hold up his hands and say, "Rich, enough!"

Hill also walks out to see his pitchers quite a bit.

When he visits the mound, it appears that Hill doesn't so much talk to pitchers as accost them.

And those who are privy to such conversations say it can get a little salty out there. But he always reminds his pitchers there is a reason they are playing Division I ball. And no matter what else he says, he always runs his foot across the rubber and tells them it's time to start over.

"He tells you to relax," said junior Ricky Barrett. "It's never real negative during a game. But when he walks out you're kind of like 'Oh, crap.'"

Hill does not blanch when asked about his motives. He says he used to notice the difference between himself and other coaches, but he has grown comfortable with his style.

"All these things are designed to heighten the concentration of the players," he said. "Most successful managers, CEOs are the ones who push the right buttons."

The Toreros, to a man, acknowledge Hill has gotten under their skin at one time or another. They say his style is one you either respond to or reject.

"My first few months (in the program) I was like, 'Wow! This guy has got some serious intensity inside,'" said senior catcher S.C. Assael. "Being around four years, I wouldn't say it gets easier, but you know what to expect."

It's never personal, is what the players have learned. Even when he names names in games and in meetings, it's only about getting better.

"It's tough to get used to," Barrett said. "But what he's done is recruit guys who can handle that kind of intensity. It's not a bad thing, but guys that don't handle it, they transfer. You've got to understand where he's coming from. Coach Hill likes to be in your face. A lot of guys respond to that well. They respond to criticism. They like him getting in their face."

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Local Colleges

Toreros win first division crown

4154
Some of them sat in front of their computers for hours, checking the Internet throughout the afternoon. A few just made sure they were home to see the final score flash on the screen.

Loyola 8, Portland 5.

"We're in," USD infielder David Bagley said minutes after the Lions' win gave the West Coast Conference West Division baseball title to the Toreros. "It feels great to know now that we made it."

The Toreros (36-20, 18-12) will play Pepperdine (29-30, 17-12) in the best-of-three WCC Championship Series beginning Friday in Malibu. The Waves clinched the Coast Division yesterday.

The winner advances to the NCAA Regionals.

This is the first WCC divisional title for the Toreros, and they are trying for their first Regionals appearance.

"It does feel good," said coach Rich Hill. "We're exactly where we need to be. We'd like to be at home, but playing at Pepperdine is fine . . . It will be a great series."

— KEVIN ACEE



Dejected USD coach Rich Hill leaves field after Toreros' rally fell short. *Jim Baird / Union-Tribune*

Toreros will need help from LMU to salvage season

Loss to Portland keeps USD from title in WCC West

By Kevin Acee
 STAFF WRITER

4154

The season is not over. It can still be record-setting and magical and all the things it was supposed to be.

Portland 8
Toreros 5

The USD baseball team has a week to wonder and as many as three games to wait. Another team can pick the Toreros up, do for them what they could not do for themselves.

This hope is what helped the USD players through a long, hot afternoon yesterday. It is what they spoke of as they sat stunned after a wild finish to an otherwise horrid game that they lost 8-5 to visiting Portland.

"I'm sick to my stomach," senior S.C. Assael said.

But he also had spent the previous two minutes leaving no doubt that he believed he has games to play in a USD uniform.

"Now we work hard for seven days and then meet as a team (next) Monday and go over the protocol for what to expect," Assael said. "There is only so much you can do when you hold it in your own hands. When that is no longer something in your control, you just sit back and wait for Loyola to take one of those games they are going to take for us against Portland."

Having failed to win the two of three games this weekend that would have clinched the West Coast Conference's West Division title, USD will work the phones next weekend. The Toreros will call the Portland press box for game updates, beginning Friday afternoon and for as long as it takes.

WCC Standings

West	conf.	GB	overall
USD	18-12	-	36-20
Portland	15-12	1½	23-26
Loyola	13-14	2½	20-32
USF	9-21	9	18-38
Coast	conf.	GB	overall
Pepperdine	16-11	-	28-28
S. Clara	14-13	2	24-28
Gonzaga	13-14	3	25-26
St. Mary's	13-14	3	21-26

May 17-19

Loyola Marymount at Portland
 Pepperdine at Gonzaga
 Santa Clara at St. Mary's

May 24-26

WCC Championship (site TBA)

If Loyola Marymount can beat Portland once in three games, USD (36-20, 18-12) will be the outright division champion and play the Coast champion in a best-of-three series May 24-26. If Portland (23-26, 15-12) sweeps the Lions, the Pilots will tie USD for the title and play in the championship series because they will have finished

with a better record against Loyola.

That will mean an end to a season that started with 10 straight victories for the Toreros, with 25 victories in their first 31 games and a No. 15 national ranking just more than a month ago.

"We put ourselves in this situation," said junior Tony Perez. "It's not where we wanted to be, but we'll take it. We're still alive."

For 8 $\frac{2}{3}$ innings, the Toreros' pulse was in doubt.

The Pilots built an 8-0 lead by scoring in every inning from the third through the sixth and then again in the eighth. They scored four runs in the fourth and fifth, all after having nobody on with two outs.

In contrast, USD put the leadoff batter on in five innings and did not score until the ninth.

Portland pitcher Zach Yarbrough, 3-5 with a 6.38 ERA coming in, came within an out of his first complete game by painting an outside corner the plate umpire consistently gave him. To that point, the Toreros had just five hits, none of them in 16 at-bats with runners on base.

Then, with two outs and nobody on, USD strung together seven singles to pull to 8-5 and bring the potential tying run to the plate. But Tom Caple's foul pop was caught by Portland second baseman Jared Mora to end the game.

For the Pilots, their day had begun with a pep talk from their coach, in which he recalled an American Legion tournament he played in many summers ago. His team lost its first game against the toughest team in the state before winning four straight to take the title.

"It can be done," Chris Sperry told his team.

After the game, he said, "This was huge. We're still staring at quite a feat to get it. But at least we have a chance."

Across the field, Caple sat with his head down. He looked up at a visitor and forced a smile. He, too, held on to a chance.

"We've got to hope for the best," he said. "We're still in the driver's seat. They still have to sweep Loyola Marymount."



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USD clinches tie; one win from title

By Kevin Acee
STAFF WRITER

4154

His team a loser by one run in a game it quite literally booted, USD baseball coach Rich Hill was not happy Friday night.

Toreros 13

Portland 4

His daughter, Lindsey, tried to defend the Toreros by telling her dad that she was sure they had tried their hardest.

And while it was not time to give 8-year-old Lindsey a life lesson about how it isn't always whether you try but sometimes it's a matter of getting it done, the coach felt it was time to remind his players of that hard fact.

So before yesterday's game, Hill called a rare pregame meeting.

"It's the middle of May," the coach said later. "It's 'do' time."

By the time Hill spoke, the Toreros had done it, beating Portland 13-4 to bring themselves to within one game of the program's first division title.

The victory clinched at least a tie with Portland (22-24, 14-12) in the West Coast Conference's West Division. But a tie means nothing to USD (36-19, 18-11), as it would lose a tie-breaker with the Pilots, who have three games remaining after today's 1 p.m. contest at Cunningham Stadium.

If USD wins today, it clinches the division title and awaits the winner of the Coast Division for a best-of-three series May 24-26. If USD loses today, it will need Loyola Marymount to beat Portland once in three games next weekend.

"Everyone knows what happens

(today)," junior third baseman David Bagley said. "I can guarantee you we'll come out ready to play."

It's impossible to say whether Hill's speech had any effect on a veteran team, one that entered yesterday with a 12-2 record in the middle game of a weekend series.

"We always come out hitting," Bagley said. "It seems like every Saturday, we put up at least 10 runs."

Bagley got halfway there himself yesterday, driving in three with a home run over the scoreboard in left-center in the first inning and finishing with five RBI. His 2-for-4 day ended a six-game stretch in which the team's batting average and RBI leader batted .148 (4-for-27) and drove in four runs.

Also perhaps emerging from a slump is center fielder Tom Caple, who was 4-for-5 and is 8-for-15 over the past three games after a 16-game stretch in which he batted .230 (14-for-61).

"Hopefully that's a harbinger of things to come," Hill said.

As is the continued effectiveness of left-hander Ricky Barrett, who threw a seven-hitter to avenge his only loss of the season back on March 22 and improve to 9-1. It was the 10th time Barrett went at least seven innings and the 12th time USD has won in his 16 starts.

Yesterday was the second Saturday in a row in which Barrett took the mound with his team desperately needing a victory following a loss the day before.

"I like that situation," said Barrett. "You never know what the bats are going to do. I just took it on my shoulders to shut them down."



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USD loses series opener to Portland, still needs two wins to clinch

4154
 By Kevin Acee, STAFF WRITER

It was a baseball game in some ways so well-played, in some ways so ugly. It was a game interrupted.

It left USD still in control but with no room for error.

Portland scored two runs in the eighth inning and beat the Toreros 4-3 yesterday in a long, strange opener of a three-game series at Cunningham Stadium that could decide the West Coast Conference West Division.

But only if USD wins the final two games.

"We hold the season in our own hands," senior catcher S.C. Assael said. "There is no reason for us to do what we have done and have to sit back and wait for another team to do it for us, when we can do it ourselves."

If the Toreros win today and tomorrow, they clinch the West. If they win one of the games,

they need Portland to lose once next weekend against Loyola Marymount. If USD is swept, it needs Loyola to sweep at Portland.

This weekend ends the regular season for USD (35-19, 17-11). The LMU series ends the season for Portland (22-33, 14-11).

"They're all important," USD coach Rich Hill said. "We just need to focus on our play. We've got to play better."

That is a fact. Six innings of great baseball were sandwiched between two disastrous innings for the Toreros.

Portland took a 2-0 lead in the first inning, when it should not have scored at all.

It started with a bloop double that might have been caught, or at least played differently and limited to a single. Then came consecutive errors by shortstop Eric Verdugo and second baseman Mike McCoy, the latter bringing in the first run. The only legitimate hit of the inning, a triple by

Matt Allen, scored the second run.

McCoy started USD's half of the first with a home run on the second pitch he saw. A walk to Tony Perez and consecutive singles by Joe Lima and Jason Marian brought in another run, and Lucas Wennersten's grounder gave USD a 3-2 lead.

Both pitchers recovered nicely, each throwing six consecutive shutout innings. This, despite a 24-minute delay in the middle of the fourth inning when plate umpire Ron Ridd became ill and had to leave the game.

But in the eighth, USD starter Tom Caple allowed consecutive singles and a walk to load the bases with no outs. Mike Oseguera came on and induced a double-play grounder from Brock Griffin that tied the game. Sean Warlop was then called on and got Joe Watson to hit a grounder to first base, only to have the ball squirt through Jason Marian's legs, allowing the winning run to

score.

"That was kind of a strange game," Caple said. "We're still concentrating on winning the series. We've still got two more games."

Aztecs lose to Lobos

New Mexico scored two runs in the seventh to erase a 4-3 deficit and added a run in the eighth en route to a 6-5 victory over San Diego State in a Mountain West Conference game in Albuquerque.

Dusty Young (2-for-4) doubled in two runs for the Lobos (21-29, 10-15) in the seventh.

An inning later, New Mexico's Josh Mader singled and scored on a three-base error by center fielder Anthony Gwynn.

The Aztecs (36-20, 16-9), who have lost six of their last seven MWC games, got a run back in the ninth on Gwynn's sacrifice fly.

Rory Shortell (7-5) got the loss.

Two more wins put USD in WCC playoffs

By Kevin Acee, STAFF WRITER 4154

The team that has so strictly adhered to its coach's credo of not looking beyond the game at hand now has just two one-days-at-a-time remaining.

The USD baseball team hosts Portland in a three-game series beginning today that will finish the Toreros' regular season and likely decide whether they have a postseason.

The Toreros need to win two games to clinch the West Coast Conference West Division. If USD wins just one game, it will need a little help when Loyola Marymount plays at Portland next weekend. If USD is swept by the Pilots, it will need a lot of help from Loyola.

The Toreros know all these things.

"We try to stay away from (focusing on) the result," junior pitcher Ricky Barrett said. "But we all know it. We understand."

Their coach — who didn't originate one-day-at-a-time as a mantra but certainly worships at its altar — also knows these things.

"We're keenly aware of it as a coaching staff, and our players are all pretty smart guys," Rich Hill said. "Everybody is aware

of it. But once you're on the field you need to put that aside and focus on the play."

The Toreros (35-18, 17-10) have won five of six WCC games after a three-week slide in which they lost seven of 12 and fell out of first place.

"We've had that feeling the last two weeks that we had at the beginning of the season," said senior right fielder Joe Lima, recalling a period that saw USD ranked as high as 15th in the nation a month ago.

The series victory at Loyola Marymount last weekend after losing the first game was affirmation that the Toreros could still be the team they believed they were.

"I'm much more confident now, just by the way we went about our business and the way we came back over the weekend," Hill said. "There are a lot of things we're feeling good about right now. We're putting good swings on the ball."

The Toreros batted .378 (48-for-127) in the Loyola series, scoring 14 runs in both of their victories.

Leadoff hitter Mike McCoy, who missed 10 games with a sprained wrist, returned at the start of the six-game WCC resurgence and has provided a spark, batting .348 (8-for-23) with seven runs and five stolen

bases.

Lima, who struggled at times this season, has batted .327 with 18 RBI over the past 12 conference games. Catcher S.C. Assael has remained solid at the plate while catching more than he ever has in his life, and backup catchers Zach Dobek and Luis Diaz-Miron are finally providing viable offensive alternatives when Assael needs a rest. Shortstop Ben Quinto's .337 batting average and stellar defense are available this weekend for the first time since Quinto broke his jaw March 23 at Portland.

The bullpen has been shaky; today's starter, Tom Caple, has been human after a season of alternating between center field and the mound; and the defense has not been the sure thing it was earlier.

But, all in all, it is a good time for USD to find itself where it does.

"This is the position we wanted to be in from the beginning," said Barrett, who will take an 8-1 record into tomorrow's game. "It's what we talked about all fall, all the way into January and all season. We want to have ourselves in a position to win (the school's first WCC title.) Now we've got to earn it."

Portland at USD: the possibilities

The Toreros host Portland this weekend in a three-game WCC series. This is USD's final series of the season; Portland hosts Loyola Marymount next weekend. Loyola is at San Francisco this weekend, playing a three-game series plus the conclusion of a game USF leads 24-21 in the 10th inning. Here are the three scenarios awaiting USD, depending on what happens this weekend:

1. USD sweeps or wins two of three

The Toreros clinch the division and await the Coast Division winner for a best-of-three championship series May 24-26 at a site TBA.

2. USD wins one game

The Toreros will need Loyola to lose one game at San Francisco this weekend and then win one game at Portland. (If Portland were to sweep Loyola, it would be 18-12 along with USD and win a tiebreaker by virtue of its better record against Loyola.)

3. USD is swept

The Toreros will need Loyola to lose two at San Francisco and sweep Portland. (USD has to finish with the best record, because in this scenario it loses all tiebreakers with both LMU and Portland.)

WCC Standings

West Division			Coast Division		
USD	17-10	-	Saint Mary's	13-10	-
Portland	13-11	2½	Santa Clara	13-11	1
Loyola	11-12	4	Pepperdine	12-11	1½
San Francisco	7-19	9½	Gonzaga	11-13	3

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College Baseball

Toreros get hits
from bottom end
of batting orderBy Kevin Acee
STAFF WRITER

LOS ANGELES — No player carries the USD baseball team. No statistic defines it.

The Toreros might leave two dozen runners on base and win. They might score nine runs and lose.

Such an unpredictable nature is the very reason USD has endured a horrific month. Yet it is also why the Toreros sit on the precipice of their first West Coast Conference title.

"We're having the best season in school history, and we still seem to be searching," coach Rich Hill said yesterday after his team beat Loyola Marymount 14-4. "I don't know if it's good or bad."

Yesterday, USD left 17 runners on, bringing its two-game total in this three-game series to 33. David Bagley, who leads the team in batting average and RBI, was 1-for-6 for the second straight day, and he is hitless in eight at-bats with runners on second or third.

Maybe he needs to be dropped a few spots in the lineup.

That's where the hitters currently reside on this topsy-turvy squad — as the bottom four batters drove in eight of USD's first nine runs yesterday.

That's not characteristic of the Toreros (34-18, 16-10), but it is not altogether surprising.

As Hill has searched for hits that haven't come — or, more precisely, haven't come at the right time — he has played a shell game with his lineup. He has been especially antsy during the current 8-13 stretch.

But no matter who Hill has put at the bottom of the lineup the past 21 games, they have generally hit. The top five spots are hitting a combined .293 in that span, while the bottom four are at .309. And while the bottom four's .253 average with runners in scoring position isn't stellar, it is better than the top five's .244.

Yesterday, Eric Verdugo, batting ninth, drove in the game's first two runs with a second-inning single. Zach Dobek, batting seventh, drove in two with a fifth-inning double. Tom Caple, batting sixth, drove in two runs with a sixth-inning single, and No. 8 hitter S.C. Assael drove in two more with a single two batters later.

"You have to get production wherever you can," said Verdugo, who was 4-for-6 yesterday and is batting .326 in the past 21 games. "(This time) it came from the bot-

tom. It has a lot this season."

Yesterday's victory was USD's school-record 33rd against Division I opponents. Moreover, it means any combination of four USD victories or Portland losses clinches the WCC's West Division for the Toreros.

Portland (13-11 in conference) comes to San Diego for three games next weekend. That will conclude USD's season, while the Pilots will have three conference games remaining.

The winner of the West faces the Coast Division champion in a three-game series May 24-26 to determine the WCC's automatic berth in the NCAA Regionals.

"We kind of control our own destiny," said Ricky Barrett, who failed to go seven innings for the first time in his past eight starts but battled through six innings and improved to 8-1. "It comes down to us having to earn it. We haven't really been earning it. That's got to change."

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More softball

On the second day of the Western Intercollegiate Softball League Tournament, USD lost 3-1 to **Saint Mary's** before dropping its second game to **Santa Clara** 5-0 in Moraga.

In the first game, Kami Gray's two-run double was enough to give the Gaels the win. Jordan Larsen improved to 9-10 for Saint Mary's, while Allison Williams (75) recorded the loss for USD.

In the final round-robin game, Denna Rodriguez (12-14) held the Toreros to three hits as the Broncos cruised to victory. Tracie Hall led Santa Clara with three hits, an RBI and a run. Jennifer Delpit (0-7) got the loss for USD.

The fourth-seeded Toreros (1-WISL) will face No. 1-ranked Loyla Marymount (5-1) at 11 a.m. heading into today's elimination bracket.

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USD Basketball Report

Toreros lure 'Frogs assistant

4154
By **Hank Wesch**, STAFF WRITER

USD men's basketball coach Brad Holland yesterday filled the opening on his staff created by last month's departure of David Fizdale to Fresno State with the hiring of Brian Fish as No. 1 assistant and recruiting coordinator.

Fish, 36, comes to USD from Texas Christian University, where he had been an assistant on Billy Tubbs' staff the last six years. Tubbs retired at the end of last season.

"I had known of Brian but hadn't known him personally that well over the years," Holland said. "I've been very impressed with him in our meetings. He brings a wealth of experience with 13 years as an assistant coach and has a network of recruiting contacts that will enhance our ability to recruit out of state."

Fish was an all-state selection out of Seymour (Ind.) High in 1984 who went on to play two seasons at Western Kentucky and two at Marshall before graduating with a bachelor's degree in sports management. He was an assistant for three years at Marshall, two at Kansas State and two at Creighton before assuming his position at TCU in 1996.

Fish, who is married (Melyssa) with two children (Jordan, 14 and Caryssa, 12) said his motivation for moving west was twofold.

"No. 1, Brad's got a great reputation as a head coach and the kind of man you'd want to work for," Fish said. "No. 2, San Diego is a great place to live and work and I'm excited about what USD has to offer to recruits when we bring them out there."

"I think Texas and the other states that I'm familiar with is a great area to recruit, and I think it's an area that we can open up for USD."

Recruiting is Fish's forte. In Fish's six years at TCU, the Horned Frogs had four classes that were ranked among the top 20 nationally. Among those he secured for Tubbs and TCU were All-American Lee Nailon, now with the Charlotte Hornets, and 2001 junior college All-American Jamal Brown.

Osmundson on the way?

Holland confirmed that the Toreros have received the release papers from the University of Utah and have been in contact with former St. Augustine High standout **Eric Osmundson**, who is seeking to transfer after one year in the Utes program.

Osmundson, a 6-foot-5, 215-pound guard, was an *All-Union-Tribune* and first-team all-county selection as a senior in the 2000-2001 season, when he averaged 23.1 points and helped the Saints to the Southern California regional finals.

USD signs two for women's basketball

By Nicole Vargas, STAFF WRITER

USD women's basketball coach Kathy Marpe has landed two freshman recruits.

Andrea Krug, a 6-foot-1 post player from Leipzig, Germany, and Jamie Corwin, a 5-11 forward from Renton, Wash., will join the team for the upcoming season.

Krug, who is playing on a German junior national tournament team, will add valuable size. Corwin averaged 19 points and nine rebounds her senior season at Liberty High and was named King County League Player of the Year.

Both are late additions to a recruiting class that already includes 5-10 point guard Tia Harris from Colorado Springs Pine Creek High and 5-10 guard Lindsey Helvey from Anaheim Esperanza.

Harris was named all-state after averaging 15 points and seven rebounds. Helvey averaged 13 points in winning Sunset League MVP honors.

The Toreros have lost one player in freshman Cassidy Blaine, the former Idaho State Player of the Year from Boise High who has transferred to Boise State.

In one other departure, assistant coach Dawn Baker accepted the head coaching

job at Chaffey College in Rancho Cucamonga.

USD injury update

Three players have undergone recent medical procedures.

Junior guard **Kerri Nakamoto**, last year's team MVP, underwent a new procedure that uses sound waves to ease the pain resulting from plantar fasciitis, an inflammation of tissue on the sole of the foot. Marpe says Nakamoto has responded well to treatment and will be re-evaluated in four weeks.

Junior center **Erin Malich** had knee surgery and is expected to be out one to two months.

Freshman guard **Brandi Collato** also had knee surgery to repair tears in her patella tendon, and the Santa Fe Christian grad is expected to be sidelined three to four months.

Although freshman **Polly Dong**, who redshirted last season after breaking her foot, is on the court again, junior **Marie Plocher**, who redshirted last season for the same reason, will have more surgery on the foot next month.

Toreros awards

Marpe also handed out postseason awards honoring three graduating seniors.

Rancho Buena Vista grad **Janeene Arndsen** was named Most Improved Player and given the Coach's Award. Rancho Bernardo alumna **Robyn Fortney** received the Hustle Award, and **Melissa Glazebrook** was named Defensive Player of the Year.

SDSU summer camps

San Diego State women's head coach **Jim Tomey** will host three camps this summer.

Day camps will be held June 18-21 and Aug. 5-8 and will be open to girls ages 7-18. The cost is \$225.

A third, more specialized camp, the Jim Tomey Post and Perimeter Skills Camp, will be held Aug. 5-8. Junior high and high school players are invited to attend as commuters or overnight campers. The cost is \$225 for commuters and \$375 for overnight.

For more information, call (619) 594-4095.

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Aztecs, Toreros advance in tennis

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San Diego State's Oliver Maiberger advanced to the round of 16 in singles and Maiberger and teammate Ryan Redondo reached the round of 16 in doubles yesterday at the NCAA Men's Tennis Championships in College Station, Texas.

Maiberger and Redondo, third-ranked and third-seeded, beat 18th-ranked Matias Boeker and Bo Hodge of Georgia 6-4, 6-4 in the first round.

Earlier in the day, Maiberger won the final three games of the third set to take a 5-7, 6-4, 7-5 victory over 22nd-ranked Marcin Matowski of UCLA in the second round of singles.

The USD doubles team of Juan Cerda and Jason Pongsrikul (Point Loma High) won its first-round match with a 5-7, 7-6 (8-6), 6-4 upset of 36th-ranked Frantisek Krepelka and Matt Prentice of Oklahoma State.

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- **TRACK AND FIELD:** Cuyamaca College sophomore **Maggi Elias** (El Capitan), a 100-meter hurdler, has signed a letter of intent to attend the University of Nebraska.
- **ACADEMICS:** Baseball player **Jon Stephens** and track standout **Jillita Griffin** have been named San Diego State's SBC Pacific Bell Student-Athletes of the month for May. Stephens, a kinesiology major, finished April with a 15-game hitting streak. Griffin, a sprinter, is an economics major.
- **TENNIS:** **Juan Cerda** and **Jason Pongsrikul** of USD have been named West Coast Conference men's doubles players of the month for April. Cerda and Pongsrikul helped the Toreros to a second-place finish at the WCC Championships.

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■ **SPIRIT SOCCER CLINICS:** The San Diego Spirit women's team will come to your youth team's field and teach fundamentals for 90 minutes. Teams can choose from a list of drills to personalize their clinic. Available dates and times are limited. Space is limited to 20 players per clinic. For more information, contact **Tommy Tate** at (619) 278-3184 or via email at ttate@sdspirit.com.

■ **USD GOLF TOURNAMENT:** USD's men's soccer team will hold its first benefit golf tournament at the Doubletree Golf Resort on June 21. The shotgun start for the scramble format will be at 11 a.m., with prizes for low net, low gross, longest drive, closest to the pin(s), and a raffle and auction. Cost is \$150 per person; entry deadline is June 14. For more information, contact **Pauline Thonnard** at (619) 260-5917 or the men's soccer office at (619) 260-2305.



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No joke: Fouady's first goal lifts Spirit

By Mark Zeigler
STAFF WRITER

4154

All winter, Julie Fouady heard about it. All spring, too. Her teammates would joke about it. Her friends would joke about it.

Spirit 1

Charge 0

"It was in the family, it was at the dinner table," Fouady said. "After a while I was like, 'All right, all right, I know. I haven't scored.' ... There's only so much joking you can take."

And there are only so many games Fouady, one of the greatest players in U.S. soccer history, can go without scoring a goal in the WUSA. The drought had to end, and it did yesterday at the most opportune time — a 1-0 San Diego Spirit victory over the first-place Philadelphia Charge before 5,779 at USD's Torero Stadium.

"Ian was in town," Fouady said of her husband, San Jose CyberRays coach Ian Sawyers, "and before the game he said, 'I can feel it. I feel one in you today, maybe two.' I said, 'Hey, let's be realistic. Let's hope for one.'"

It came in the 43rd minute, moments after Philadelphia defender Jenny Benson had fouled Zhang Ouying



Taking a pass from Shannon MacMillan, Julie Fouady heads in the game-winning goal past Charge goalie Melissa Moore. *Jim Baird / Union-Tribune*

by grabbing her shorts and nearly yanking them off. The resulting free kick was on the right side 40 yards from the goal, and Shannon MacMillan lofted it high into the penalty area.

Leaping through a crowd of defenders came Fouady, heading the ball into

the lower left corner of the net for her first goal in 25 career WUSA matches.

Fouady stuck her finger in the air, then pumped her fist à la fellow Stanford alum Tiger Woods. Then sev-



SEE Spirit, E8

▶ SPIRIT

CONTINUED FROM PAGE E1

S.D. jumps from seventh to tie for third with win

en teammates rushed to her in a celebration fueled by relief as much as euphoria.

No more scoring jokes.

"That goal," Spirit coach Carlos Juárez said, "was huge for her confidence."

Likewise the team's. The Spirit seemed energized by Foudy's strike, shutting out a Philadelphia side that was 4-0 this season and had not scored fewer than two goals in a game. It was also the Spirit's first win against the Charge in four tries.

The other half of the game ball should go to defender Rhiannon Tanaka, who had the unenviable task of marking Kelly Smith, the English midfielder who had given opposing teams plenty of trouble this season.

"I said, 'Rhi, you're going to follow Kelly Smith wherever she goes on the field,'" Juárez said. "My only concern was that she'd get a yellow card early and not be aggressive for the rest of the match. But she played smart."

Tanaka, one of the league's hardest tacklers, indeed received a yellow card. In the 87th minute.

The Charge (4-1) had several chances to score in the second half, but the Spirit escaped each one — partly through the heroics of goalkeeper Jamie Pagliarulo, partly through luck (forward Marinette Pinchon missed a point-blank shot) and partly through pure grit.

A week ago, the Spirit (2-2-1) got a last-second goal from Sherrill Kester to tie defending champion San Jose on the road. This week, it dug in and rode out several mad scrambles in front of its net in the closing minutes.

"The last 15 minutes, we had no legs," said Juárez, whose team vaulted from seventh place in the eight-team league to a tie for third. "We were really tired. But last week showed that with a lot of heart and desire, you can get a positive result. The players were telling each other out there, 'We're not going to let them score, we're not going to let them score.'"

Notes

The Spirit is 8-0-3 when it scores first ... The next game is Saturday at last-place New York, a team the Spirit beat 6-1 here on April 20. The next home game is June 1 against Atlanta ... At halftime the Spirit honored **Scott Delgadillo**, the inspirational Patrick Henry High student who died of leukemia last year, and took collections for the Leukemia and Lymphoma Society.



Spirit midfielder Julie Foudy (11) is mobbed by teammates after scoring her first WUSA goal. *Jim Baird / Union-Tribune*

Brit Smith making a name

454
Charge forward is early favorite for league's top player

By Mark Zeigler
STAFF WRITER

When she was 7 in Garston, England, Kelly Smith was kicked off the local boys soccer team because she was a girl and the parents reasoned that a girl shouldn't be playing with boys.

Smith found another boys team to join and soon was kicked off that one as well, this time for different reasons. She was too good.

"I guess I was embarrassing their young sons," she said, "and they couldn't have that."

It took more than a decade, but Smith has finally found a league where she can safely display her skills. Smith, 23, plays for the WUSA's Philadelphia Charge and most likely is the best player you've never heard of.

"You just try to contain her," said San Diego Spirit coach Carlos Juarez, whose team hosts the first-place Charge

(4-0) today. "You don't try to stop her. You just try to minimize her chances and hope she doesn't score a bunch of goals."

The Washington Freedom learned that lesson last week. It was giving Smith room in midfield to collect the ball, turn and run at the defense. Big mistake. Late in the game, with the Charge down a player due to a red card, Smith received the ball on Philadelphia's side of midfield and began weaving through defenders like they were plastic cones on a practice field.

Forty yards later she reached the top the penalty box, beat another defender and fired a rocket past Freedom goalkeeper Dawn Greathouse for what many are already conceding is the WUSA's goal of the year.

"The field just opened up for me," Smith said quietly, humbly. "I didn't think it was that great a goal."

The most amazing part is not that England, which considers itself the sport's birthplace, produced a great soccer player. The amazing part is that it produced a great women's player.

Despite a relatively progres-

sive society, women's soccer has remained in the Dark Ages in England. The Football Association, the national governing body for soccer, paid cursory attention to the women's game until only recently.

Without a women's pro league (there are plans to start one in the next few years), England's lone world-class player instead accepted a scholarship to Seton Hall. She arrived as a left-sided midfielder and after a few jaw-dropping practices was converted to forward. She adapted well, judging by her 76 goals in 51 games (her average of 1.49 goals per game is an NCAA record).

Opposing coaches weren't convinced, voting her third-team All-America.

The skepticism continued last year when Philadelphia took Smith with the second pick of the WUSA's foreign player allocation draft, and she scored just four goals after spending half the season injured.

But she's healthy this year, and after three goals in four games any lingering skepticism has melted into a mixture

Spirit vs. Philadelphia

Site/time: USD's Torero Stadium/5 p.m. today

TV: 4 San Diego

Records: Spirit 1-2-2, Philadelphia 4-0

Last year: The Charge led the series 2-0-1.

Outlook: Spirit midfielder Sherrill Kester gets the start after her dramatic last-second goal (it hit both posts before going in) secured a 1-1 tie at San Jose last week. The Charge features forward Mandy Clemens (USDHS) and goalkeeper Melissa Moore, who was picked up by the Charge last year after the Spirit waived her in preseason. The Charge is one of two teams (San Jose is the other) to hold Spirit forward Shannon MacMillan scoreless.

- MARK ZEIGLER

of respect and awe. Some consider her the early favorite for league MVP.

"People were saying, 'Why did (Charge coach) Mark Krikorian pick Kelly Smith over (Brazil's) Sissi?'" Smith said. "That was frustrating for me, especially with the injuries I had. No one really knew about me and what I was capable of."



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PLAY BALL, AND THEN SOME

New team puts more kick in pro sports

By **Chuck Scott**
SPORTS EDITOR

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There is no shortage of spectator sports events in San Diego County in the summer.

The Padres, who surpassed expectations on the way to a 79-83 finish last year, opened the 2002 season April 1 in Arizona against the World Series champion Diamondbacks. Their 162-game schedule, which includes 81 games at Qualcomm Stadium, runs through Sept. 29.

It will be the first season since 1981 the Padres will be without eight-time batting champion Tony Gwynn, who retired in 2001.

The horses will return to Del Mar for another thoroughbred racing season. The meet opens July 24 and runs through Sept. 11.

The San Diego Spirit is back for a second season of women's professional soccer. Featuring Shannon MacMillan, Julie Foudy and Joy Fawcett, the Spirit played the first of its 10 home matches April 13 at the renovated 7,035-seat Torero Stadium on the campus of the University of San Diego. The team's season runs through Aug. 11.

Also returning will be the Acura Classic women's tennis tournament, July 27 through Aug. 4 at the La Costa Resort



San Diego Spirit forward Tara Koleski and Atlanta Beat defender Dayna Smith battle for the ball. *John Gibbins / Union-Tribune*

and Spa in Carlsbad. Defending champion Venus Williams, Jennifer Capriati, Martina Hingis, Lindsay Davenport, Monica Seles and Anna Kournikova are among the players who have appeared in past years.

Finally, a new game will be

coming to town, with the advent of the San Diego Riptide arena football team. The Riptide began its 16-game schedule, which includes eight home games at the Sports Arena, with its inaugural game April 6 against the Bakersfield Blitz.

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Chinese have been the glue for depleted Freedom team

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By Mark Zeigler
STAFF WRITER

San Diego Spirit coach Carlos Juarez thought for a moment that the soccer gods were cutting him some serious slack. His opponent today, the Washington Freedom, already is without forward Mia Hamm, defender Steffi Jones and goalkeeper Siri Mullinix, and now as he watched the Freedom players walk into Torero Stadium yesterday for practice he didn't see their two Chinese stars, Bai Jie and Pu Wei.

False alarm.

Bai and Pu were in the corner, catching up with the Spirit's two Chinese players, Fan Yunjie and Zhang Ouying.

Today's 5 p.m. match will be the first time in WUSA history that four Chinese players are on the field at once — a chance, in Juarez's words, "to see how incredibly technical and how sophisticated these (Chinese) players are."

Fan is a stalwart in the Spirit defense, and Zhang was named WUSA co-Player of the Month for April after leading the league with three

goals and two assists through three matches. Bai and Pu? The midfielders have merely held together a Freedom team ravaged by injuries, gutting out a 2-1 win over defending champion San Jose and losing to 2001 finalist Atlanta last week on a 94th-minute goal.

Hamm initially targeted today as her 2002 season debut after offseason knee surgery but is still a few weeks away and didn't make the trip. Mullinix is recovering from shoulder surgery and is available today, although Dawn Greathouse is expected to start. Jones won't join the team until the German season ends later this month. And rookie defender Casey Zimny, who had filled in nicely for Jones during the preseason, suffered complications from an ovarian cyst and was lost for a month.

"You've got to play with the cards you're dealt," Washington coach Jim Gabarra said. "Certainly Mia brings something not a lot of people can bring to a team, but I couldn't be more pleased with the way our other players have stepped up."

Spirit vs. Washington

Site/time: USD's Torero Stadium / 5 p.m.

TV: Live on 4 San Diego.

Records: Spirit (1-1-1); Freedom (1-2)

Last year: The Spirit held a 2-0-1 advantage, including the 2-0 win at Torero Stadium that marked the first goal in team history (by Shannon MacMillan).

Outlook: The Spirit has its three national-team players back, but now it has a hole in midfield. Usual starter Jen Mascaro is out at least a month with a broken bone in her foot, and rookie Lori Lindsey received a red card last week at Boston and must serve a one-game suspension. Former bobsledder Shauna Rohbock, who scored both Spirit goals last week, is expected to start at forward again. This ends probably the easiest segment of the Spirit's schedule (three of the first four games were at home, and all but one against teams that didn't make the playoffs last year). Four of the next six are on the road, including two at defending champion San Jose.

Tickets: About 900 remain.

— MARK ZEIGLER

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Shannon MacMillan (forward)

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Tickets also available at USD's Torero Stadium Box Office on Sunday, May 19 beginning at 10 a.m. [while supplies last]

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