

University of San Diego

Digital USD

---

The Advocate

Legal Research Center Archives

---

10-1-1999

## Advocate 1999-2000 volume 16 number 2

Office of Development and Alumni Affairs, USD School of Law

Follow this and additional works at: [https://digital.sandiego.edu/law\\_advocate](https://digital.sandiego.edu/law_advocate)

---

### Digital USD Citation

Office of Development and Alumni Affairs, USD School of Law, "Advocate 1999-2000 volume 16 number 2" (1999). *The Advocate*. 37.

[https://digital.sandiego.edu/law\\_advocate/37](https://digital.sandiego.edu/law_advocate/37)

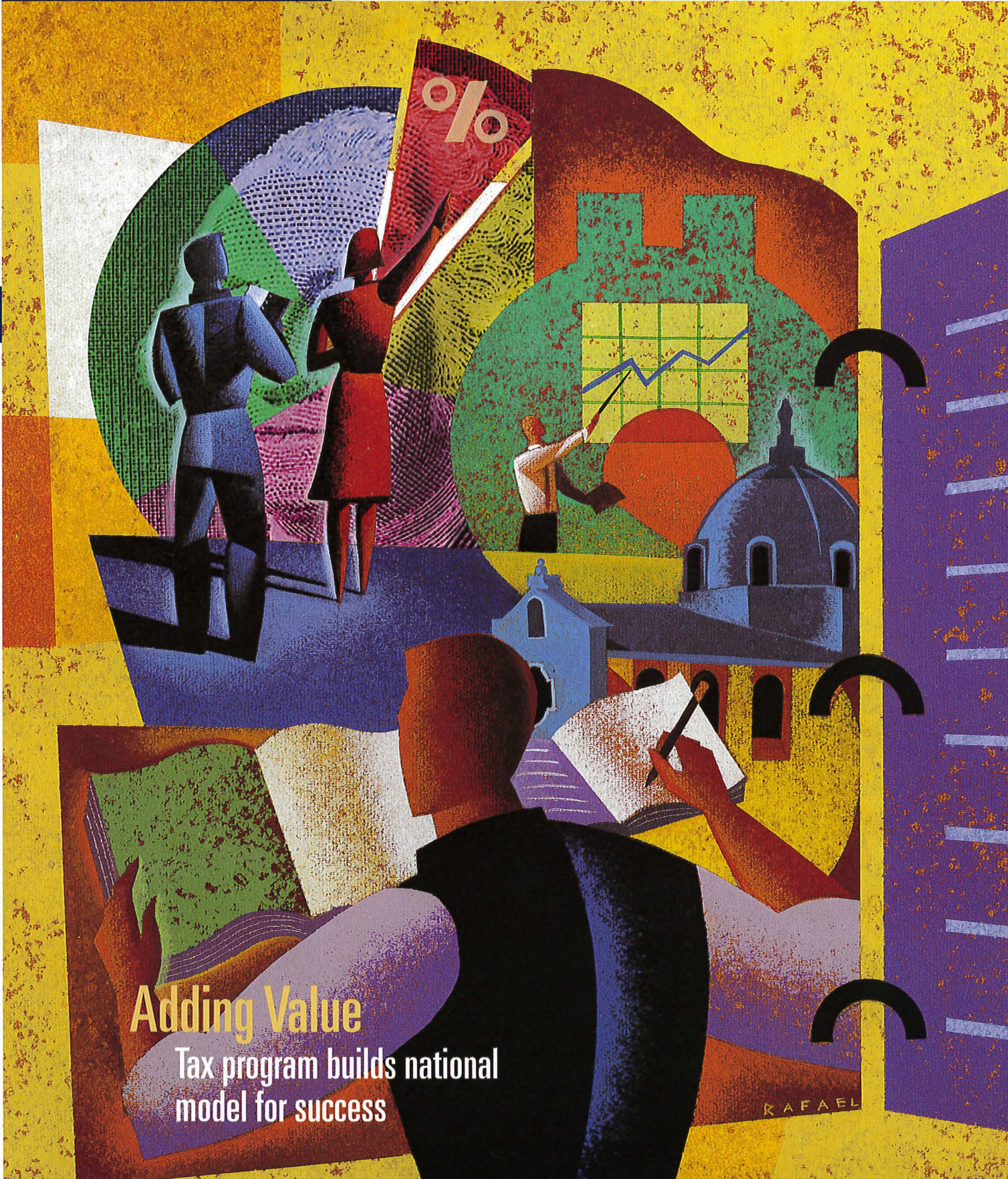
This Book is brought to you for free and open access by the Legal Research Center Archives at Digital USD. It has been accepted for inclusion in The Advocate by an authorized administrator of Digital USD. For more information, please contact [digital@sandiego.edu](mailto:digital@sandiego.edu).



# advocate

UNIVERSITY OF SAN DIEGO SCHOOL OF LAW

16:2 FALL/WINTER 1999-2000



## Adding Value

Tax program builds national model for success

RAFAEL



# advocate

## BOARD OF VISITORS

Elaine A. Alexander  
G. Edward Arledge '73  
Hon. Gerald Brown  
Alan K. Brubaker '76  
Mrs. John Carson  
Henry Casden '70  
Hon. Patricia Cowett  
Sergio Fera '82  
Michael A. Ferrara Jr. '72  
Hon. Susan Finlay '72  
John I. Forry  
Hon. David Gill  
Hon. Christine Goldsmith '76  
Hon. Irma E. Gonzalez  
J. Ernesto Grijalva '84  
Daniel W. Grindle '73  
Benjamin A. Haddad '80  
Craig D. Higgs '69  
Hon. Richard D. Huffman  
Peter J. Hughes  
Michael Kaplan '72  
Hon. Judith N. Keep '70  
Martin Kruming  
Alex Landon '71  
Hon. Melinda Lasater '73  
Hon. Frederic Link '68  
Ned Mansour '73  
Hon. Judith McConnell  
Kathleen McGuinness '77  
Edwin Meese  
Hon. Gilbert Nares '67  
Josiah L. Nepper  
Virginia C. Nelson '79  
David A. Niddrie '79  
Peter K. Nunez '70  
Gil Partida  
Hon. Christine V. Pate '69  
Hon. Ramona Godoy Perez '72  
Regina Petty  
Hon. Lynn A. Schenk '70  
Thomas E. Sharkey '59  
Abby B. Silverman '79  
Hon. Kenneth So  
Robert Steiner  
Michael T. Thorsnes '68  
Vickie E. Turner '82  
Hon. J. Clifford Wallace  
Michael J. Weaver '73  
Sharp Whitmore  
Colin W. Wied  
Hon. Howard Wiener  
Hon. Daniel Tobin

## Ex-Officio

Marc D. Adelman  
Gary W. Schons '76

## ALUMNI BOARD OF DIRECTORS

### President

Solveig Store Deuprey '78

### President Elect

Hon. David J. Danielsen '77

### Vice President

David Norris '90

### Past President

Alan K. Brubaker '76

Hon. Peter Bowie '71  
Brian P. Brinig '79  
Kristen Bruesehoff '90  
Helen T. Chao '93  
Patricia Garcia '89  
Jack Hodges '75  
Steven Hunsicker '75  
Nancy Kawano '89  
Hon. Judith N. Keep '70  
Jody Landry '86  
Michelle Lents '94  
Dan Link '00  
Gregg McClain '81  
Monty McIntyre '80  
Prof. Jack Minan  
Enrique Muñoz '77  
Steve Parsons '75  
Adam Ratner '88  
Michael Rider '83  
Vickie E. Turner '82  
Hon. Luis R. Vargas '81

## EDITOR

Caroline F. Tobias

## WRITERS

Kate Callen  
Eilene Zimmerman

## CONTRIBUTORS

Brae Canlen  
Prof. Nancy Carol Carter  
Carla R. Gilbertz  
Theresa Hrenchir  
Brandy N. Kolmer  
Sandra Millers Younger

## ILLUSTRATORS

Rafael López  
Neil Shigley

## PHOTOGRAPHERS

Werner Kalber  
Pablo Mason  
Rodney Nakamoto  
Gary Payne (B.A. '86)

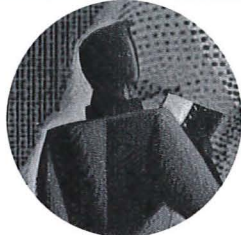
## DESIGN

Goss Keller Martínez Inc.

The Advocate is published semi-annually by the University of San Diego School of Law Publications Department.

Please address all correspondence to:  
The Advocate  
University of San Diego School of Law  
5998 Alcalá Park  
San Diego, CA 92110-2492  
Phone: 619-260-4207  
E-mail: lawpub@acUSD.edu

© 1999 USD School of Law



## I2 Cover Story

### Adding Value

Tax law program gains national recognition with a first-rate faculty and talented students



## 26 Human Rights and Wrongs

Ambassador Nancy Ely-Raphel '68 seeks peace in the Balkans

## I6 Graduation 1999

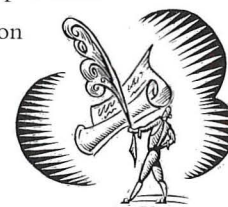
Offer of proof: The class of 1999 celebrates with family and friends during spring commencement festivities



## 37 Academic Year in Review

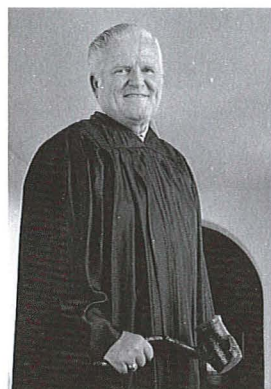
A catalog of recent publications and presentations by distinguished faculty members; profiles of five professors' current work; spotlights on three areas of academic inquiry; and a summary of the past year's events

### Special Section



## 22 The Quiet Man

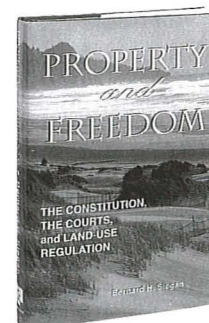
Thomas Whelan '65 administers justice with an unassuming style



## Departments

- 2 MESSAGE FROM THE DEAN  
The complimentary roles of teacher and scholar
- 3 LETTER FROM THE EDITOR  
Building a national reputation
- 4 CAMPUS BRIEFS  
An update on the law school's achievements and programs
- 10 ALUMNI BRIEFS  
An update on special events and news about your classmates
- 30 CLASS ACTION  
Catch up with the personal and professional lives of alumni
- 53 ON THE DOCKET  
A calendar of law school events and activities

PG. 4





# message from the dean

A law school contributes to the development and success of the legal profession in many different ways. First, and most obviously, we teach the next generation of lawyers—or, more accurately, we *begin* the process of legal education as we send students into the profession for the next stage in their lifelong training to be excellent lawyers. Another important way in which we contribute to the legal profession is through the published scholarship of our faculty.



It is fashionable these days to look critically upon the attention lavished by modern law schools on faculty research and writing. Lawyers question the pertinence of this scholarship, which is often theoretical and, on the surface at least, remote from the day-to-day practicalities of lawyering. Upon reflection, however, the apparent disconnect between what we do in the process of training students for law practice and what we do in our scholarly work is not nearly so clear. In fact, our responsibility as faculty members to contribute with our research to the sum of legal knowledge—throughout the range of subject matters, academic and practical debates, and scholarly genres—is a key element in the law school's dual role as part of the legal profession and the modern university.

We are proud to be a law school affiliated with a university that values the contributions of teaching and scholarly research. Our faculty's primary work of teaching is completely complementary with their role as scholars. As the discussion of faculty research in this issue of the *Advocate* shows, the USD law faculty is made up of a distinguished, and very busy, group of professors and scholars who are pursuing cutting-edge research in a variety of legal fields. Indeed, it is one of the signal strengths of our law school that we have a national reputation for excellence in legal scholarship and research.

An essential part of a law school's success is its ability to integrate the teaching of values and skills for practicing law with its commitment to advancing the frontiers of knowledge through published scholarship. The University of San Diego School of Law is squarely in the forefront of law schools that are achieving these overlapping and complementary aims. I hope the readers of this issue will take the time to become acquainted with the fruits of these efforts.

A handwritten signature in black ink, appearing to read "D. Rodriguez". The signature is fluid and cursive, with a long horizontal line extending to the right.

DANIEL B. RODRIGUEZ  
DEAN AND PROFESSOR OF LAW



## building a national reputation

*Only 45 years ago, the USD School of Law opened its doors in temporary quarters at University High School with a part-time faculty composed of nine volunteers.*

Three years later in 1957, the law school moved across the street to its current location. Professor C. Hugh Friedman, one of the law school's first professors, remembers moving the entire contents of the law library with a few colleagues in one evening. Today, such a move would be nearly impossible. (Read about the library's latest collection milestone on page 3.)

The law school graduated its founding class of eight men in 1958. The following year, the law school graduated its first woman, Mary E. Harvey. This year, USD graduated a diverse group of more than 370 law graduates, nearly half of them women. (See the 1999 commencement celebration in this issue's photo essay.)

With vision and hard work, USD's early pioneers established a strong regional law school. Today, the School of Law is building a national reputation.

The tax law program is gaining attention nationwide for offering an innovative mix of academic and policy study along with practical instruction. The program is attracting top-notch professors and talented students. This year, USD students entered the National Tax Moot Court Competition for the first time and emerged victorious. In addition, the U.S. Treasury Department awarded USD a grant to establish a low-income taxpayer assistance clinic, which opens this fall. Read about the tax law program in our cover story.

The faculty's achievements also contribute to USD's growing reputation. For example, a new study on academic distinction ranks USD's law faculty in the nation's top 25. (See page 3.) Learn more about the fac-

ulty's recent accomplishments in our new section, the Academic Year in Review. This section includes interviews with five professors and spotlights three areas of academic inquiry: law and economics, constitutional law and history, and legal theory.

The success of alumni, such as Thomas Whelan '65 and Nancy Ely-Raphel '68, is another indicator that USD is gaining recognition. Former presiding superior court Judge Whelan was recently appointed to the U.S. District Court in San Diego, where his decisions will have nationwide influence. Former principal Deputy Assistant Secretary of State Ely-Raphel now works on bringing peace to the Balkans from her post as U.S. ambassador to Slovenia. Read about these two alumni in this issue's profiles.

As always, we welcome feedback. Write to the USD School of Law Publications Office or send e-mail to [lawpub@acusd.edu](mailto:lawpub@acusd.edu).



*Caroline F. Tobias*

CAROLINE F. TOBIAS  
DIRECTOR OF PUBLICATIONS



## USD Community Welcomes State Supreme Court to Campus

**O**n April 6, the California State Supreme Court visited the School of Law. It had been 22 years since the full court last came to San Diego. On November 7, 1977, the court (then composed of Chief Justice Bird, Justice Clark, Justice Manuel, Justice Mosk, Justice Newman, Justice Richardson and Justice Tobriner) presided over the dedication ceremonies for the law school's Joseph P. Grace Courtroom and held a special session in the newly completed courtroom.

This spring, an intimate gathering of law students and faculty had the opportunity to converse with Chief Justice George, Justice Baxter, Justice Brown, Justice Chin, Justice Kennard, Justice Mosk and Justice Werdegar. This was a return visit for Justice Mosk, who attended the Grace Courtroom dedication, and Justice Chin, who delivered the School of Law's 1998 commencement address. During the reception, Dean Daniel Rodriguez and USD President Alice Hayes presented each justice with a bronze medallion to commemorate the visit. The following day the court held a special session in San Diego to mark the county bar's 100th anniversary.



Justice Kathryn Werdegar (left) converses with Dean Daniel Rodriguez and President Alice Hayes.



Brittany Oates '99, Timothy McGinity '00, Justice Ming Chin and Christian Gray '00 (left to right) pause to smile for the camera.



The California Supreme Court poses for a picture during their visit to USD: (top row, left to right) Associate Justices Ming W. Chin, Janice Rogers Brown, Kathryn M. Werdegar and Marvin R. Baxter; (bottom row, left to right) Associate Justice Joyce L. Kennard, Chief Justice Ronald M. George and Associate Justice Stanley Mosk.



Justice Joyce Kennard (left) emphasizes a point to Marcus Debose '01 (center) and Professor Larry Alexander (right).



## Academic Distinction

### New Survey Ranks USD in Top 25

**T**he ranking of law schools, such as those compiled by *U.S. News & World Report*, the *National Jurist* and the *Princeton Review*, attract national attention—both positive and negative—and show no sign of losing their influence. Brian Leiter, a former USD law professor, has addressed the dissatisfaction many law school administrators have with existing rankings by devising his own rating system, incorporating what he believes to

be more accurate and objective criteria.

In a forthcoming study for the *Journal of Legal Studies*, Leiter ranks the academic distinction of ABA-approved law schools by measuring faculty scholarly productivity. Leiter, now director of the University of Texas at Austin's Law & Philosophy Program, developed a methodology that integrates various objective criteria as well as reputational surveys. With his ranking system, USD ranks number 23 in overall faculty publi-

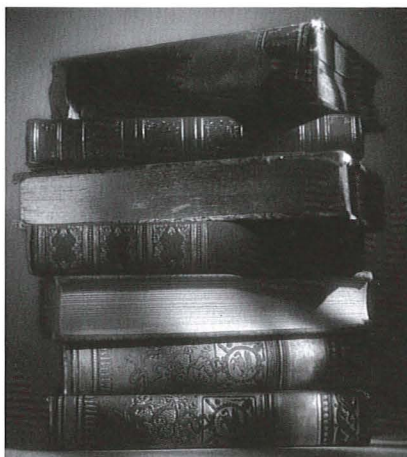
cation productivity. The survey includes various rating categories, such as peer review journals (USD ranks 24), law book publications (USD ranks 14) and overall book productivity (USD ranks 27).

Leiter says the proliferation of rankings in the 1990s is the natural result of competition for academic distinction among law schools. According to Leiter, national rankings “evoke thoughts of status, distinction, quality and prestige in the minds of law students and faculty, and to a lesser extent it appears, lawyers.” And since rankings are here to stay, Leiter's approach is to create more reliable rating systems.

### LRC Reaches Collection Milestone

**T**his spring, the Pardee Legal Research Center added its 450,000th volume, achieving a new collection milestone. Circa 1960, the earliest available law library records show a count of 26,395 volumes, then 20 years later the school's collection topped 100,000. Throughout the 1980s, the collection grew steadily but slowly, and a 1991 American Bar Association report criticized the LRC's limited collection and “meager selection of monographs.” The report stirred law school and university officials to offer greater support for collection building.

During the 1997-98 academic year, the LRC reached its goal of joining the top one-third of ABA law schools in library size. When the ABA inspection committee visited USD in 1998, they said the library collection's former problems were “cured.” According to LRC Director Nancy Carol Carter, most experts predict at least another 20 years of heavy reliance on traditional library resources. However, she says, it is difficult to know how the growing trend of using electronic resources will impact the LRC's collection growth—and when the 500,000th volume will be added.



### UCSD's U.S.-Mexican Studies Center Welcomes Professor Vargas

**P**rofessor Jorge Vargas has been invited to be a guest scholar at the University of California, San Diego's Center for U.S.-Mexican Studies for part of the 1999-2000 academic year. The center offers its international group of 15 visiting scholars university affiliation, access to academic resources and participation in the center's events. Vargas says the center's director, Kevin J. Middlebrook, became interested in Vargas' research on the incorporation of Mexican ethnic law into Mexico's legal system following a recent amendment to the country's federal constitution. In his letter to Vargas, Middlebrook stated, “We are confident that this vibrant intellectual community will provide a stimulating environment for your work. Your project and your presence will contribute greatly to our research community.”

*Finding a Niche*

## Recent Grad Sets Unique Business in Motion

**E**ven the name, *The Winning Motion*, predicts success. Rich Brueckner '99 created a winner with his 1½-year-old business writing motions for local attorneys. He started the business during his second year of law school, while clerking for a criminal defense attorney. After the attorney helped Brueckner gain state bar certification, he allowed Brueckner to write motions and argue cases in court under his supervision. Other attorneys soon began requesting the name of the clerk who wrote the winning motions.

Once Brueckner explained that *he* was the clerk, a booming business was born. Brueckner called upon the assistance of two of the brightest students in his class to handle the overwhelming demand. "Most students who get summer jobs are paid little or nothing, and end up filing and pushing paper," says Brueckner. "Here, they learn a valuable skill and are paid more than most summer clerks." Brueckner now employs eight students at *The Winning Motion* and he believes that their writing is exceptional. "The law is fresh to students,

so their motions have more zeal than the rest," he says.

Brueckner also values the knowledge and experience he gains from his business. "Every time I see a new type of motion, I must learn another aspect of the law," he explains.

After graduation, he pursued his dream of becoming a criminal defense attorney by joining the Law Offices of Nicolas DePento. But he also continues to run *The Winning Motion* with his partner, Paul Suppa '99. "To the best of my knowledge, our business is one of a kind," adds Brueckner. "It's a simple idea, but there was obviously a need." Brueckner has truly discovered a winning idea—and set it in motion.

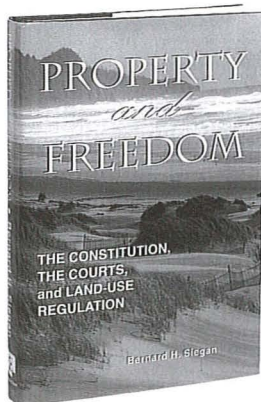
## Law School Lauds Professors

**E**ach year USD honors the academic achievements of outstanding faculty. This year, the School of Law recognizes eight professors for their contributions to the law school community.

Shaun P. Martin and Frank Partnoy are co-recipients of this year's Thorsnes Prize for Excellence in Teaching. This prize is based upon the vote of the current student body, with greater emphasis given to the graduating class. The Thorsnes Prize for Excellence in Teaching was established by Michael T. '68 and

Carole J. Thorsnes.

Bernard H. Siegan won the inaugural Thorsnes Prize for Outstanding Legal Scholarship in recognition of his recent book, *Property and Freedom: The Constitution, the Courts, and Land-Use Regulation*. Siegan is known for his pioneer work on land-use regulation and his critique of zoning laws. He also advanced the view that the Constitution



protects the economic liberties recognized at common law. In the 1998 fall issue of *The Independent Review*, Howard Husock, director of the Kennedy School's Case Program at Harvard University, writes, "Siegan builds on his earlier work... providing a road map of precedents for those who would seek to put chinks in the armor of the zoning that surrounds development in the United States today." This award, established by Michael T. '68 and Carole J. Thorsnes, recognizes significant scholarship, legal research and publication, and teaching ability.

Lynne L. Dallas and Maimon Schwarzschild were named the 1999-2000 Herzog Endowed Scholars. Herzog scholars are recognized for meritorious teaching and scholarly productivity. This award for up-and-coming faculty provides funds for professional development, research or teaching projects. The Herzog endowment was established by Dorothy A. and Maurice R. Clark.

Herbert I. Lazerow, William H. Lawrence and Michael B. Rappaport won the 1999-2000 University Professors Award. This award recognizes faculty for outstanding cumulative career contributions in teaching, scholarship and service in support of the university's mission. This one-year award provides stipends and increased time for research or teaching projects.



## Semester at the White House

# Presidential Intern Realizes Dream

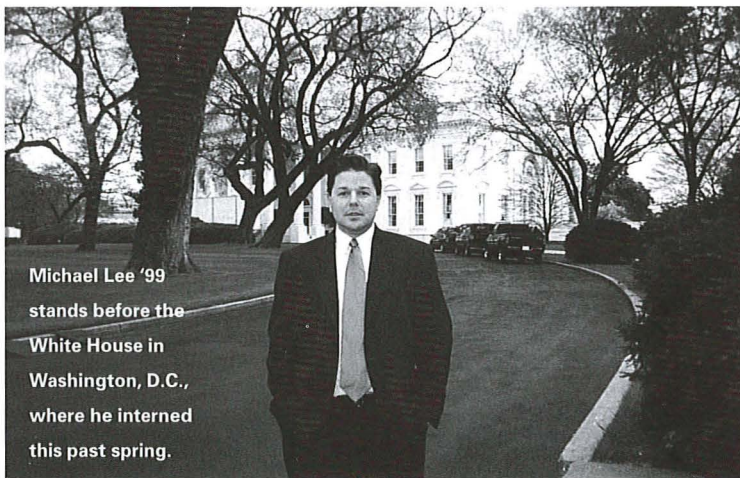
**1** 999 has already been a memorable year for Michael Lee '99, who interned for the Office of Legal Counsel to the President during his last semester of law school. Lee was one of only four students in the nation chosen to work with President Clinton's defense attorneys from January through May, during the impeachment trials. Lee's presidential internship was no fluke. He worked toward obtaining this position ever since he discovered the program as an undergraduate at Ithaca College. As a third-year law student, Lee achieved his goal and spent this past spring in Washington, D.C.

Lee's internship duties included studying testimonies and strategizing for the trial, but he was also able to watch oral arguments in front of the U.S. Supreme Court, observe the Senate debate the future of the independent

counsel statute and meet President Clinton. "As a law student, learning how things work in D.C. and observing the first impeachment trial in 130 years was incredible," says Lee.

After this eye-opening adventure, Lee decided not to pursue a future career in politics. "The trial strategy was moved by the morning public opinion polls. It was a big chess match, and we were [constantly] gauging where to move next," he says. He believes that the public knows very little of the actual evidence.

In spite of his opinion of the trial tactics, Lee realizes he gained exposure to people and places only a select few are given. In addition, Lee thinks the internship helped him secure a clerkship with California Supreme Court Chief Justice Ronald George, which he begins this September.



Michael Lee '99 stands before the White House in Washington, D.C., where he interned this past spring.

## Continuing the Tradition

# Moot Court and Mock Trial Teams Emerge Victorious

**U**SD's moot court and mock trial teams excelled in several national competitions held throughout the year.

In January, the national moot court team took first place in its inaugural participation in the National Moot Court Tax Competition sponsored by the Florida State Bar Tax Association. Team members John DerOhanesian '99, James Gergurich '99 and Joanna Owen '99 emerged undefeated after competing in five rounds over three days in St. Petersburg. Among other issues, the match involved the IRC § 7491, a recent reform that shifts issues of burden of proof to the IRS. In addition, Owen was named Overall Best Oralist.

The moot court team of Win Anderson '00, David LaSpaluto '00, Matt Mahoney '00 and Trevor Rush '00 placed second overall and was awarded third place for the team's written brief in the Phillip C. Jessup International Law Competition held at Santa Clara University in February. Anderson was also recognized with an honorable mention in the Best Oralist category.

Mock trial team members Duane Lindstrom '99 and Aundrea Taplin '99 captured third place in the western regional division of the Texas Young Lawyers National Trial Competition, which was held in San Francisco this past February.

Congratulations to all the participants for their noteworthy achievements, and kudos as well to professors Corky Wharton '73, Michael Devitt, M. Carr Ferguson, Michael Ramsey and Maimon Schwarzschild for their coaching and support of these fine teams.



Questioning Liberty

## Is a Growing Maze of Well-Intentioned Laws Suffocating America?

**A**s we prepare for the next century, many Americans happily embrace the notion that our country is the home of liberty. Hand in hand with this satisfying faith is the belief that things are getting better, that our freedoms are well-protected in a society defined by the rule of law.

Stanford University President Gerhard Casper has a different view of the current state of American affairs. Casper, who spoke at the 15th Annual Nathaniel L. Nathanson Memorial Lecture Series, sees a country that is sliding into an absolutist regime antithetical of freedom. Hence the carefully chosen title of his spring lecture: "The United States at *fin de siecle*: The Rule of Law or Enlightened Absolutism?"

Although the precise definition of the rule of law is open to interpretation, Casper says, at a minimum it includes "the requirement of a clear basis in law for the exercise of public authority; the pro-

tection of individual rights, including safeguards against abuse of power, an independent judiciary; and equality before the law."

To illustrate enlightened absolutism, Casper invoked the example of King Frederick II, ruler of Prussia from 1740 to 1786, whose "General Code" contained more than 17,000 articles, including 104 articles dealing with extramarital relations. Fredrick II desired a reason-based system of laws administered by a civil service "so that the messy phenomenon of life could be made to fit the code," Casper said. The result was a comprehensive code that defined the subject's rights and obligations "in all stations of life, public and private, from the cradle to the grave."

According to Casper, the Prussian code pales in comparison to the American legal system at the end of the century, *fin de siecle*. For example, "the Federal Register, a daily report of new and proposed regulations, has increased

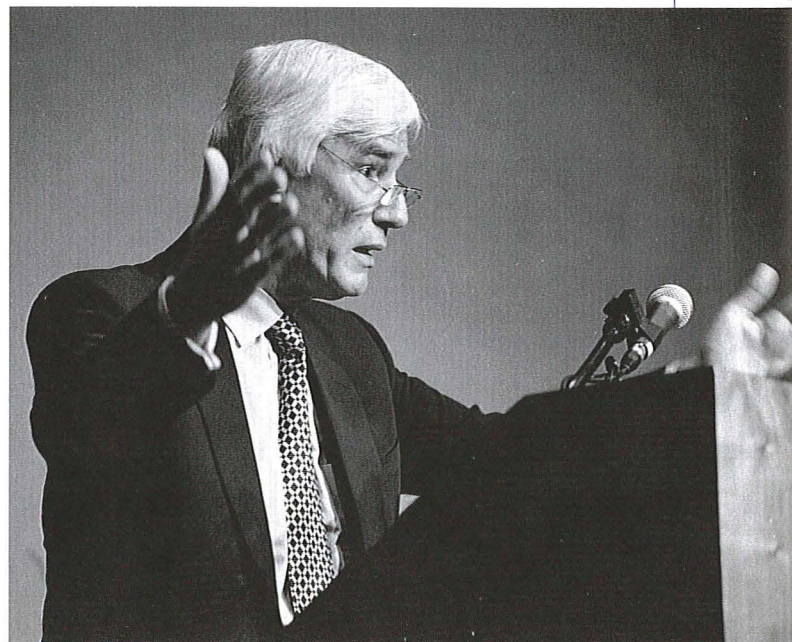
from 15,000 pages in the final year of John F. Kennedy's presidency to more than 72,000 pages in 1998," Casper said. Such comprehensiveness "tends to create a maze in which one can all too easily run afoul of the law."

Although the rule of law and absolutism may contrast in definition, Casper continued, in America they are joined "in an unholy alliance where law becomes often contradictory, creeping, undisciplined, even chaotic, and definitely an expensive means for the implementation of absolutist visions of the world."

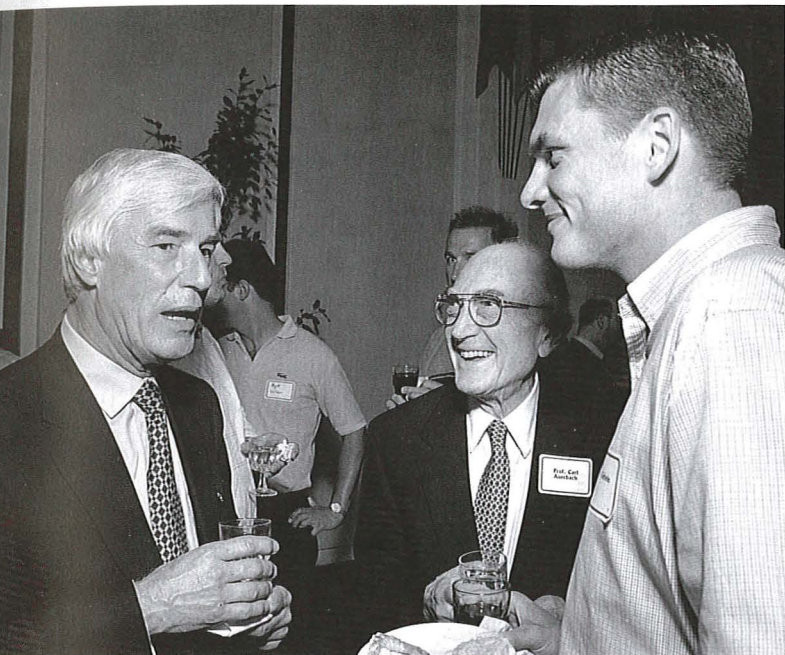
A case in point is San Francisco's Health Commission Policy #24, which requires private contractors doing business with the city to "be representa-

tive of the clients served," Casper said. Specifically, the commission requires private contractors to disclose their employees' ethnicity, gender identification and sexual orientation. When the Catholic Youth Organization refused to comply with the disclosure policy, the commission cancelled the organization's contract to run mental health services for troubled children. Casper calls this policy an example of enlightened absolutism "because of the intrusiveness and mindless overreach in the service of a cause."

**During this spring's Nathanson Lecture, Stanford University President Gerhard Casper questions the nation's current rule-making trends.**







**Casper (left) converses with Professor Carl Auerbach (center) and Alexander Gebele '99 (LL.M. in Comparative Law) during the reception held after Casper's lecture.**

Casper said his point is not just that law is suffocating America, but that our performance under the rule of law is “frequently disproportionate, at times even cruel.” Casper added, “too often, our performance displays little sense of responsible exercise of discretion.”

Casper gave several examples, including the story of German citizen Martina Thompson, who married an American and came to the United States on a visitor visa. While her permanent residency application was pending, the couple visited

her parents in Germany. Upon her return, Thompson was arrested and imprisoned for eight days. Then she was taken to the airport in handcuffs, chained to an airplane seat and deported under guard—all because she took the word of an immigration official who told her, erroneously, that she would be allowed to return. One year later, the State Department was still holding her immigration application because her husband could not provide the required three years of business tax returns. Unfortunately, his business had only been in operation for 18 months.

Casper, himself an *émigré*, earned his first law degree at the Universities of Freiburg and Hamburg. After obtaining a master of

laws degree at Yale Law School in 1962, Casper completed his doctorate in Germany. In 1964, he returned to the United States permanently. Casper taught political science at the University of California at Berkeley, and then joined the University of Chicago Law School faculty, where he was appointed dean in 1979. Ten years later, Casper served as provost at the University of Chicago. In 1992, he became president of Stanford University.

A constitutional law and history scholar, Casper lauds our “extraordinary constitutional accomplishment” of extending civil rights to an increasingly diverse culture and society. But along the way, Casper says, our legal system has become overbearing—riddled with multiple government layers and overlapping jurisdictions—subjecting innocent individuals to the unintended consequences of a belief-driven politics that overrides every other consideration.

“A multitude of causes with ‘zero tolerance’ for this, that, or something else, have captured law for their ends and do not allow for discretion, common sense, balancing, proportionality, judgment,” Casper contended. “Enlightened absolutism is not dead, it has simply become pluralistic.

“It should go without saying that I am not making the point that all policemen, all bureaucrats, all prosecutors are on the wrong track. Many try to do the decent thing under trying circumstances. They themselves have to cope with a system that has deep flaws.”

Casper chides the legal profession, including law schools, for not addressing the systemic consequences of what legislators, administrators, lawyers and courts are doing. Noting our country’s growing power and influence throughout the 20th century, Casper asks: “Is the United States’ legal system something we should want to export?”

“One cannot operate a free society when absolutism, including pluralistic absolutism, captures the law,” Casper concluded. “Fredrick II of Prussia may have believed that reason can prescribe virtue. A democratic pluralistic polity cannot be self-confident in that respect.

“Unless our politics become more modest, more responsible, more understanding of the costs of virtuous policies in terms of other virtuous policies, our legal system will become more expensive, more unruly, and it will become more despotic.”



# alumni briefs

## Recent Grads Network Downtown

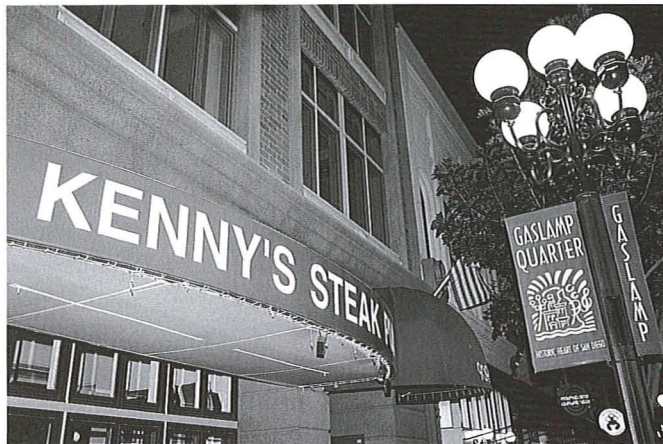
**O**n Thursday, April 8, the seventh annual Recent Alumni Party (RAP) was held at Kenny's Steak Pub in downtown San Diego. More than 115 alumni from the classes of 1992 to 1998 attended this popular get-together, along with members of the alumni board, the board of visitors and the faculty. The event, which is sponsored by the Office of Alumni Relations, is organized by the Recent Alumni Committee. The committee's mission includes bridging the gap between recent alumni and the law school through networking events, student programs and career services. If you graduated during the years 1993 to 1999 and would like to join this year's committee, please contact the Office of Alumni Relations by calling 619-260-4692 or e-mailing [lawalum@is.acusd.edu](mailto:lawalum@is.acusd.edu).



Top left: Karla Lyon '96 (J.D./M.B.A.) and Candi Mayes '96 (left to right) enjoy the seventh annual recent alumni party.



Top right: During the evening, classmates Charles Witham '98 and Andrea Lockhart '98 (left to right) find a moment to catch up.



This year's spring reception was centrally located in downtown San Diego at Kenny's Steak Pub.



Jonathan Asch '97, Christine Nelson-Wilber '97, Colin Rice '97 and Robert Gleason '98 (left to right) mingle during this popular event.

### *New Century, New Connections*

## Online Community for Alumni on the Net

**I**n the year 2000, USD School of Law alumni will be able to electronically locate and share experiences with classmates around the globe. A new

online directory will contain comprehensive personal and professional data in a secure environment, and will also allow users to update information online. In addition, a softcover directory

will be available for purchase. To be included in the directory, look for the Harris Directory Survey in your mail and be sure to return your completed questionnaire early.

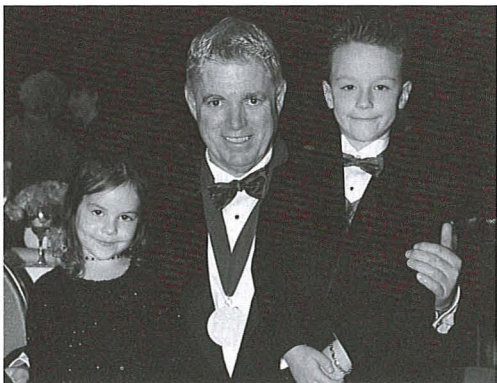


### Keeping Priorities Straight

## Judge Danielsen Takes on a New Challenge

**J**udge David Danielsen '77 will be busier than usual this fall when he begins his term as president of the California Judges' Association (CJA). He has been a member of the CJA since his election to the bench in 1990, and has been a San Diego Superior Court representative to the executive board since 1997. Danielsen anticipates an interesting year dealing with several changes, such as the court's unification and its shift from a county to a state funding process.

In addition to his CJA duties, Danielsen will continue to try cases in the San Diego Criminal Court, teach at the California Judiciary College, serve on the Executive Committee of the Superior Court, and act as president-elect for the USD Law Alumni Association Board of Directors. Although this workload sounds daunting, Danielsen says, "It's easy." He adds, "My number one job is being Dad to Jamie [his 12-year-old daughter]." Judge Danielsen has his responsibilities prioritized.

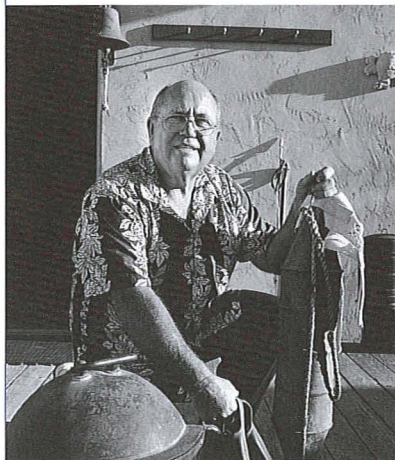


Michael Thorsnes '68 celebrates with his grandchildren, Shelby (left) and Austen (right), after receiving a 1999 Author E. Hughes Career Achievement Award.

### Diving Forward

## Retired Judge Begins New Career

**R**etired Judge Robert C. Baxley '64 has held titles as diverse as San Diego city lifeguard, lifelong seaman, Air Force surgical technician, father, grandfather, lawyer, and judge for the San Diego District Court. Judge Baxley now adds author to this lengthy list,



with the recent publication of two books, *The Lifeguards* and *A Miscellaneous Lawyer*.

Baxley's writing is especially poignant because it comes less than three years after a stroke necessitated his early retirement from the bench and left him virtually unable to read.

Baxley says he began writing to keep himself busy after his stroke, and the writing has helped him recover his reading skills. His first book, *The Lifeguards*, uses anec-

dotes, short stories and photographs to detail Baxley's 10 years of guarding San Diego's beaches during the 1950s. The book, now in its second printing, was self-published in 1998 and received special commendation from the City Council of San Diego for capturing such a vivid record of local life.

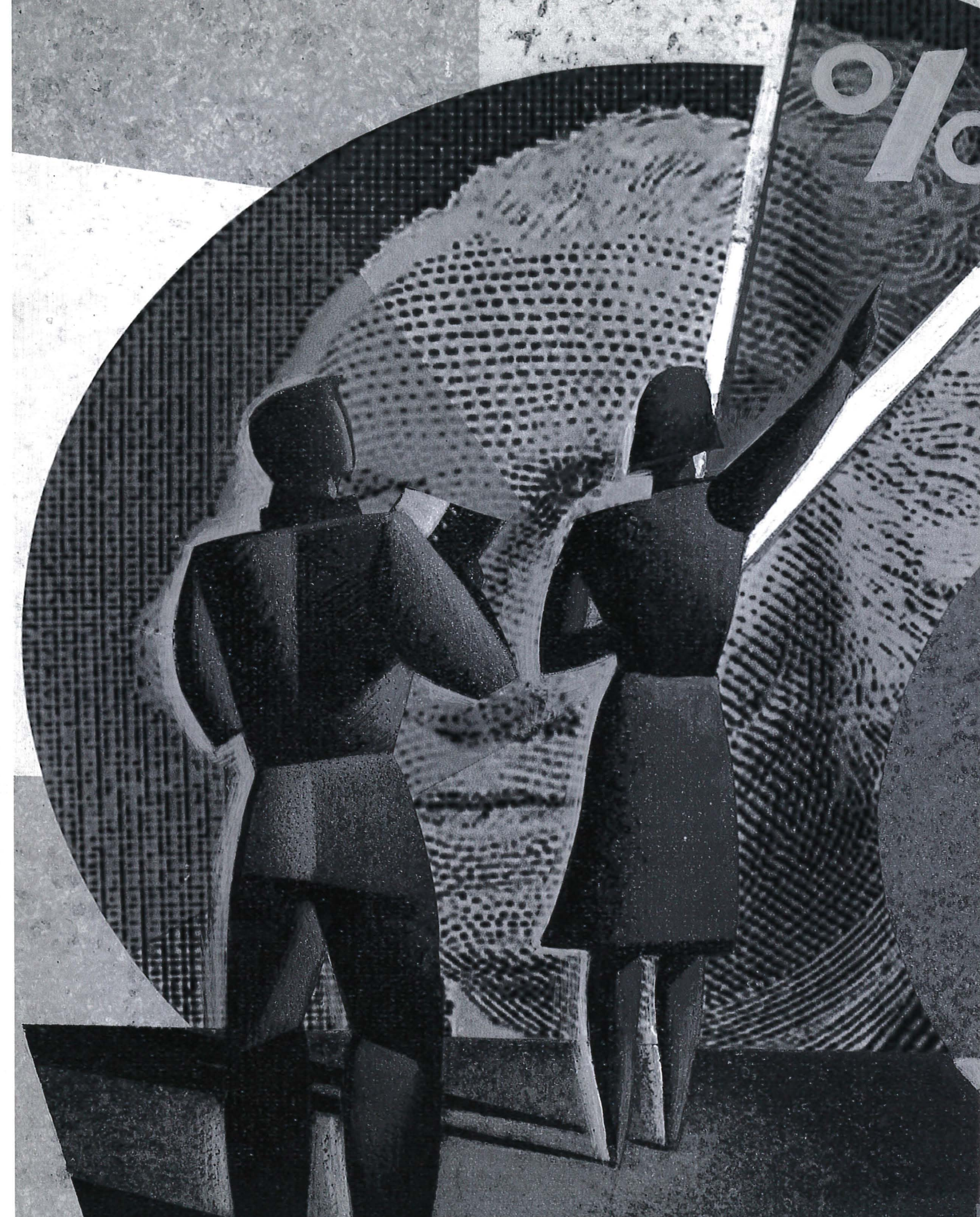
Baxley's second book, *A Miscellaneous Lawyer*, became available in August. The book includes amusing short stories in which Baxley recalls his days as a lawyer. His clients included players for the San Diego Chargers, and Eldridge Cleaver, leader of the Black Panthers.

When asked if he preferred lifeguarding or practicing law, Baxley answered, "I was very good at lifeguarding. Saving someone's life is extremely rewarding. And I got that same feeling when I was a lawyer—I still basically wanted to help people."

Baxley cherishes his memories, but he also embraces the future and plans to write a novel next. And he plans to resume his lifelong passion of diving. His love for the sea is evident throughout his Ocean Beach home—from the front door's brass knocker shaped like a diving helmet to the antique diving equipment and coral that decorate his home's interior.

Although Baxley has not dived since the summer before his stroke, he says, "I know I will dive again." Baxley works out nearly every day, and swims to keep his legs "in diving shape." It appears another title can be added to Baxley's long list: determined fighter.







GRADUATE TAX PROGRAM EARNING NATIONAL RECOGNITION  
WITH FIRST-RATE PROFESSORS AND TALENTED STUDENTS

# ADDING **value**

**It was the night before** the final round of the National Tax Moot Court Competition, and third-year student Joanna Owen was a little edgy. She had just learned her team's argument would be presented before U.S. Tax Court judges, flown into St. Petersburg, Florida, from Washington, D.C. Owen and two classmates, John DerOhanesian and James Gergurich, had sailed through two days of difficult arguments and were ready for the finals.

In January 1999, the Tax Section of the Florida Bar Association hosted this prestigious competition, which pit the USD team against students from the top law schools in the country. Owen says the pressure made her nervous, but she was not really worried.

"The subject we were arguing wasn't anything we were familiar with. It was a very narrow issue, but we were prepared for it. I had a creative argument our team didn't think anyone else would come up with," she says.

The team's strategy worked. It was the first time USD students had entered this competition, and they won first place. In addition, Owen received the prestigious title of Overall Best Oralist, and one of the judges called her argument ingenious. "I was thrilled," she says. "It was probably the highlight of my entire law school experience."

And a defining moment too. Owen decided then and there that tax litigation was her calling, this from a woman who was not even interested in tax law when she first came to USD. "I didn't think I would like tax at all, but I took some courses early on and the professors here made it much more enjoyable than I thought possible. The LL.M. program recruits professors who are wonderful, probably some of the best in the law school," she says.

**A Win-Win Situation** Students like Owen are able to take these advanced courses because of USD's stellar graduate tax program. "Without our strong master of laws program in taxation, these additional opportunities for J.D. students wouldn't exist. It's a win-win situation—for both the LL.M. and J.D. students," says Judy Bruner '94, the law school's assistant dean for graduate programs and academic planning.

Daniel Rodriguez, dean of the law school, believes USD has one of the largest and most prestigious graduate tax programs in the West. The reputation of the program, and of the school's tax offerings for J.D. students, has been growing in stature due to a first-class faculty.

---

**Story by Eilene Zimmerman**

**Illustration by Rafael López**

“We have a number of full-time tax scholars and teachers with great reputations in their fields and subfields, and we also hire adjunct faculty to teach highly specialized courses,” says Dean Rodriguez.

The USD faculty roster reads like a *Who’s Who* of great minds in tax law, and includes people like Distinguished Professor Richard Crawford Pugh, a Rhodes Scholar, former partner with the New York firm of Cleary, Gottlieb, Steen & Hamilton and former law professor at Columbia University; Professor Lester Snyder, author of numerous articles on tax policy and reform, and a former member of the State Bar of California’s Taxation Section Executive Committee; Adjunct Professor M. Carr Ferguson, senior tax partner with the New York firm of Davis Polk & Wardwell, former law professor at New York University and chair of the ABA Tax Section; and the Honorable David Laro of the U.S. Tax Court.

Visiting Professor Michael Devitt was impressed when Laro introduced him to USD. “People like Judge Laro—an esteemed judge and a truly impressive person—to have him here, and to have a school that is committed to attracting teachers of his caliber, is really something,” he says. Devitt handles complex civil litigation cases nationwide and was managing partner of the firm Beus, Gilbert & Devitt.

USD recruits visiting and adjunct professors with diverse perspectives and ideas, which supplement the scholarly contributions of the full-time faculty. “We’re moving toward widening the tax program so that it confronts not only issues of tax law, but of tax and financial administration as well,” says Dean Rodriguez.

That broadened focus is right on track. Comparing USD’s graduate tax program to New York University’s—historically the nation’s model in graduate tax education—USD offers more of a mix of policy study and academic inquiry, observes Professor Ferguson. “I think that was missing for a while at NYU, although it is catching up now. But the San Diego program has very nicely enriched a traditional academic focus without losing its core mission of preparing young lawyers to practice tax law,” he adds.

**“The tax clinic adds a substantial practical dimension to our excellent academic program.”**

**Inspiring Students** According to Scott Smerud ’99, former president of the USD Tax Law Society, professors like Laro and Ferguson rank as some of the best he’s ever had. “More than just teaching the rules, they helped me conceptualize what they were teaching,” he says.

Laro often teaches by way of example, referring in class to actual court or practice experience. “I think that makes the knowledge vivid to the student,” he says. “And I like to create an atmosphere where there is a community of ideas and shared experiences.”

Another reason for the program’s success is the personal attention students receive from the faculty. For example, Laro encourages students to apply for clerkships on the U.S. Tax Court. Currently, LL.M. graduates James A. Orefice ’88 is an attorney advisor and Bahar Schippel ’98 is a full-time clerk. In addition, second-year J.D. student Wendy Woolstenhulme secured a summer clerkship. “That is an unusually high number to represent any one school,” says Laro.

The School of Law’s presence on the court is a true coup. Obtaining a much-coveted U.S. Tax Court clerkship is no easy feat, and a clerk’s knowledge of the court’s inner workings is invaluable to future practitioners. USD students compete against the brightest from the best law schools nationwide, including Ivy League institutions like Harvard, Yale and Columbia.

Schippel is one of those graduates, and she chose USD for both its reputation and location. “I particularly liked the caliber of the professors and visiting faculty,” she says.

Fulbright Scholar Gerhard Rettenbacher ’99 (LL.M.) found the specialized courses particularly useful. As a tax lawyer in his native Vienna, Rettenbacher advises American and European clients about the tax implications of their stateside businesses. “Corporate Reorganizations was my favorite course,” he says. “Professor Ferguson is absolutely brilliant, one of the very best professors I’ve had in my career.”

Rettenbacher is part of a strong international student presence in USD’s graduate programs. “We have a lot of comparative law students in the program and many take international tax courses. It’s help-





ful to have foreign students bring their perspectives into the class,” says Distinguished Professor Pugh. “They comment on the different approaches their systems take to the tax problems we discuss.”

The law school also recently established the student-run *San Diego International Law Journal*. Dean Rodriguez says this academic publication provides a forum for both scholars and practitioners interested in international tax issues and global finance.

**Reforming the IRS** Exploring domestic tax issues is equally important. To that end, Professor Snyder organized USD’s first tax conference in March. For the conference panelists, Snyder says he gathered “14 of the best tax minds I could find: academics, economists and representatives from the International Monetary Fund.”

The goal was to gain new insights into the tax system and pursue the national debate on reform. The two major tax reform proposals discussed were presented by Professor Daniel Halperin of Harvard Law School, who proposed saving the current tax system, and Professor Michael Graetz of Yale Law School, who proposed replacing the present system with a combination value-added tax and income tax.

The symposium was particularly timely since both proposals may come before Congress in the near future. The resulting discussions inspired Snyder to produce several publications. “I am doing a short article for *Tax Notes*. And with the help of Halperin, Graetz and other panelists, I am writing a longer synopsis of the issues raised at the conference,” he says.

Assistant Dean Bruner plans to make the tax symposium an annual event. She also hopes that in the near future the law school, with the help of the USD community, will establish a faculty chair in taxation and an endowed lecture series.

In addition, the School of Law recently applied for a grant from the U.S. Treasury Department to

begin a low-income taxpayer assistance clinic. Amid heavy competition, USD was awarded the grant and the clinic opens this fall.

“The tax clinic adds a substantial practical dimension to our excellent academic program,” says Dean Rodriguez. “Also, the opportunity provided by the IRS enables our students, under the supervision of experienced lawyers, to serve the public interest by performing legal and advisory work for low-income taxpayers. In this spirit, this clinic reaffirms our school’s commitment to pro bono legal services. The faith the federal government has shown in us confirms USD’s growing reputation as one of the nation’s premier tax programs.”

**A Winning Formula** The faculty, the courses and the conference all contribute to making USD’s tax program the best in the western United States. “Because of the LL.M. program we’re now attracting J.D. students who come in with some interest in tax,” says Bruner. “Look at the Tax Law Society; it started two years ago to meet the needs of a few students and now has over 70 members. It’s a stunning success.”

This past year the Tax Law Society hosted 10 speakers, among them Don Blackwell, director of partner taxation with Ernst & Young; Timothy Hansford, tax counsel to the House Ways and Means Committee; and Judge Laro and Bahar Schippel from the U.S. Tax Court.

A final, vital component of the program is its dedicated and diverse student body. Devitt, who helped coach USD’s moot court team, observes, “The students here are extremely intelligent. I was most impressed with their desire to be the best they could be—something that was especially refreshing to see in the tax moot court competition.” He adds, “It was truly amazing, particularly because these students took the competition so seriously and sought help from people like me and their other professors.”

Devitt concludes, “USD is in a unique position, with a top-notch faculty, motivated students and a dean with a vision. I truly believe that’s a winning formula.”

**“USD is in a unique position, with a top-notch faculty, motivated students and a dean with a vision.”**

Keynote speaker Judge  
John Noonan offers some  
advice to the class of 1999.



Tanya Cruz '99 makes final ad-  
justments to her cap before the  
day's festivities begin.



# 1999

# Grad

*"It is another curious part of the law that the arguments made and legal positions taken by learned counsel are attributed to the unlearned and inarticulate clients they represent. Masks are put on masks—these are the ways that lawyers and judges put something between themselves and those who's lives they are affecting.*

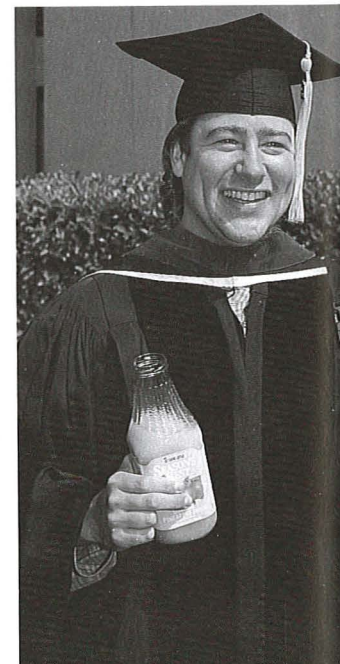
*This is carried to extreme lengths in federal sentencing guidelines, where the defendant's crime and criminal history are turned into points. The points are added, a table is consulted and the sentence range produced by the points, as in a board game like Monopoly, so many points adding up to a losing or a winning score.*

*It's easier to add points than to respond to persons, yet not much different from the surgeon, the lawyer's hand is on a human heart. ... Let us hope you will never become like Inspector Javier of "Les Miserables," believing the march of the rules of law must match the impersonal movement of the stars without ever looking at the persons before you. ... You too, remember those you encounter in your practice as complete persons. And who are persons? They are those who are like you—who have your vulnerabilities, your hopes and your transcendent destiny, the union with a god whose love encircles the globe."*

The Honorable John T. Noonan Jr.  
Senior Judge, U.S. Court of Appeals for the 9th Circuit



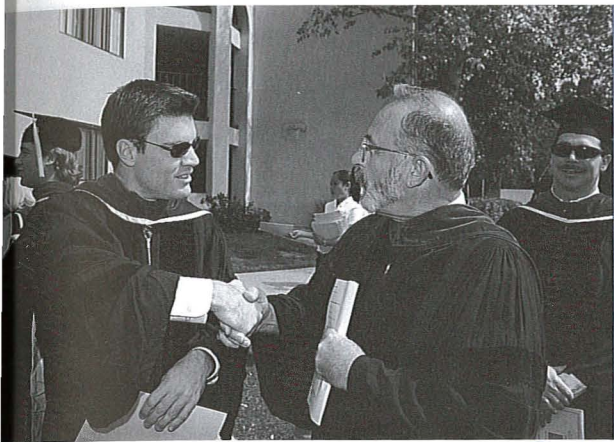
Valedictorian Patrick  
Loofbourrow '99  
shares a few words  
about his law school  
experience.



Paul Suppa '99  
fortifies himself for  
the big day with a  
bottle of orange juice.



Professor Darrell Bratton gives Mike Bishop '99 a congratulatory handshake.



Jerri Rhee '99 and her parents pose for a family picture.



# uation

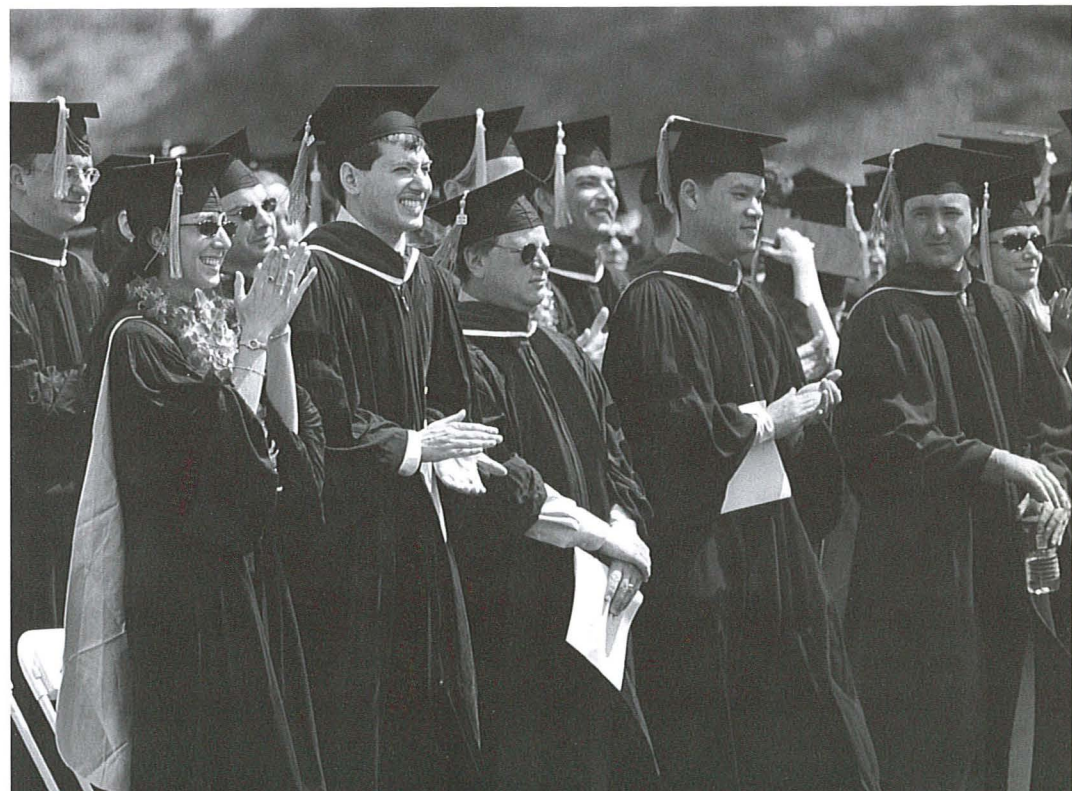
*“As some of you know, I am an evening student having just finished my fourth year. I can assure you that by the fourth year you understand why law school was designed to be three not four [years]. It has been a long haul, but here we are.*

*...As I was thinking about what I could say here today, I realized that my law school experience has been different than many of you. It has been about the challenge of balancing work, my wife, my children, and my family, my friends and school. If you ask my wife, or any member of my family or co-worker, or probably any professor here, they will tell you that I did not strike that balance perfectly. I don't know how many times I was called on in class and had to pass because I was unprepared, or how many times I got home after my daughter was already asleep and I wasn't able to see her.*

*As lawyers, we will most likely not strike that balance perfectly either. One of our greatest challenges—and I really believe this—is to slowly sculpt the legal profession so that recognition and success will not be based solely on how many hours we bill, how many new clients we recruit, or how many cases we win. Rather, fostering a proper, healthy and happy balance between family, work and friends.”*

J. Patrick Loofburrow '99  
Valedictorian

The class of 1999 stands ready to receive their diplomas.

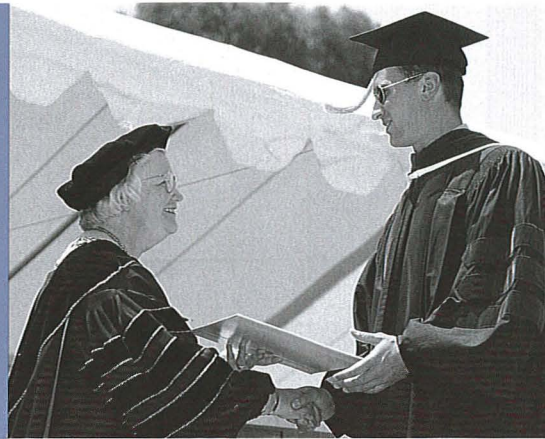




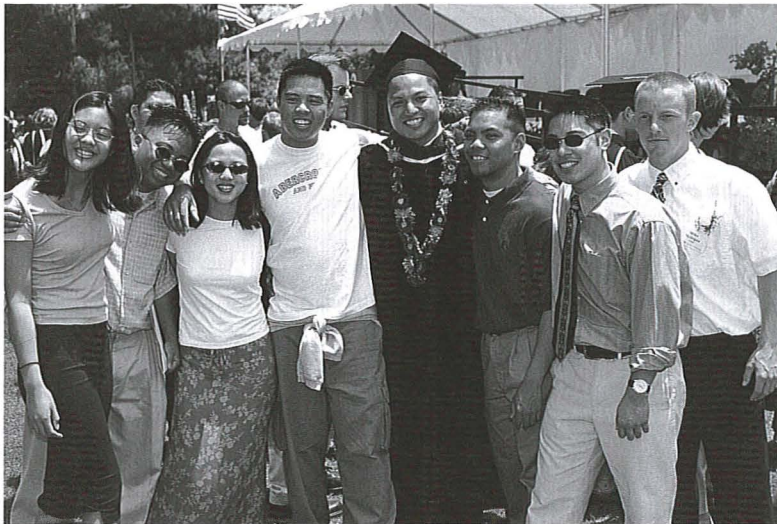
Jeff Covensky '99 receives a kiss from his proud grandmother.



USD President Alice Hayes presents Gerhard Rettenbacher '99 (LL.M. in Taxation) with his degree.



# 1999 Graduation



Friends and family surround Noli Zosa '99 after his graduation.



Brock McClellan '99 receives congratulatory roses from his wife, Kelly.

Shaun Morey '99 gets help from his son, Conner, who carries his diploma.





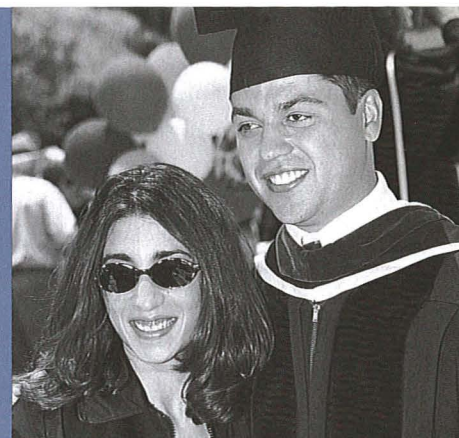
Kelly Prager '99 and her mother smile for the camera.



Brian Bickel '99 displays his diploma for all to see.



Jennifer Orlando congratulates her cousin, Matt Guerrero '99.

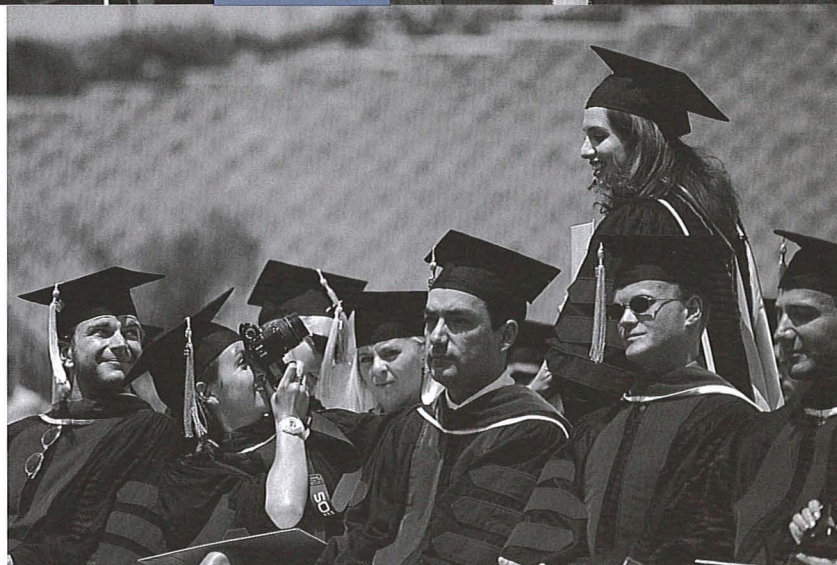


*"I want to speak to you for just a moment about settling. I do not mean settling a case or another kind of legal dispute. Instead, I mean settling in terms of your career goals and aspirations. I want to urge all of you to not merely settle for just enough, for what is barely sufficient, or for what is average.*

*... If you reach for the stars, if you look upon the education you have received and the credential awarded to you today as part of the equipment which you have accumulated in order to do great things, great things will come to you. In the end, you will have as it is said, 'lived greatly in the law.' Greatness in the law can mean different things to different people, and I will leave it to you to sort out the criteria for a great legal career.*

*At the very least, it will include professional competence at the highest level. It will include ethical behavior of the sort expected not only by members of the legal profession, but by all civilized moral men and women. It will include a demonstrated commitment to justice and to the rule of law. Also, since we are a law school in the Catholic tradition, we hope that it will include as well an important element of service. Service to your clients, to the public interest, and to God. The rest of what is defined by 'living greatly in the law'—I leave up to you."*

Dean Daniel B. Rodriguez  
University of San Diego School of Law



A classmate takes a snapshot of Celina Vega-Kuri '99 (LL.M. in Comparative Law) with diploma in hand.



Becky Szewczyk '99 celebrates with her sister, Robyn, and niece, Yaska.



# 1999 Graduation

## Graduates Receive Awards

### Dean's Awards for Legal Scholarship

*Highest Cumulative Grade Point Average, Day Division:*

Nichole Fipp

*Highest Cumulative Grade Point Average, Evening Division:*

J. Patrick Loofbourrow (Valedictorian)

### Wingert Grebing Brubaker and Ryan Award

*Outstanding Service to the Law School Alumni Association:*

William Ota

### Center for Public Interest Law and Children's Advocacy Institute

*Outstanding Contributor to the California Regulatory Law Reporter:*

Debra Back

*James A. D'Angelo Outstanding Child Advocate*

*Policy Clinic:*

Lucy Lin

*Dependency Clinic:*

Thomas Kritzik, John Simon

### Legal Clinic Awards

*Outstanding Civil Clinic Intern:*

Brian Bickel

*Outstanding Criminal Clinic Interns:*

Simran Baidwan, Keith Bogardus

*Outstanding Land Use Clinic Intern:*

Noli Zosa

*Outstanding Mental Health Clinic Interns:*

Nikki Buracchio, John Shale (co-recipient)

### International Academy of Trial Lawyers Award

*Excellence in Advocacy Course and Trial Court Work:*

Aundrea Taplin, Kristie Diamond (co-recipient)

### Mock Trial Program

Angela Bello, Clayton Biddle, Brandy Bryant, Clinton Crosser, R. Dervaes II, Kristie Diamond, Jessica LaBay, Duane Linstrom III, Thomas Slattery, Cynthia Stoneberg, Aundrea Taplin, Nicole Tee

### American Board of Trial Advocates Award

*Outstanding Trial Competition Team:*

Clayton Biddle, Brandy Bryant

### Thorsnes, Bartolotta, McGuire and Padilla Award

*Excellence in Trial Advocacy:*

Clayton Biddle, Brandy Bryant

### Moot Court Program

*Board Members:*

Matthew Bennett, Robert Bradley, John Cu, John DerOhanesian, Jason Femrite, James Gergurich, Peter Hurm, Lucinda Jacobs, Lisa Koven, Amelia McDermott, Luci Montgomery, Brittany Oates, William Ota, Joanna Owen

*Chair Award:*

Brittany Oates

### Practicing Law Institute Awards

*For Excellence in Moot Court Competition:*

Matthew Bennett, Robert Bradley, Jason Femrite, Peter Hurm, Lisa Koven, Amelia McDermott, Luci Montgomery, Brittany Oates, William Ota

### Order of Barristers Awards

Clayton Biddle, Brandy Bryant, Clinton Crosser, John Cu, John DerOhanesian, James Gergurich, Lucinda Jacobs, Jessica LaBay, Joanna Owen, Nicole Tee

*Statue of Justice:*

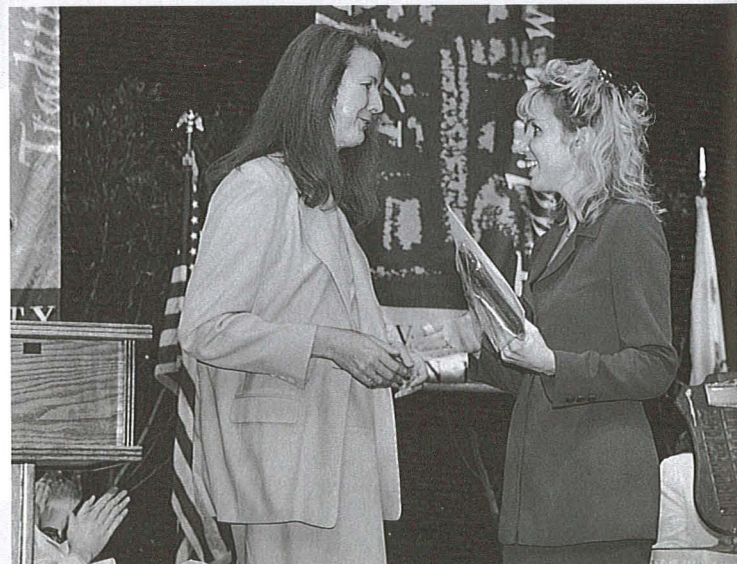
Brittany Oates

### Mark A. Lobello Award

*Excellence in Moot Court:*

Brittany Oates

Nancy Smoke '77 (left) presents the Joseph P. Busch Jr. Criminal Justice Award to Jennifer Patrick '99 (right) during the law school's awards ceremony on May 28.





## Law Review Awards

### Members:

William Bartleman II, Jennifer Elowsky, Gregory Elvine-Kreis, Nichole Fipp, Matthew Hillman, Gerald Krinen, Natalie Maniaci, James Miller, Jeffrey Thurrell, Elizabeth Treviño, Barry Wilson

### Editors:

Simran Baidwan, Jack Balderson Jr., Erin Bosman, Matthew Buttacavoli, Anthony Chandler, Donovan Collier, Christine Cotner, David Cramer, Dina Davalle, Danielle Everett, David Fowler, Gregory Giraudi, Robert Hicks, J. Patrick Loofbourrow, John Lowther IV, Frank Marchetti, Bruce Marley, John Melton, Vivian Quon, Rebecca Robinson, Kerry Wallis, Donald Wight

### Editor-in-Chief:

Kerry Wallis

## Journal of Contemporary Legal Issues Award

### Articles Editors:

Dana Robinson, Austin Sung, Tam Tran (Volume 9)  
Sheri Ann Forbes (Volume 10)

## San Diego International Law Journal

### Founding Board:

Laura Borst, Jennifer Guenther, Suzanne Henry, Peter Leeson IV, Amelia McDermott, Armen Mitilian, Luci Montgomery, Michael O'Connor Jr., Brian White

## Joseph P. Busch Jr. Award

### Outstanding Student in Criminal Justice:

Jennifer Patrick

## Irvin J. Kahn Award

### Excellence in Real Property Courses:

Elizabeth Treviño

## Randolph A. Read Award

### Outstanding Contribution to Law and Psychiatry:

Jonathan Holub

## Homer Kripke Memorial Award

### Excellence in Corporate and Commercial Law:

Natalie Maniaci

## James R. Webb Award

### Outstanding Student in Environmental Law:

Eugene Shank

## Peter Durbin Memorial Award

### Greatest Increase in Grade Point Average, First to Third Year:

Barbara Kim

## Brundage and Zellmann Award

### Excellence in Labor Law:

Darrell Pugh

## Alec L. Cory Award

### For Contributions, During Law School Years, to Pro Bono Causes:

Jessica LaBay

## General George W. Hickman Jr. Award

### Outstanding Student in Constitutional Law:

Matthew Buttacavoli

## Judge Theodore Tannenwald Jr. Award

### Excellence in Federal Tax Policy:

Barbara Zelif

## Ralph Gano Miller Award

### Excellence in Taxation Law:

Luci Montgomery

## Masters of Laws Awards

### Student With Highest Grade Point Average in the LL.M. Programs

#### General Master of Laws:

Allison Borts

#### Master of Laws in Comparative Law:

Marcus Willamowski

#### Master of Laws in International Law:

Patricia Brennan

#### Master of Laws in Taxation:

Gerhard Rettenbacher

## The Order of the Coif

### Class of 1999 Members:

Jack Balderson Jr.  
William Morris Bartleman II  
Clayton C. Biddle  
Keith Clark Bogardus  
Erin McCalmon Bosman  
Donovan Clark Collier  
Curtis R. Cotton  
Jeffrey Louis Covensky

David P. Cramer  
Daniel James Cross  
Danielle Linnea Everett  
Jason Andrew Femrite  
Nichole Snook Fipp  
Gregory Vincent Giraudi  
Robert Joseph Hicks  
Matthew Kevin Hillman  
Jason B. Hoffman  
Peter John Leeson IV  
James Patrick Loofbourrow

Natalie T. Maniaci  
Darrell Lee Pugh  
Vivian Wai-Ying Quon  
Rebecca Elizabeth Robinson  
Jeffrey Richard Thurrell  
Elizabeth Ann Treviño  
Kerry Lee Wallis  
Donald Templeton Wight  
Barry Scott Wilson  
*1999 Honorary Member:*  
Nadim Ned Mansour '73



## Thomas Whelan Administers Justice with an Unassuming Style

# the quiet man

STORY BY KATE CALLEN  
PHOTOS BY PABLO MASON

Try as he might to downplay it, Thomas J. Whelan '65 is ending this millennium with a big year.

Judge Whelan began 1999 unpacking from his November move from San Diego Superior Court, where he was presiding judge, to U.S. District Court, where he is the newest of seven judges.

In March, armed with a black-thorn shillelagh bought on one of his annual trips to Ireland, Whelan presided as Grand Marshal over San Diego's St. Patrick's Day parade, riding in a 1957 Corvette convertible.

In June, Whelan made a sentimental journey to his high school, St. Augustine's in San Diego, to deliver the 1999 commencement address.

And in April, the 58-year-old jurist returned to another of his alma maters, the USD School of Law, where he was the guest of honor at a reception celebrating his appointment to the federal bench.

The accolades pile up; the recipient smiles broadly and shrugs them off. Whelan's physical resemblance to actor Spencer Tracy is often remarked upon. But the character who captures him best is John Wayne's "The Quiet Man": a smart, stoic workhorse with a big heart who keeps his authority holstered.

Ask Whelan about any of the high-profile cases he has handled as prosecutor or judge, and he likely will reply, "It was fairly routine, no real surprises."

"Tom is a kind man," says Cathy Whelan '64 (B.A.), his wife of 36 years. "He has seen the 101 ways people can hurt and destroy one another. He feels deeply for everyone touched by tragedy. But, in the end, he sticks to the facts. It is his gift to look for the truth."

"Judge Whelan never lets on how much he knows," observes

Rosie Cerda, the judicial assistant who came across the street with him from superior to federal court. "But if you think you're going to pull a fast one on him, forget it. He already sees where you're going, and he has the answer for you when you get there."

### GROWING UP ON THE MESA

Thomas Whelan was born in St. Paul, Minnesota, but his hometown is San Diego, where his family moved when he was four. He grew up around the Linda Vista mesa that now contains the university's campus. In fact, Tom was an altar boy who served Mass in USD founder Bishop Charles Francis Buddy's private chapel.

Today, the judge can still recite the altar boy's responses in the Latin Mass. And he clearly remembers the day when the cross was placed on the belltower of The Immaculata. "There were a few anxious moments when a sudden gust of wind rolled the helicopter [carrying the cross]. The helicopter had to regain altitude and return on another pass to safely complete the installation," Whelan recalls.

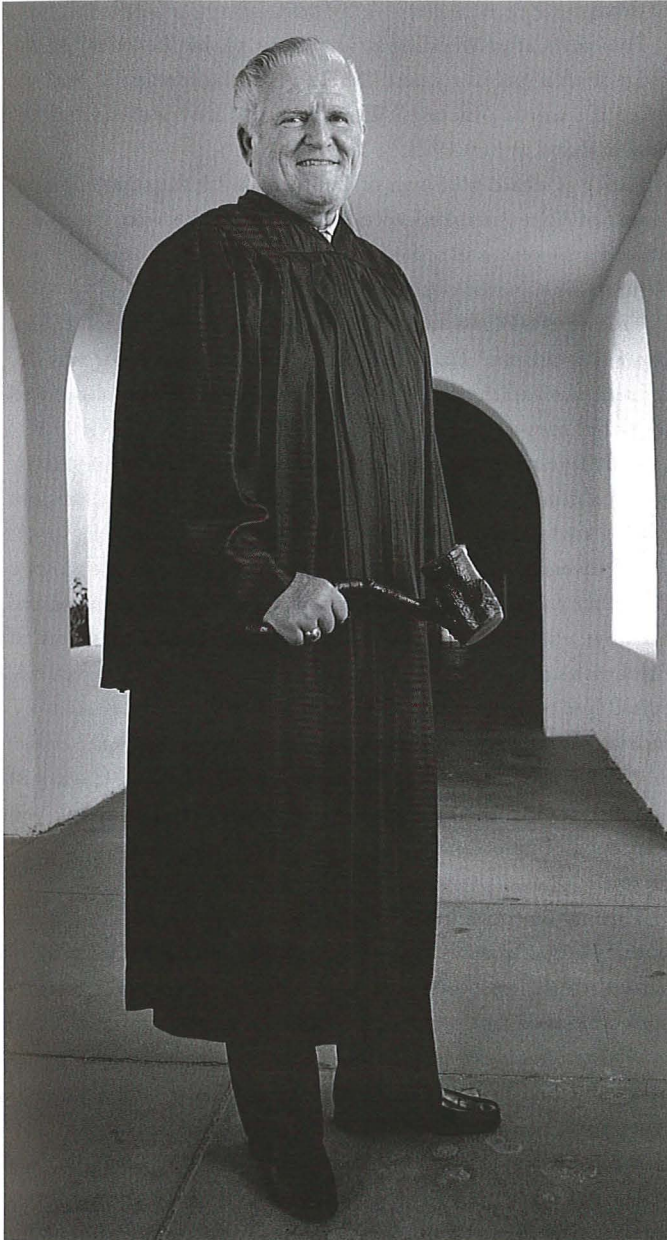
Another young protégée of Bishop Buddy was Cathy Lindseth, an artist in The Immaculata's mosaic shop. Whelan attended the College for Men, and Lindseth was in the College for Women. They began dating when he was in law school, and in 1963, they were married by Bishop Buddy.

Asked what first attracted her to Tom, Cathy, now the director of religious instruction with San Diego's Our Mother of Confidence Parish, replies, "He was a very interesting young man. He worked his way all through school, and I thought that was neat."



“Judge Whelan never lets on how much he knows. But if you think you’re going to pull a fast one on him, forget it. He already sees where you’re going, and he has the answer for you when you get there.”

---



The oldest of seven children, Whelan paid his college tuition working as a grocery store checker at Food Basket. After earning a bachelor’s degree in 1961 at USD in business administration, he entered the School of Law.

Whelan worked days in the Convair division of General Dynamics Corporation and took evening classes. “In night law school, many of the instructors had solid practical experience,” he says. “I learned constitutional law from General George Hickman, the judge adjudicate general during the civil rights troubles in Alabama. And many other instructors had a private law practice by day and taught law school at night.”

Upon graduating from the University of San Diego School of Law in 1965, Whelan remained with Convair as a contracts attorney. A typical day had him riding along on a commercial aircraft test flight with a stopover in Las Vegas. But his heart was elsewhere.

“I really wanted to try cases,” he explains. “In my mind, real lawyers are trial lawyers.”

Even with two children and house payments, the Whelans decided Tom should go for it. He took a pay cut to work in the San Diego District Attorney’s office. His first high-profile case involved Danny Alstat, an Eagle Scout accused of murdering his parents and sister and attacking his brother with a hatchet.

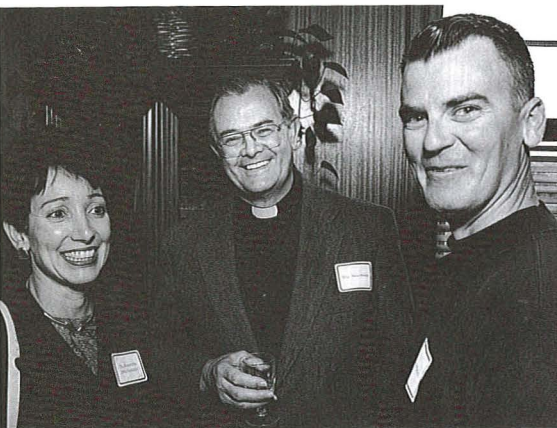
“Nobody wanted to believe this kid could do such a thing, but we showed the thought processes behind his crime,” says Whelan. “He had gone to the trouble of printing an invitation to a nonexistent party, and he had also ransacked the house to make it look like a burglary. This was not a spur-of-the-moment thing; it was well planned.”

Throughout his 21 years as a deputy district attorney, Whelan was never hell-bent on winning. “The prosecutor’s duty is to see that justice is done,” he says, “and sometimes that means you wind up dismissing the case.”

Mementos from Whelan’s career as a prosecutor include chalk drawings from the Alstat trial and a photograph from his last case, the murder trial of David Weeding. In the picture, Whelan stands



## Thomas Whelan



**Judge Irma Gonzalez, Rev. Msgr. Donal Sheahan and Judge Whelan's son, Jim, converse during the April event.**



**Colleagues on the bench show their support of Judge Whelan's appointment, including Chief Judge Marilyn Huff and U.S. Magistrate Judge Leo Papas.**



**Judge Whelan chats with Marlene Turrentine and Senior Judge Howard Turrentine.**

by the witness, Vickie Petix, who is staring at the sweater Weeding tore while trying to rape her. Petix's husband, Steve, interrupted the assault and grappled with Weeding, and Weeding stabbed him to death.

Five years after Weeding's conviction, Vickie Petix called the judge with a special request. "She was getting remarried, and she asked if I would officiate," Whelan says. "I married her and her new husband in July 1995."

Justice Richard Huffman of California's 4th Appellate District Court of Appeal worked with Whelan in the District Attorney's office for 14 years and served on the committee that helped recruit Whelan for superior court.

"Tom was a Democrat, and the governor, George Deukmejian, was a Republican," Huffman recalls. "And the governor was delighted to make the appointment. That shows you just how well respected Tom is."

Only five months after he joined the bench, Whelan was assigned a double-murder case that, as he said at the time, "was not exactly a whodunit."

In November 1989, La Jolla socialite Betty Broderick gunned down her ex-husband, prominent attorney Daniel Broderick, and his new wife and former office assistant, Linda. The first of Broderick's two trials made San Diego history as the first trial televised live on a daily basis. The case spawned two made-for-TV movies, several books and intense media coverage that still persists.

Whelan is philosophical about the Broderick saga. "It was just one case. I understand the public's interest in Betty Broderick, and I accept it, but I don't do anything to enhance her notoriety," he says.

Throughout both trials, Whelan won praise for his courtroom skills. "He has such an easy style of doing things that he puts all parties at ease," points out Huffman. "As a consequence, he maintains control of the courtroom without using a heavy hand."

Whelan was also one of two superior court judges assigned to handle the first cases under the "three strikes" law. "There were no precedents," he says, "and we didn't want numerous opinions on how to interpret the new law."

The experience left Whelan with an encyclopedic knowledge of three strikes (he led seminars for retired judges coming back on



the bench to try three strikes cases), and with a profound belief that judges should maintain sentencing discretion.

“In one case, the third strike was stealing a bottle of Mogen David wine,” Whelan explains. “The liquor store owner said, ‘If I had known this guy was facing a life sentence, I wouldn’t have even called the police.’ How can you send a guy to prison for life when the victim feels that way?”

### THE CONSUMMATE JUDGE

Last year, after other nominees dropped out of the running, Whelan survived the marathon vetting of a Senate confirmation. “The investigators even tracked down a man who had been a box boy with me at Food Basket in the ‘50s,” he recalls.

“Tom sailed through the confirmation process, largely because he doesn’t carry a bag on behalf of any point of view,” says Justice Huffman. “He’s a consummate judge and a real treasure.”

Whelan’s new chambers on the south side of Broadway are much larger than his old space on the north side. But the office décor has not changed much. As before, the shelves are crowded with photos of him and Cathy enjoying sea cruises; of their four children, Mary, Jim, Shelly and Chrissy; and of Whelan with his mother, Margaret, who attended the USD reception held in his honor.

His new closet houses the kelly green robe he wears every year on St. Patrick’s Day. “He makes sure to clear it with both counsel before he comes into court,” says Craig Cherney ’96, one of Whelan’s two research attorneys. “The judge likes to have fun, but he plays by the rules.”

Cherney mentions that he and Whelan’s other research attorney, Mark Weinstein ’97, “had our eye on him before he took the federal bench because we had heard about the kind of person he was and we really wanted to work for him.

“The judge only has to hear something once, and he retains that knowledge forever,” adds Cherney. “You can have a detailed conversation with him about a case, and 30 days later, he’ll know the names, the facts and the issues of law you discussed.”

To his subordinates, Judge Whelan is the boss from heaven. “He treats us as equals,” says Cherney.

“I love working for Judge Whelan,” states Rosie Cerda. “I never have a bad day because he never has a bad day.”

“In one case, the third strike was stealing a bottle of Mogen David wine. The liquor store owner said, ‘If I had known this guy was facing a life sentence, I wouldn’t have even called the police.’ How can you send a guy to prison for life when the victim feels that way?”

Dean Daniel Rodriguez congratulates Judge Whelan during the USD reception held in Whelan’s honor.

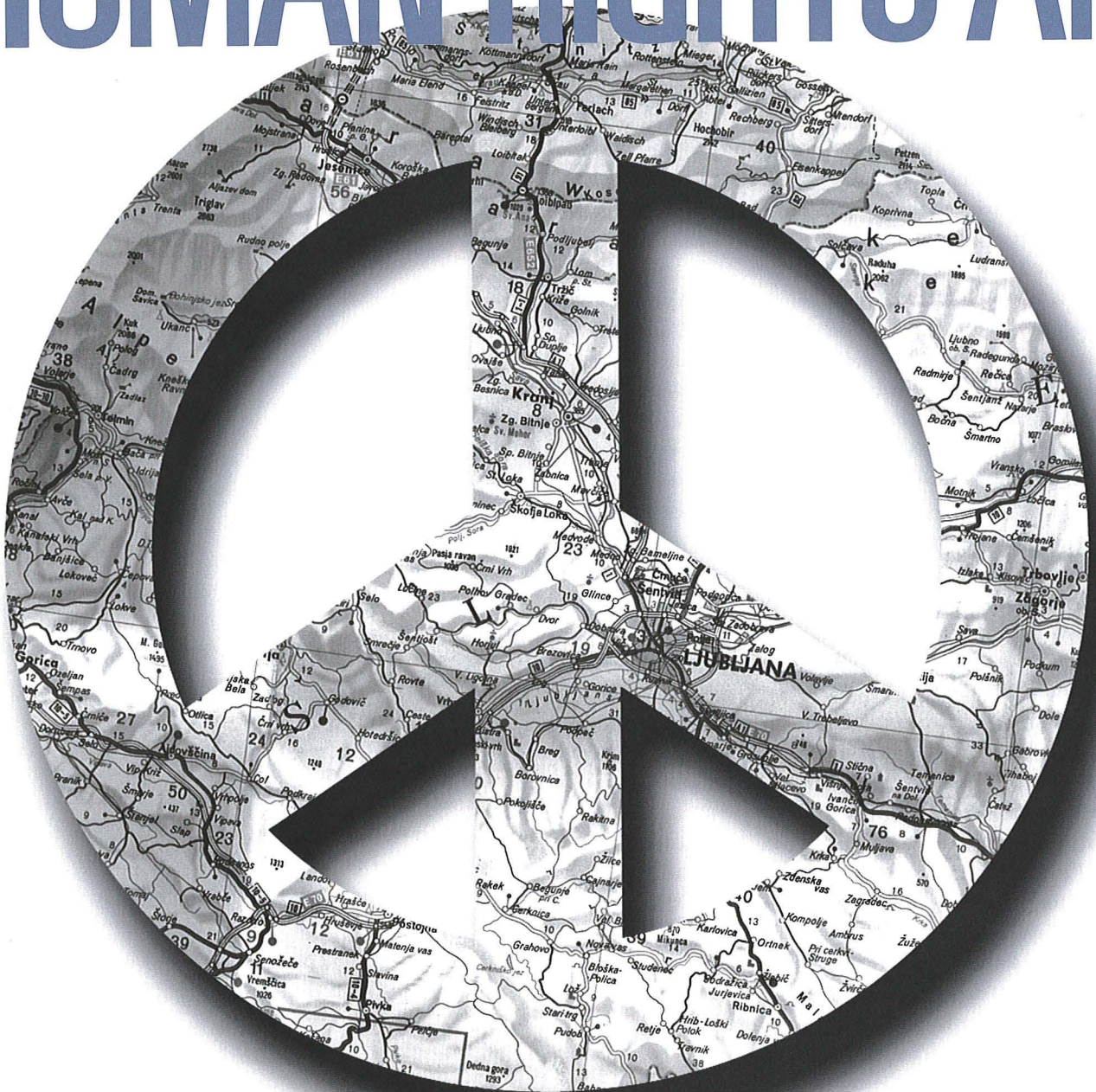


Judge Whelan’s family joins the festivities, including (left to right) daughter Shelly Patriquin, daughter Chrissy Whelan, nephew Ben Wood ’99 (B.A.) and nephew Bryan Wood.





# HUMAN RIGHTS AND





# WRONGS

*Ambassador Nancy Ely-Raphel  
Seeks Peace in the Balkans*

Story by Kate Callen

THE KEY TO LASTING PEACE IN THE BALKANS may lie in the baroque setting of the Republic of Slovenia. The diplomat who may help shepherd that peace first studied international law in the renaissance setting of Alcalá Park.

Nancy Ely-Raphel '68, U.S. Ambassador to Slovenia, is part of a cadre of delegates working to iron out the future of Southeastern Europe.

Being near ground zero in a global conflict is nothing new for the veteran negotiator. During her remarkable 30-year career, Ely-Raphel has been a human rights emissary in South Africa, Somalia, Angola, Namibia, Vietnam, Eastern Europe and the former Soviet Union. She was a principal member of the team led by then U.S. Assistant Secretary of State Richard Holbrooke that drafted and implemented the 1995 Dayton Peace Accord.

As only the third American ambassador to Slovenia, Ely-Raphel is navigating foreign relations in a vortex. Following NATO's crackdown on dictator Slobodan Milosevic in nearby Serbia, she has played an indispensable role in Western attempts to bring democracy to the former Yugoslavia.

"Slovenia is the role model for the states of Southeastern Europe," Ely-Raphel explains during a telephone interview from Slovenia's capital city of Ljubljana. "It is the only successful democratic state in the region. It has a thriving economy and an impeccable human rights record. Slovenia is poised to be the bridge between the Balkans and the rest of Europe."

In June, Ely-Raphel played host to President and Mrs. Clinton on their first-ever visit to Slovenia, which declared its independence the year before then Governor Clinton was elected to the White House. "The President's visit really is a recognition of the role Slovenia can play in stabilizing Southeastern Europe," she says.

Ely-Raphel admires the Clintons' commitment to human rights—in particular, their determination to end the abominations in Kosovo. In a February speech to the law faculty at the University of Ljubljana, she borrowed ideas from Hillary Rodham Clinton. "Human rights transcend individual regimes and customs," the ambassador said, quoting the First Lady. "They are not the work of a single culture or country. They have been with us forever, from civilization's first light."



Ely-Raphel is on equally good terms with Republican leaders. In 1988, while serving in the State Department during the Bush administration, she received her first of two Presidential Distinguished Rank Awards for outstanding service to the nation.

"My mom is sophisticated and highly intelligent, but she's also a warm, caring person who speaks from the heart," says Robert Duff Ely, who followed his mother to the USD School of Law, graduating in 1987.

"Nancy has poise and self-confidence; she never loses her cool," observes her for-



mer husband John Hart Ely, currently the Richard A. Hausler Professor of Law at the University of Miami. “She’s very resourceful, but she has never been ambitious,” he adds. “She just does every job she’s given exceptionally well.”

Notwithstanding the tumult of her diplomatic assignment, preparing for state visits and traveling in a bulletproof car, Ely-Raphael speaks glowingly of her life abroad. “Slovenia borders on Austria and Italy,” she says. “It has the Alps close by and a coast that reminds you of La Jolla. There’s skiing, trout fishing, whitewater rafting. On the cultural side, there are two symphony orchestras, opera and ballet, and a jazz festival every summer.

“This place really is a gem. The University of Ljubljana is magnificent, with baroque architecture dating from the Austro-Hungarian Empire. It is such a beautiful setting, it reminds me a lot of USD.”

#### LEARNING TO THINK ON HER FEET

Born Nancy Halliday in the Bronx, Ely-Raphael was a Syracuse University graduate

and a young mother when she decided to become a lawyer. Suzanne Duvall ’68, a classmate and close friend, remembers meeting Nancy the first week of law school at USD.

“We were both in the dean’s office,” Duvall recalls. “Nancy had towheaded boys ages 3 and 5, and I had a little boy age 4. We called them our stair-step kids.”

As two of only three women in their first-year class, they teamed up to survive. “We took tax law with Bert Lazerow, who was very proud of being a Harvard law alum,” says Duvall. “Nancy and I weren’t exactly whiz kids at tax law, so at exam time, we came up with an idea. Instead of studying old USD tax exams, we studied old Harvard tax exams.”

When the grades were posted, the two friends had the highest scores. “Obviously,” says USD Professor Bert Lazerow, “these were two very smart women. Nancy was a good student, always well prepared. It’s not at all surprising she’s had such a stellar career.”

With her J.D. in hand, Ely-Raphael began a life of public service as a deputy

city attorney in San Diego. Her prosecutorial ability came to the attention of the U.S. Attorney’s office, and she was soon hired as an assistant U.S. attorney. Working as a trial lawyer “taught me how to think on my feet,” observes Ely-Raphael. “I had to develop intellectual skills and negotiating tactics that have stood me in good stead.”

From San Diego, she moved to Boston, where she served as associate dean at the Boston University School of Law and then joined the Justice Department as a senior trial attorney with the Organized Crime Strike Force. “I loved working on the strike force, and it turned out to be great training for working in the area of human rights, because I learned how to pull a criminal case together,” Ely-Raphael says.

“Years later, when I had to give a speech before a police academy in Ankara, Turkey, I drew on my strike force experience,” she recalls. “It helped put me on a par with the audience, and I wound up having a wonderful discussion with these cadets, who were very sensitive to the human rights concerns I was raising.”

#### THE AMBASSADOR’S WIFE

Ely-Raphael left the courtroom for good when she joined the State Department in 1978. In her first assignment, as assistant legal advisor for African Affairs, she worked on a legal aid program for political prisoners in South Africa, and she helped draft the constitution for the new democratic government of Namibia. Today, she looks back on both endeavors with special pride.

“I was very lucky to have had those opportunities,” she says. “When I look at all that has happened in Southern Africa since I was there, it’s just unbelievable.”

She next went to Pakistan, but it was

**“Working as a trial lawyer taught me how to think on my feet. I had to develop intellectual skills and negotiating tactics that have stood me in good stead.”**





not a professional move. She had been dating career diplomat Arnold Raphel and, after he was named the U.S. ambassador to Pakistan in January 1987, they married, and Nancy found herself immersed in the operations of an overseas embassy.

“Those were the happiest days of my mother’s life,” Robert recalls. “She worked hard to champion women’s rights when she was in Pakistan. And she learned a lot watching Arnie, who was a true diplomat in every way.”

Those happy days only numbered in the hundreds. On August 17, 1988, a year and a half after he and Nancy moved to Pakistan, Arnold Raphel was killed when the plane carrying him, the Pakistani president and several officials exploded and crashed. The case has never been solved.

“That was the toughest thing she’s ever gone through,” says Robert. “But she made herself rebound. And she went back to work.”

Last August, after Under Secretary of State for Political Affairs Thomas Pickering swore her in as ambassador to Slovenia, Ely-Raphel faced an audience that included Arnie’s daughter, Stephanie, and many of his relatives, and she spoke lovingly of him.

“She talked about how proud she was to be following in Arnie’s footsteps,” says Robert. “A lot of the people there had known Arnie, and it was a very emotional moment.”

#### **NEXT USD SUMMER LAW PROGRAM: SLOVENIA?**

When the University of San Diego School of Law held its 1993 Law Alumni Weekend, the keynote speech was titled “Recent Developments in Human Rights and International Law: A Personal Perspective.” The speaker was Nancy Ely-



**Ambassador Nancy Ely-Raphel greets President Bill Clinton when he arrives for his first visit to Ljubljana, Slovenia this June.**

Raphel, who had just been named the State Department’s Principal Deputy Assistant Secretary for Democracy, Human Rights and Labor.

Six years later, her words now seem prophetic: “The resurgence of ethnic, racial and religious tension within and among states is threatening the political cohesion of emerging democracies and even of some Western democracies struggling to deal with immigrant populations.”

Ely-Raphel also used the occasion to address the next generation of lawyers. “I would encourage law students to consider international law,” she said. “It is a wide-open field. We’re living in a whole new world, and we need to rethink our geo-strategic interest.”

Ely-Raphel’s own sons have taken up that challenge. John has worked in Bosnia-Herzegovina as a peacekeeper assigned to monitor the recent elections. Robert (who was the very first second-generation USD law graduate) has visited his mother in Slovenia, and he keeps close track of the Kosovo crisis.

“How many men do you know who only dream of following in their mothers’ footsteps?” Robert asks.

Ely-Raphel continues to have a keen interest in expanding the global outlook of students at the University of San Diego School of Law, a place she says “is very dear to my heart.”

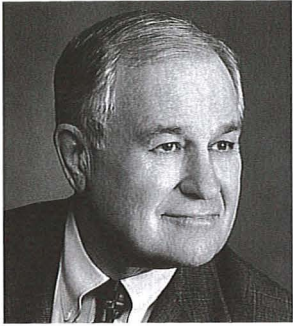
“Slovenia would be a great place for the law school to have a summer program,” she suggests. “Most Slovenians speak English—students start learning English in the third grade—and the people here really love America and Americans.

“In my first week here, I opened an exhibition of photographs by Annie Leibowitz at the Museum of Modern Art. As I was pulling up, I noticed a huge crowd and a lot of TV cameras. It turned out they were there to greet me. It was so unexpected and so wonderful.”



# class action

**Class Action is an update on the personal and professional news of your classmates and other alumni. Please submit information and photographs to the *Advocate*, USD School of Law, Publications Department, 5998 Alcalá Park, San Diego, CA 92110-2492. You may also e-mail your news to: lawalum@is.acusd.edu.**



**THOMAS E. SHARKEY '59**

## '59

### 40-YEAR REUNION

#### Class Chair

**THOMAS E. SHARKEY**

Higgs, Fletcher & Mack  
First National Bank Building  
401 West A Street, Suite 2600  
San Diego, CA 92101  
619-236-1551

**RALPH GANO MILLER** reports that he is a senior partner at Miller, Monson, Peshel & Polacek, and practices in the area of estate planning. In addition, he designed and sold the *View Plan Computer Estate Planning Programs*, the first estate planning software program series approved by the American Bar Association. He also recently co-authored *The*

*Tools and Techniques of Estate Planning*, ninth edition; the *Estate Planning Primer*, eighth edition; and the *Charitable Planning Primer*, first edition. Ralph adds that he and his wife enjoy traveling and spending time on their ranch in eastern Oregon.

## '64

### 35-YEAR REUNION

#### Class Co-chair

**HON. ROBERT C. BAXLEY**

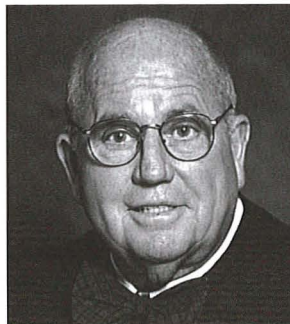
1314 Devonshire Drive  
San Diego, CA 92107  
619-225-0912

#### Class Co-Chair

**GERALD McMAHON**

Seltzer Caplan Wilkins  
& McMahon  
750 B Street, Suite 2100  
San Diego, CA 92101  
619-685-3003

**ROBERT C. BAXLEY '64**



## '65

**DAVID R. PITKIN** operates Skyland Ranch, a recovery facility for young adult males with substance abuse or criminal justice problems, located 48 miles northeast of Seattle. David has been with the ranch for the past 18 years, and writes, "I wouldn't trade this lifestyle for anything."

## '69

### 30-YEAR REUNION

#### Class Co-Chair

**CRAIG D. HIGGS**

Higgs, Fletcher & Mack  
401 West A Street, Suite 2600  
San Diego, CA 92101  
619-236-1551

**GERALD McMAHON '64**



#### Class Co-Chair

**THOMAS J. RYAN**

Attorney at Law  
2366 Front Street  
San Diego, CA 92101  
619-239-9141

**JOHN P. "LEE" HAGAN** retired on April 1, 1999, after serving as a juvenile law commissioner in Stanislaus County, Calif., for the past 23 years. Judge **HURL W. JOHNSON '77** of the California Superior Court writes, "Commissioner Hagan has served the community of Stanislaus County and the legal profession honorably and with distinction during the past 30 years. He is a credit to the profession and to USD."

**IRWIN SCHROEDER** serves as an administrative law judge for the Social Security Administration in Bellaine, Texas. Judge Schroeder notes that he can be reached via e-mail at [Schroe1824@aol.com](mailto:Schroe1824@aol.com) or [Irwin.Schroeder@ssa.gov](mailto:Irwin.Schroeder@ssa.gov).

## '70

**C. SAMUEL BLICK** announces that he has "retired." However, he owns and operates a real estate development business in San Diego, as well as several Arco AM/PM stations throughout Southern California.



'71

**JAY DAVIS** works for Arter & Hadden in Los Angeles. His son, Byron, graduated from the University of Notre Dame in 1997 with an accounting degree.

'72

**ROBERT L. GRIMES** writes that he practices criminal defense law with his law firm, Grimes & Warwick, in San Diego. His wife, **LINDA GRIMES '85**, helps on some cases, and also volunteers at Torrey Pines High School where their daughter, Dana, is a sophomore. They also have a son, David, who is a junior in college.

'73

**RICHARD G. CLINE** left Ring & Cline in October 1998 to serve on the bench of the San Diego County Superior Court, North Division.

**NED MANSOUR** was promoted to president of Mattel Inc. in June 1999. Ned has been with the company for 21 years, and in his expanded position he will help oversee all administrative functions as well as legal, manufacturing and international operations.

**CRAIG D. HIGGS '69**



**ROBERT I. VINES** is a partner with Rose, Klein & Marias in Ontario, Calif. Robert is a certified specialist in worker's compensation law, and he also serves as president of the California Applicant Attorneys' Association (CAAA).

'74

**25-YEAR REUNION**

**Class Co-Chair**

**JOHN S. ADLER**  
Markus Mediation  
401 B Street, Suite 2100  
San Diego, CA 92101  
619-239-2020

**Class Co-chair**

**DAVID S. CASEY**  
Casey Gerry Reed & Schenk  
110 Laurel Street  
San Diego, CA 92101  
619-238-1811

**JAMES CATLOW** works in personal injury defense in Los Angeles. His wife, **BARBARA (RUEDIGER) CATLOW '75**, is the assistant bureau director for Child Support Enforcement with the Los Angeles County District Attorney's Office.

**STAN ELLER** was appointed to the Mono County bench in December 1998 by then Governor Pete Wilson. Stan was the Mono County District Attorney from 1985 to 1998. Stan, his wife, LeaAnn, and son, Bryce, live in June Lake, Calif.

**PAUL RICE** reports that he has returned to his native state of Michigan after practicing for 24 years in the Palo Alto, Calif., area. He is now of counsel with the firm of Dever and Dew in Ann Arbor.

'75

**CHARLES N. BROWN** is the first assistant corporation counsel for the city of Utica, N.Y., where he has worked since 1976.

**BARBARA (RUEDIGER) CATLOW** is the assistant bureau director for Child Support Enforcement with the Los Angeles County District Attorney's Office. Her husband, **JAMES CATLOW '74**, works in personal injury defense.

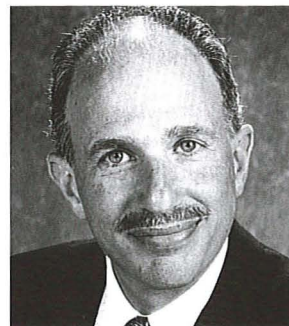
**EDWARD SCHMIDT** is president of Welkin Systems Inc., a wireless communications company. He lives with his wife, Kelley, and two daughters in Tierrasanta, Calif.

**STEVEN TOOLE** has practiced law for 17 years and is active in the Washington State Trial Lawyers Association and the Washington State Bar Association. Steven and his wife, Christie, have two children, ages 14 and 10.

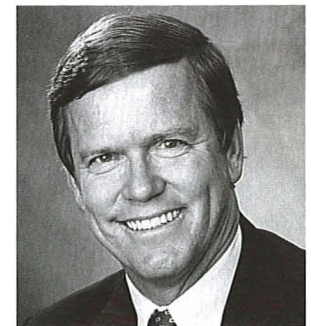
'76

**JAN GOLDSMITH** was appointed by former Governor Pete Wilson to the bench of the San Diego County Superior Court, East County Division, in December 1998. From 1992 to 1998, Jan has served as a Republican assemblyman for Poway, Calif. From 1988 to 1992, he was mayor and councilman of Poway, while also practicing law in the area.

**JUDITH WENKER** has relocated to "warm and humid Houston, Texas, where all the elected officials are Republicans," due to a Texaco reorganization. Judith owns a townhouse near USD and plans to move there permanently in the future.



**JOHN S. ADLER '74**



**DAVID S. CASEY '74**



## class action

**CARL WOLF** writes that **SHELLEY (LEVINE) BERKLEY** was elected to the U.S. House of Representatives in November 1998 for the state of Nevada. The district she represents includes the city of Las Vegas.

## '78

**JAN FLADEBOE** announces that he and his family are now in Vienna, Austria. Jan has retired from the U.S. Marine Corps and now works for the State Department. He was nominated and selected as the legal advisor to the Article V representative, chairman in office, of the Organization for Security and Cooperation in Europe (OSCE). Jan notes that Article V is part of the Dayton/Paris Agreement, which seeks a regional arms control agreement in Southeast Europe.

**PATRICIA A. McQUATER** is a senior corporate attorney for San Diego-based Solar Turbines Inc., and was named chairperson of the Port of San Diego Board of Port Commissioners for 1999. She has served on the board since 1994, and also

serves on the boards of the San Diego Urban League, Children's Hospital and the USD Law Alumni Association.

## '79

### 20-YEAR REUNION

#### Class Co-chair

##### **BRIAN P. BRINIG**

Brinig & Company Inc.  
101 West Broadway #1650  
San Diego, CA 92101  
619-687-2600

#### Class Co-Chair

##### **HON. MARIA TERESA**

##### **ARROYO PROKOP**

San Diego County  
Superior Court  
Juvenile Court Referee  
Juvenile Division, Department 4  
2851 Meadow Lark Drive  
San Diego, CA 92123-2792  
619-694-4224

**VICTOR A. SAHN** was appointed to the nonprofit Dubnoff Center's board of directors. Victor says, "The Dubnoff Center is a reputable organization that offers extremely valuable services and assistance to young people with special needs." He adds that serving on the board "is consistent with our firm's philosophy of

giving back to the community." Victor works with the Los Angeles firm Sulmeyer, Kupetz, Baumann & Rothmann, where he specializes in insolvency proceedings, out-of-court restructurings, creditors' rights and business litigation.

## '80

**PETER GLASSENER** reports that he is a partner with Hardin Cook Loper Engel & Bergez in Oakland, Calif., where he specializes in professional liability and employment litigation. Peter also serves on the board of directors of the Association of Defense Council of Northern California.

**LORI MORELAND** writes that she is an administrative law judge in Sacramento for the California Unemployment Insurance Appeals Board and has pursued a career in state service since 1989. Previously, she worked as a solo general practitioner in Santa Rosa, Calif. Lori is also a cofounder of the Women's Legal Clinic in Santa Rosa. In May 1998, Lori married John Abbott, an attorney who works for the Board of Equalization.

**WILLIAM NAUMANN** announces that he was elected president of Consumer Attorneys of San Diego (formerly San Diego Trial Lawyers) for the year 1999.

**DEBORAH WOLFE** has been selected to act as a master of the American Inns of Court, Louis Welch chapter, and has also been chosen to be in *Who's Who in American Law* for 1998-99. Deborah and her husband, **LES McDONALD '81**, live in El Cajon, Calif.

## '81

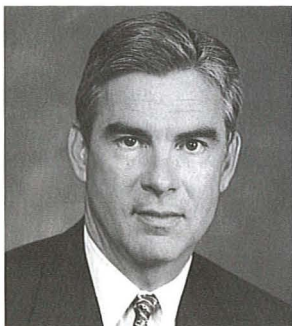
**JUDITH BLICK** joined **SUSAN GILL '87** and **DERYK S. DOTY '91** to form a new firm in San Diego. Blick, Doty & Gill opened its doors in September 1998.

**ROGER HEATON** opened his own San Diego law firm, specializing in personal injury and insurance law, in November 1998.

**BOB LASER** writes that he celebrated his 15th year with Caterpillar Inc. in March, where he is currently a managing attorney in the Financial Products Division. Bob adds that he relocated to Nashville, Tenn., in 1991 and lives there with his wife, Kim, and their children, Tracy (13) and Robbie (11).

## '82

**VICKIE TURNER** announces that she has left the partnership of Luce, Forward, Hamilton and Scripps to become a partner at Wilson, Petty, Dunwoody and Turner in San Diego. Her practice includes product liability, First Amendment defense and business litigation. Vickie also serves as a judge pro tem.



**BRIAN P. BRINIG '79**



**MARIA TERESA ARROYO  
PROKOP '79**



'83

**SUSAN WALKER ALLEN** writes that she has her own practice in Russellville, Ark., and her son, Cane Allen, is in the third grade. She adds, "I miss San Diego."

**STEPHANIE SONTAG** will serve as president of the San Diego County Bar Association for the year 2000. Stephanie is a member of the Association of Business Trial Lawyers, Consumer Attorneys of San Diego and the San Diego Volunteer Lawyer Program. She is a past president of the Lawyers Club of San Diego and has received the YWCA Tribute to Women in Industry award. Stephanie is a partner with Procopio, Cory, Hargreaves and Savitch, where she practices civil litigation. She is also a judge pro tem for the San Diego Superior Court.

'84

**15-YEAR REUNION**

**Class Co-chair**

**LORI J. FORCUCCI**

Aiken, D'Angelo & Banner  
3131 Camino Del Rio North,  
Suite 1600  
San Diego, CA 92108  
619-584-3330

**Class Co-chair**

**NANCY A. TAYLOR**

Hargraves & Taylor  
501 West Broadway, Suite 1720  
San Diego, CA 92101  
619-238-5501

**ROSS W. FEINBERG** reports that he is a partner with the firm Feldsott, Lee & Feinberg in Newport Beach, Calif. Ross also writes that he has been admitted to the State Bar of Nevada and "is pleased to announce the formation of the firm Feinberg, Grant, Kaneda & Litt," which is located in Las Vegas and specializes in construction defect law.

**DONALD JONES** writes that he was named president and CEO of OnCall Medicine, a new health care services company in Cardiff, Calif., that provides modern medical house calls.

**JEFFREY A. PARIS**, who is with the Santa Monica firm of Paris and Paris, reports that he is the director of The Rutter Group Debt Collection Program and frequently lectures on debt collection issues.

**ETHEL STARK** works as a part-time legal assistant in the Ft. Lauderdale, Fla., area.

'85

**JACK BOYCE** has opened the Boyce Law Firm in Carlsbad, Calif. The firm emphasizes business transactions and litigation, especially hospitality law and new technologies. The firm also provides legal services for the arts, including trademark and copyright law, as well as rights of privacy and publicity. Jack remains co-owner, along with his wife, Theresa Breining, of the San Diego company Concepts Meeting and Trade Show Management Inc.

**MELISSA CATES**, who is with MTV Networks in New York City, announces that she and her husband, Roger Claman, celebrated their son's first birthday in October 1998.

**LINDA GRIMES** helps her husband, **ROBERT L. GRIMES '72**, with some cases at his San Diego law firm, Grimes & Warwick. In addition, she volunteers at Torrey Pines High School where their daughter, Dana, is a sophomore. They also have a son, David, who is a junior in college.

**CHARLES KENWORTHY** practices with the Los Angeles firm Allen, Matkins, Leck and Gamble, and writes that he has two daughters, Alexis (4) and Britland (2).

**ROBERT McCALL** reports that he is with the Naval Air Systems Command in Maryland, and currently is a program attorney for the Tomahawk Cruise Missile Program. Robert and his wife, Janice, have two children, Sean (7) and Christin Hope (2). He adds that he is "working hard and enjoying life—sailing and fishing on the Chesapeake Bay and flying T-34s."

**KELLY SALT** is a deputy city attorney for San Diego. Kelly and her husband, Charles Yackly, have two sons, Cameron (3) and Aidan (10 months).

**LYN SEMETA** writes that she practices part-time while spending most of her time with daughters Kristen (6) and Lauren (3). Her husband, **RICHARD SEMETA** (LL.M. in Taxation), practices securities law, corporate tax planning and general corporate law with the Newport Beach, Calif., firm Resnick & Gray.



LORI J. FORCUCCI '84



NANCY A. TAYLOR '84



## class action

# '87

**SUSAN GILL, JUDITH BLICK '81** and **DERYK S. DOTY '91** have formed the new San Diego firm of Blick, Doty & Gill, which opened its doors in September 1998.

**ANDREW J. LISKA** reports that as a partner with the San Diego firm Robbins & Keehn, he specializes in business litigation and insolvency issues. Andrew also serves as a judge pro tem in small claims court, and is active with the Zoological Society of San Diego and Little League.

**JAMES ZIMMERMAN** is resident representative of the international law firm of Morrison & Foerster in Beijing, China. Jim and his wife have three daughters and maintain a home in the Mt. Helix area of San Diego.

# '88

**FRANK BITZER** announces that his wife, Dana, gave birth to their first child, Griffin Daniel, on March 7, 1999. Frank is an employee benefits attorney in Cincinnati, Ohio, and he co-authored the book *ERISA Facts*, published by the National Underwriter Company. In addition, he co-authors an ERISA Q&A column on the Internet at BenefitsLink.com. Frank adds, "This is a great way for old friends to contact me."

# '89

### 10-YEAR REUNION

#### Class Co-chair

**PATRICIA GARCIA**  
Seltzer Caplan Wilkins  
and McMahon  
750 B Street, Suite 2100  
San Diego, CA 92101  
619-685-3095

#### Class Co-chair

**KAREN M. STUCKEY**  
Jennings, Engstrand  
& Henrikson  
9320 Fuerte Drive #105  
La Mesa, CA 91941-4163  
619-538-6667

**MARK W. DUNDEE** (LL.M. in Taxation) received a federal appointment to the U.S. Department of the Treasury, Bureau of Debt, U.S. Saving Bonds Commission. In addition, Mark was named a managing partner with Buck Consultants in Los Angeles.

**KADI KIISK-MOHR** has opened her own firm in Truckee, Calif. Kadi and her husband, Gregory Mohr, have a son, Kevin Gregory Mohr, who will be 2 years old in September.

**MIKE LICOSATI** reports that he left his partnership with Keesal, Young & Logan in Los Angeles to earn his M.B.A. at the University of Chicago. Mike adds, "I will soon be joining Morgan Stanley's Investment Banking Division in New York."

**FRED SOLDWEDEL** writes that he practices trust and family law in Pasadena, Calif.

# '90

**KRISTEN BRUESEHOFF** announces that she made partner at the San Diego firm Post Kirby Noonan & Sweat, and has become a member of the USD Law Alumni Board of Directors. Kristen and her husband, **JAMES DALESSIO**, have a son, Jack (2).

**RICHARD CORNELL** writes that he works and lives in "beautiful" Encinitas, Calif., where he has his own practice specializing in estate planning. Richard adds he is "enjoying life with my wife, Diane, and our three children, Richard (5), Robert (3) and Kathleen (1)."

**CRAIG D. FULLER** has his own firm that specializes in civil litigation and employment law, with offices located in San Diego and Orange County. Craig and his wife, Susan, have four children—Jonathon (7), Arielle (6), Gillian (2) and Olivia, who will be 1 year old in October.

**DALE J. GIALI** has been named a partner with the law firm of Howrey & Simon, where he works in the Los Angeles office. Since 1992, Dale has represented clients in federal trial and appellate courts involving complex civil litigation cases.

# '91

**VICKY CHEN** (J.D./M.B.A.) works as an in-house attorney for QUALCOMM Inc. Vicky and her husband, **DERYK S. DOTY**, celebrated their son Gavyn's second birthday in May. Deryk, **JUDITH BLICK '81** and **SUSAN GILL '87** have formed the new San Diego firm of Blick, Doty & Gill, which opened its doors in September 1998.

**PATRICK CONNOLLY** writes that he received the Association of Deputy District Attorneys Award for Prosecutor of the Month in recognition of his successful prosecution of a very difficult murder case. Patrick works with the Los Angeles County District Attorney's Office.



**PATRICIA GARCIA '89**



**KAREN M. STUCKEY '89**



**GINAIA (BERNARDINI) KELLY** has been in private practice since 1993, and is serving as president of the Santa Cruz County Bar Association for the 1999-2000 term. Ginaia is a board member for the Downtown Association of Santa Cruz and Women Lawyers of Santa Cruz, and also founded the Young Lawyers Group. She proudly announces that she and her husband, Tom, are "new parents to Mason Thomas Kelly since December 14, 1998."

**J. R. SPANGLER** reports that he formed a partnership with **JIM PANTONE** in May 1997. Their San Diego firm, Pantone & Spangler, specializes in personal injury, employment discharge and harassment, and contractual disputes.

**JENNIFER WHELAN WALKER** has her own firm in Newport Beach, Calif. Jennifer and her husband, Jim Walker, have a daughter, Amanda Caitlin (1).

## '92

**THEOBALD BRUN** (LL.M. in Business Corporate Law) announces that he opened his own law firm in Switzerland after working six years with Bar & Karrer, one of Switzerland's major firms.

**DEREK EMGE** is now a principal with the law firm of Gilliland & Emge in San Diego. Derek's practice includes business litigation and insurance law.

## '93

**AMY L. JACKSON** is pleased to report that she is currently a certified family law specialist with the State Bar of California Board of Legal Specialization. Amy has practiced in the field of family law since she opened her own law practice in December 1993.

**DANIEL JAMES KUNKEL** writes that he recently became an associate with the firm McCorriston Miho Miller Mukai in Honolulu, and he specializes in commercial litigation.

**LISA CIANCIO ROBERTS** and **KENNETH S. ROBERTS** announce they were married on March 14, 1998, and celebrated the birth of their son, Patrick, on December 12, 1998.

**TONY TAGGART** reports that in July 1998 he was appointed director of the Utah Division of Securities, where he oversees securities regulation for the state. He has two daughters: Clarissa (4) and Melissa (1).

## '94

### 5-YEAR REUNION

#### Class Co-chair

##### MICHEL J. DUQUELLA

Littler Mendelson  
701 B Street, 13th Floor  
San Diego, CA 92101-8194  
619-515-1832

#### Class Co-chair

##### BRADLEY M. FIELDS

Law Offices of  
Everett L. Bobbitt  
8388 Vickers Street  
San Diego, CA 92111  
619-467-1177

#### Class Co-chair

##### PETER J. SALMON

Law Offices of Peter J. Salmon  
1010 Second Avenue,  
Suite 1350  
San Diego, CA 92101-4905  
619-239-9403

**ALVARO ALTAMIRANO** (LL.M. in Comparative Law) proudly announces that his first child, Daniela, was born on March 17, 1999. Alvaro practices with Altamirano, Estudillo & Perez Muñoz in Mexico City.

### TIMOTHY BORIS and KAREN

**PEABODY '95** were married on May 9, 1998, in Santa Barbara, Calif. Both are currently practicing in Santa Barbara, Tim as an associate with the firm of Hager & Dowling, and Karen as a partner with the firm of Carrington and Nye.

**ROBERT A. COCCHIA** left the Santa Monica-based firm of Dickson, Carlson & Campillo to join Arter & Haden's Los Angeles office. Robert is an associate working in the firm's Product Liability and Corporate Group.

**JASON TOLIN** expanded his estate and financial planning practice in San Diego, consulting with attorneys and paralegals interested in financial planning.

## '95

### KAREN PEABODY and TIMOTHY

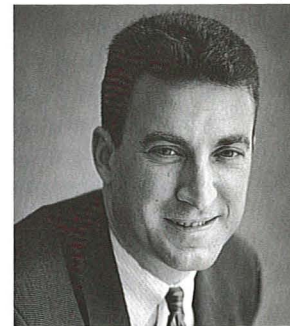
**BORIS '94** were married on May 9, 1998, in Santa Barbara, Calif. Both are currently practicing in Santa Barbara, Karen as a partner with the firm of Carrington and Nye, and Tim as an associate with the firm of Hager & Dowling.



MICHEL J. DUQUELLA '94



BRADLEY M. FIELDS '94



PETER J. SALMON '94



## class action

# '96

**FAUSTA M. ALBI** is currently an associate attorney with Nancy Fuller-Jacobs & Associates in San Diego.

**CRAIG CHERNEY** reports that he left Pillsbury, Madison & Sutro to begin his second federal clerkship with U.S. District Judge **THOMAS WHELAN '65**. Craig also recently married Dana Schwartz, and adds, "The wedding was nationally televised in December 1998 on the Lifetime channel's *Weddings of a Lifetime* show."

**SUE FAHAMI** (LL.M. in Criminal Law) announces that in November 1998 she was elected the District Attorney of White Pine County, Nev., and she took office in January 1999.

**JENA KIRSCH JOYCE** writes that she and Robert Joyce were married on Thanksgiving Day, and she got "a 13-year-old stepdaughter, Kelsey, in the bargain!"

**ROBERT MOUGIN** reports he is a partner with the new San Diego firm of Lake & Mougin, and he specializes in civil defense litigation.

**TOMSON T. ONG** (LL.M. in Taxation) announces he was named a Fulbright Scholar for the 1999-2000 academic year, and awarded a distinguished chair/lecturer grant from the Fulbright Program to travel and teach in the Philippines. Tomson is a faculty member at the University of Southern California's School of Policy,

Planning and Development, and he also teaches a summer seminar for Pepperdine University's M.B.A. Program. Tomson adds, "In my professional life, I am a judge of the Municipal Court of California, assigned to the Long Beach Judicial District."

**ROBIN ALISHA PRESTA** works in life annuity products for Pacific Life in Newport Beach, Calif. Robin was engaged in September and is planning a move to San Francisco.

**RICHARD STOUT** and **HOLLY BIGGS '97** announce they were married on June 5, 1999, at the Mission Inn in Riverside, Calif. Several classmates attended the wedding, including **CRISTY (PUTNAM) TSAI '96**, **INNA SHAPIRO '96**, **MARK ALDRICH '97**, **MARY DAGGETT '97**, **CHRISTOPHER KNIGHT '97**, **TRISHA LOTZER '97**, **PAULA NEGLEY '97** and **MONICA PIERCE '97**. Richard is a deputy district attorney for Riverside County in the Family Support Division, and Holly is a staff attorney with KSL Recreation Corporation.

**KELLI (BERGMAN) TAYLOR** writes that she was married in July 1998 on the ocean in Mendocino, Calif. Kelli specializes in professional malpractice defense work with the firm Murphy, Pearson, Bradley & Feeney in Sacramento. She adds, "I miss the ocean and enjoy when I have cases venued down south."

# '97

**LISA (HESS) CORR** is an attorney with the San Diego District Attorney's Office where she works with her husband, **JONATHON CORR**, whom she met at USD.

**CAROLYN PUZELLA** passed the Massachusetts Bar in February 1998 and is a tax attorney with Taxware International Inc. in Salem, Mass.

# '98

**SCOTT J. IVY** is now an associate with the Los Angeles office of Musick, Peeler & Garret, and practices in the firm's litigation department. Scott writes that he can be reached by calling 213-629-7762.

**LINDA L. KEYSER** reports that she is an appellate attorney with the Department of Veterans Affairs, Office of the General Counsel, in Washington, D.C.

**JOHN S. KYLE** left the U.S. Department of Justice Aviation and Admiralty Litigation Branch to join the law firm of Arter & Hadden. John is an associate in the San Diego office where he is a member of the litigation group.

**EDSON McCLELLAN** recently became an associate in the Los Angeles office of Musick, Peeler & Garret, where he practices in the firm's litigation department. Edson writes that he can be reached by calling 213-629-7921.

**KATHERYN ASHLEY NYLE** writes that she passed the bar and works for Klinedinst, Fliedman, McKillop in San Diego, where she practices civil litigation.

**CLEMENS W. PAULY** (LL.M. in Comparative Law) announces that in 1998, he became of counsel with the firm Rodriguez Langstadt & Angero in Coral Gables, Fla. Clemens was admitted to both the German and New York bars. In addition, Clemens got engaged on Christmas Eve 1998 in New York City's Rockefeller Center, and married Melani Black on May 7, 1999, in Coral Gables.

**NICOL SCHROEMGENS** (LL.M. in Comparative Law) writes that she is spending the summer in Tokyo working for the German Embassy. She adds, "I am curious what Japan will be like." In September, Nicol returns to Germany.

## IN MEMORIAM

The University of San Diego School of Law community would like to extend their deepest sympathy to family and friends.

### Alumnus

**JUSTICE CLAIRBORNE ("CLAY") MCPHERSON '88**  
Condolence cards and donations (made payable to the McPherson Children Trust Fund) may be sent to Mary McPherson, c/o William Johnson Ropers, Majeski, Kohn & Bentley, 1001 Marshal Street, Redwood City, CA 94063.

### Faculty

**MARVIN G. KRIEGER**



# academic year in review

## faculty footnotes

*A catalog of the faculty's publications and presentations for the 1998 calendar year, as well as profiles on five professors who discuss their diverse research interests.*

### Lawrence A. Alexander

Warren Distinguished Professor of Law

#### Publications:

"Affirmative Action and Legislative Purpose," 107 *Yale Law Journal* 2679 (1998).

"Are Procedural Rights Derivative Substantive Rights?" 17 *Law & Philosophy* 19 (1998).

"Banishing the Bogey of Incommensurability," 146 *University of Pennsylvania Law Review* 1641 (1998).

"The Banality of Legal Reasoning," 73 *Notre Dame Law Review* 517 (1998).

*Constitutionalism: Philosophical Foundations.* Editor and Contributing Author. (Cambridge University Press).

"Constitutional Tragedies and Giving Refuge to the Devil," in *Constitutional Stupidities, Constitutional Tragedies.* (New York University Press, 1998.)

"Discrimination by Proxy," (co-authored) 14 *Constitutional Commentary* 453 (1998).

"Freedom of Speech," in *Encyclopedia of Applied Ethics.*

"Good God, Garvey! The Inevitability and Impossibility of a Religious Justification of Free Exercise Exemptions," 47 *Drake Law Review* 35 (1998).

Review of R. George, *The Autonomy of Law*, 108 *Ethics* 600 (1998).

#### Presentations:

Moderator, Analytical Legal Philosophy Conference. San Diego. April.

Director and Participant, Liberty Fund Conference on The Ethics of Preemptive Action. San Diego. April-May.

Expert Witness, Testimony Before the Committee on the Judiciary, United States Senate. Washington, D.C. July.

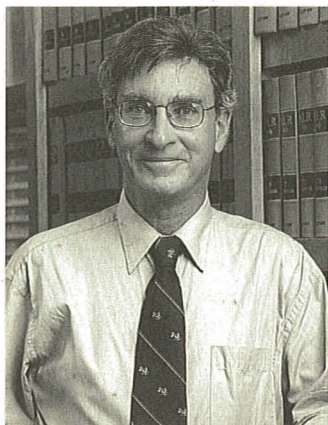
Participant, Symposium on Philosophical Foundations of Tort Law. Philadelphia. September.

Commentator and Presenter, AMINTAPHIL Conference on "Civility, Stability and Fragmentation." Montreal, Canada. September.

### QUESTIONING RIGHTS AND RULES

## Alexander Examines the Relationship between Law and Reason

Lawrence A. Alexander has spent much of his career teaching, thinking and writing about the U.S. Constitution. Recognized nationally, Warren Distinguished Professor Alexander is often quoted by the media and consulted by elected officials for his views on the constitutionality of existing and proposed laws. For example, in July 1998 he testified before the Senate Judiciary Committee regarding the constitutionality of the proposed Hate Crimes Prevention Act.



One of Alexander's latest projects is the book *Past Imperfect: Rules, Principles and the Dilemmas of Law*, co-written with USD Professor Emily Sherwin, which will be published by Duke University Press in the year 2000. Alexander says this book is basically a study of reasoning under rules and the relation of that kind of reasoning to various issues in law. "The crucial question the book asks is whether rule following—even if morally desirable—is rational," he explains.

In addition, Alexander has two forthcoming anthologies. Ashgate Publishing Company is compiling a two-volume collection of his and other scholars' writings on freedom of speech, and is also producing *Legal Rules and Legal Reasoning*, a collection of Alexander's essays previously published in law and philosophy journals.

Currently, Alexander is exploring the relationship between rules and constitutional rights, in a conference paper to be presented this fall at Columbia University. "This article examines whether constitutional rights are rights to engage in particular kinds of conduct or whether, instead, they are rights against certain kinds of rules," says Alexander. "My conclusion is that some rights are best thought of as rights against particular kinds of rules, but this raises some very deep jurisprudential questions."

Alexander is writing another article, to be published this fall, for a conference at Quinnipiac School of Law that focuses on the political philosophy of Richard Epstein, a professor at the University of Chicago Law School. Alexander describes Epstein as "one of the leading libertarian thinkers in the legal academy."

In addition to writing, Alexander serves on the editorial boards of the academic journals *Ethics* and *Law & Philosophy*, and is a co-founder and editor of *Legal Theory*, an international quarterly. *Legal Theory* is published by Cambridge University Press, and editorial responsibility for it rotates among Harvard University, Yale University and USD.

Alexander also organizes academic symposia and is involved with two USD conferences slated for the year 2000. In January, Alexander and USD Professor Arti Rai are hosting *Genes and the Just Society*, a forum that will discuss genetic technologies in the new millennium and will focus on the forthcoming book *From Chance to Choice: Genetics and Justice*, to be published by Cambridge University Press. The second conference, presented by AMINTAPHIL (a legal philosophy organization), is still in the planning stages and is scheduled for March.



**Stuart M. Benjamin**

**Presentations:**

Wilson, Sonsini, Goodrich & Rosati Net Scholar. Second International Harvard Conference on Internet and Society. Cambridge, Mass. May.

"Equal Protection for Native Hawaiians." Testimony Before the Hawaii Advisory Committee to the U.S. Commission on Civil Rights. August.

**Laura M. S. Berend**

**Publication:**

*Evidence: Teaching Materials for an Age of Science and Statutes.* (Carlson, Imwinkelried, Kionka & Strachan). 4th ed. Teacher's Manual. (Charlottesville, Va.: The Michie Company, 1998).

**Presentations:**

Discussant, AALS Clinical Conference. Portland, Ore. May.

"Conflicts of Interest." Annual Community Defenders Seminar: "Getting to Know Your Client: The Key to Competent Representation." USD. November.

**Roy L. Brooks**

*Warren Distinguished Professor of Law*

**Publication:**

*Critical Procedure.* (Durham, N.C.: Carolina Academic Press, 1998).

**Presentations:**

"Martin Luther King and Affirmative Action." Martin Luther King Day Lecture. Mount Union College. Alliance, Ohio. January.

"Critical Procedure." A paper presented at the University of Michigan Law School. Ann Arbor, Mich. February.

"Affirmative Action and the American Race Problem." Eastern Connecticut State University. Willimantic, Conn. February.

**Nancy Carol Carter**

*1998-99 Herzog Endowed Scholar*

**Presentations:**

"Impact of the Internet on Legal Research." Presentation at the 17th. Annual Meeting of the Association of Reporters of Judicial Decisions. San Diego. August.

"Creating New Alliances: The San Diego Circuit Consortium." Presentation at the Annual Meeting of the California Association of Research Libraries, Collection Development Interest Group. San Diego, March and Newport Beach, Calif. September.

**Kevin L. Cole**

*1998-99 Herzog Endowed Scholar*

**Publication:**

"Discrimination by Proxy," (co-authored) 14 *Constitutional Commentary* 453 (1998).

**Lynne L. Dallas**

**Presentations:**

Participant, Berkeley Conference on Socio-Economics. University of California, Berkeley, Boalt Hall Law School. Berkeley, Calif. January.

Commentator on Robert Cooter's Theory of Endogenous Preferences, Owen D. Jones' Evolutionary Theory, and Myra Stober's paper on Feminist Economics. AALS Annual Meeting. San Francisco. January.

"Hybrid Corporations." Presentation at the Law & Society Annual Meeting, Human Behavior in Business Organizations Panel. Aspen, Colo. June.

**Joseph J. Darby**

**Publication:**

"Confidentiality and the Law of Taxation," 41 *American Journal of Comparative Law* 577 (1998).

**Presentations:**

"Teaching Commercial Law in Russia" and "Legal Education for Russia in the 21st Century." Central and East European Law Initiative. Legal Education Roundtables. Moscow, Russia. January and February.

"American Contract Law." Presentation to participants in the ABA-CEELI Seminar on Practical Aspects of International

Entrepreneurial Law. Novgorod, Russia, January; Stavropol State Technical University, February; and the Irkutsk House of Friendship, April.

Presentation on ABA and CEELI. Moscow Kremlin Rotary Club. February.

"Classification and Evaluation of Goods Imported into the USA;" "The Appeals Process in the U.S. Customs System;" "Procedures for Dispute Resolution;" "Anti-dumping and Countervailing Duties;" "Organization of U.S. Export Controls;" Presentations at the ABA-CEELI-DOJ Workshop on Customs Issues in Criminal Law. Novgorod, Russia. March.

"American Commercial Law." Presentations (in Russian) at the Moscow Academy of Economics and Law and the Moscow State Industrial University. March.

"American Contributions to Constitutionalism." Presentation (in Russian) at the State Technical University in Irkutsk. April.

"Tax Law." General Rapporteur and Contributor. 15th International Congress of Comparative Law. Bristol, England. July.

**Robert C. Fellmeth**

*Price Professor of Public Interest Law*

**Publications:**

*California Children's Budget 1998-99.* (USD: Children's Advocacy Institute, 1998).

*California White Collar Crime.* 3d ed. Supplement. (co-authored) (Carlsbad, CA: LEXIS Law Publishing, 1998).

"Child Care." Chapter 11 in *Health and Welfare for Families in the 21st Century.* (Sudbury, Mass.: Jones and Bartlett Publishers, 1998).

"Special Release: CalWORKs Welfare Reform Regulations." *Children's Regulatory Law Reporter.* Fall, 1998.

**Presentations:**

"Managed Care Regulation in California." Testimony Before the Joint Hearing of the Assembly Health Committee and the Senate Insurance Committee. Sacramento. February.

"A Quiz on Welfare Reform." Presentation to the San Diego Kiwanis Club. San Diego. February.



"A Children's Budget: Where's the Money?" and "Child Support Enforcement." Presentations at the Children's Defense Fund Annual Conference. Los Angeles. March.

"Developing New Legislation from Scratch." Presentation at the National Association of Child Advocates (NACA) Forum for Chief Executives. New Orleans. June.

"Spending on Children." Presentation at the National Association of Child Advocates Conference (NACA). San Diego. December.

### Ralph H. Folsom

#### Publications:

"ALENA" (NAFTA) (in French). *Droit et Pratique du Commerce International*.

*Handbook of NAFTA Dispute Settlement*. Transnational Juris. (co-authored).

*International Business Transactions Treatise*. 1998 Supplement. (co-authored) (St. Paul, Minn.: West Publishing Co.).

*Incapacity, Powers of Attorney and Adoption in Connecticut* 3d. 1998 Supplement. (Rochester, N.Y.: Lawyers Cooperative Publishing Co.).

1998 Supplements to: *Wills; Trusts; Probate Litigation; and Jurisdiction & Procedure*. Connecticut Estates Practice Series 3d. (Rochester, N.Y.: Lawyers Cooperative Publishing Co.).

### C. Hugh Friedman

1998-99 University Professor

#### Publication:

*California Practice Guide: Corporations*. 2 vols. 13th edition. (Encino, Calif.: The Rutter Group, 1998).

#### Presentations:

Presentation, California Society of Certified Public Accountants. Annual Business Valuation Conference. San Francisco. January.

Presentation, Joint Meeting of the San Diego County Bar Association Business Law Section and Corporate Law Departments Section. Inaugural Meeting. San Diego. February.

"Board of Directors." Presentation at the International Forum for Corporate Directors. San Diego. December.

## IMPROVING OUR WORLD

### Brooks Explores Human Injustice

Roy L. Brooks likes a challenge, and throughout his academic career he has tackled quite diverse projects. The scholarly achievements of Warren Distinguished Professor Brooks over the past five years have included writing two casebooks, a monograph (winner of the national Gustavus Meyers Outstanding Book Award) and a legal textbook; and editing an international human rights anthology to be published by New York University Press this fall.

Brooks says compiling the anthology, *When Sorry Isn't Enough: The Controversy Over Apologies and Reparations for Human Injustice*, was unique because he does not consider himself an international human rights scholar. "The idea was brought to my attention by an editor who believed my brand of scholarship—building conceptual schemes for resolving social and legal problems—was ideal for organizing diverse theories of law, political science, philosophy, culture and international relations into topics on which other scholars could write," says Brooks.

The challenge appealed to Brooks, and, he adds, "The anthology is special because it touches upon another reason I write, which I take to be the essential purpose of all scholarship—namely, improvement. I've often written, 'Improvement is the ultimate payoff that motivates intellectual effort.'

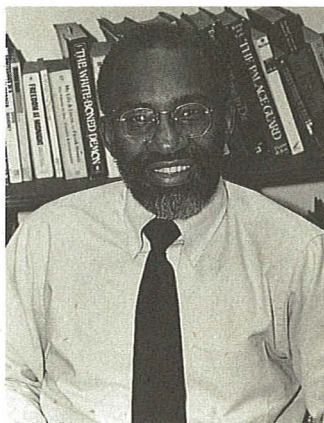
"I do a lot of philosophical work and conceptualization, but I want to apply it to real-life situations," says Brooks. "I try to make a contribution to our world. That's what I try to pass along to my students, and it's certainly the sort of thing I try to do in my scholarship."

And how does this project fit into Brooks's philosophy? "The anthology attempts to bring some insights and fresh thinking to our understanding of 'man's inhumanity to man,'" explains Brooks, "for example, Germany's persecution of Jews; Japan's sexual

enslavement of Korean, Dutch and other women; South Africa's regime of apartheid; and our own government's enslavement, persecution and internment of African Americans, Native Americans and Japanese Americans."

Brooks compiled essays by established as well as emerging scholars. The international stars include Alan Davies from England, George Hicks from Singapore and Wilhelm Verwoerd from South Africa, as well as Camille Paglia and USD's Professor Bernard Siegan from the United States. Other contributors from the USD community, Hugh Kim '99, Abby Snyder '99 and the law library's Associate Director Ruth Levor, "more than held their own," says Brooks.

Brooks says the book reminds him of his own introduction to scholarship at Yale Law School. As a student, Brooks wrote a seminar paper in international law for the legendary scholar Myres McDougal. "I didn't know how highly Professor McDougal regarded the paper until his death at the age of 100 last year," says Brooks. "The executor of his estate sent me the paper I wrote a quarter of a century ago, one of a handful of student papers Professor McDougal had kept during his 40 years of teaching at Yale. The paper is displayed in my office as a reminder of the potential of student scholarship. It's the most wonderful award I've received for anything I've written."





**INCREASING UNDERSTANDING AND EFFICIENCY**

**Folsom Transcends Boundaries**

Ralph H. Folsom is crossing borders by introducing his scholarship to another arena, that of the French-speaking legal community in France, Quebec, Africa and areas of the Pacific. To reach this international audience, Folsom is now writing in French about one of his current areas of focus: the European Union and NAFTA (the North American Free Trade Agreement).

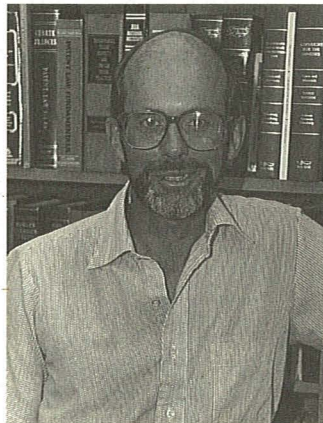
In the article "ALENA" [NAFTA], published this year in the French academic journal *Droit et Pratique du Commerce International*, Folsom compares the younger regional economic organization of NAFTA (established in 1994) to the older European Union (established in 1957). "The European Union has gone through many of the teething problems necessary to make their free market work. You might say NAFTA is now where the European Union was in the 1950s. We can see the problems that the European Union went through, and we can learn from what they have done," explains Folsom. "In addition, this is an opportunity to explain NAFTA to a European audience, and discuss how NAFTA is different [from the European Union] and why it is different."

Folsom says that educating a French-reading audience about NAFTA is one of his latest personal accomplishments. "It is a challenge, and I am always looking for a challenge," he says. "One of my goals is to publish more in French over the next five years." To that end, he is currently writing an article about the American point of view on international business negotiations, to be published next year "in an academic law review that is extremely prestigious in France."

Folsom also continues to pursue legal scholarship in his native tongue. This summer he is co-writing *NAFTA: A Problem-oriented Coursebook*, the very first textbook on NAFTA, which will be published by West Group in the year 2000. This follows on the heels of the fourth edition of the book *International Business Transactions: A Problem-oriented Coursebook*, which is also published by West Group and available starting this fall semester. Folsom says past editions of this textbook have been extraordinarily successful and are currently used in approximately 130 of the nation's law schools.

In addition, Folsom does interdisciplinary work with an economist "who also happens to be my brother." For their latest endeavor, Professor Folsom and W. D. Folsom of the University of South Carolina co-authored *NAFTA Law and Business*, published by Kluwer Law International this year. Folsom says this book is for professionals—lawyers and business executives. The content focuses on actual legal and operational business case studies to show people how NAFTA is really working. He says, "It was fun, and a challenge."

Folsom's scholarship is diverse and he observes, "I write for a wide range of audiences: law reviews for academics, nutshells and coursebooks for students, and books for practicing professionals, such as attorneys, judges and businesspeople." Professor Folsom believes in focusing on applied knowledge, for example, by writing problem-oriented coursebooks. He adds, "That is what lawyers do, work on problems. They spend their lives problem solving."



**Steven Hartwell**

**Presentations:**

"Skills Training for Foreign Lawyers." Presentation at the AALS Annual Meeting, Section on Joint Programs. San Francisco. January.

"Teaching Ethics Clinically." Presentation at the AALS Clinic Workshop. Catholic University of America. Washington, D.C. March.

"Gender Influences in the Courtroom." Presentation at the Workshop for Trial Court Judges. California Judicial Education and Research. San Clemente, Calif. August.

**Walter W. Heiser**

**Publications:**

*California Civil Procedure*. Teacher's Manual. (co-authored) (Matthew Bender & Co., 1998).

"California's Confusing Collateral Estoppel (Issue Preclusion) Doctrine," 35 *San Diego Law Review* 509 (1998).

"California's Unpredictable Res Judicata (Claim Preclusion) Doctrine," 35 *San Diego Law Review* 559 (1998).

**Gail Heriot**

**Publications:**

"California's Proposition 209 and the United States Constitution," 43 *Loyola Law Review* 613 (1998).

"Legislative Alert: The Kennedy Hate Crimes Prevention Act," *Civil Rights News* (Winter, 1998).

Review of Lydia Chavez, *The Color Blind: California's Battle to End Affirmative Action*. *Heterodoxy* (1998).

**Presentations:**

Speaker, California Summit on Race. Stanford University. January.

Speaker, "New Initiatives in Civil Rights Law." California Association of Scholars. Los Angeles. May.

Speaker, "Affirmative Action in Management." Academy of Management Annual Conference. San Diego. August.

Speaker, "States Initiatives in Civil Rights Laws." Federalist Society Lawyers Annual Convention. Washington, D.C. November.



**Paul Horton****Presentation:**

Participant, 1998 San Diego Conference on Responding to Child Maltreatment. February.

**William H. Lawrence****Publications:**

"Breach in Lease of Goods," and "Cure After Breach of Contract." Updates in *Commercial Damages: A Guide to Remedies in Business Litigation*. (New York: Matthew Bender & Co. 1998).

*The Law of Personal Property Leasing*. 1998 Cumulative Supplement. (co-authored) (St. Paul, Minn.: West Group).

**Cynthia Lee****Publications:**

"The Act-Belief Distinction in Self-Defense Doctrine: A New Dual Requirement Theory of Justification," 2 *Buffalo Criminal Law Review* 191 (1998).

"Race and the Victim: An Examination of Capital Sentencing and Guilt Attribution Studies," 78 *Chicago-Kent Law Review* 533 (1998).

"The Future of Substantial Assistance: Recommendations for Reform," (co-authored) 11 *Federal Sentencing Reporter* 78 (1998).

**Presentations:**

"Teaching Tips for Beginning Law Professors." Western Law Professor of Color Conference. Salishan Resort, Ore. March.

"Race and Reasonableness in Self-Defense Cases." Santa Clara Legal Theory Workshop. University of Santa Clara School of Law. April.

**Shaun P. Martin****Publication:**

"Intracorporate Conspiracies," 50 *Stanford Law Review* 399 (1998).

**John H. Minan****Publication:**

*The Law of Personal Property Leasing*. 1998 Cumulative Supplement. (co-authored) (St. Paul, Minn.: West Group, 1998).

**Presentation:**

Presentation, Bay-Delta Water Conference. California Water Education Foundation. Sacramento. June.

**Grant H. Morris****Presentation:**

"Conditional Release of Insanity Acquittees." Presentation to the California Association for Criminal Justice Research. October.

**Frank Partnoy****Publications:**

*F.I.A.S.C.O.: Blood in the Water on Wall Street*. Additional chapter on pp. 253-83. (Penguin Books). German and Japanese translations published. U.K. paperback published, 1998.

"Betting on Suing," *Open Court, American Lawyer Media* (December, 1998).

**Presentations:**

"Information Asymmetry, Suitability, and the Role of Derivatives Dealers." Presentation to Derivatives Strategy Derivatives Hall of Fame Conference. New York, N.Y. February.

"The Role of Derivatives in the Collapse of Long-Term Capital Management and Derivatives." USD School of Business. October.

**Richard Crawford Pugh**

1998-99 *University Professor*

**Publication:**

Coordinating Editor, *International Income Taxation: Code and Regulations—Selected Sections 1998-99*. (Chicago, Ill.: Commerce Clearing House, 1998).

**Arti K. Rai****Presentations:**

Wilson, Sonsini, Goodrich & Rosati Net Scholar. Second International Harvard Conference on Internet and Society. Cambridge, Mass. May.

"Consumer Behavior and Insurance." Presentation at the 19th Annual Health Law Teachers' Conference. University of Houston. June.

**Michael D. Ramsey****Publications:**

"Acts of State and Foreign Sovereign Obligations," 30 *Harvard International Law Journal* 1 (1998).

"Executive Agreements and the (Non) Treaty Power," 77 *North Carolina Law Review* 133 (1998).

**Presentation:**

Moderator. Panel on "Environmental Law Questions Along the U.S.-Mexico Border." Cinco de Mayo Conference on Mexican Law: Latest Developments in Real Estate, Environmental Law, Maquiladoras and Franchises. USD. May.

**Daniel B. Rodriguez****Publication:**

"State Constitutional Theory and its Prospects," 28 *New Mexico Law Review* 271 (1998).

**Presentations:**

"Statutory Interpretation." American Bar Association Appellate Judges Seminar. San Antonio, Texas. January.

"Legislative Intent and Positive Political Theory." University of Pennsylvania School of Law Colloquium. Philadelphia. March.

"Localism and the Rule of Law." St. Thomas More Society (San Diego Chapter). San Diego. August.

"Positive Political Theory and Business Strategy." University of California, Berkeley Conference. Marconi Conference Center. October.

"Impeachment: Politics and Law." Presentation at the University of California, Berkeley Institute for Governmental Studies. November.

**Maimon Schwarzschild****Publications:**

"The English Legal Professions: An Indeterminate Sentence," 10 *Federal Sentencing Reporter* 253 (1998).

Review of Ronald Dworkin, *Freedom's Law*, 108 *Ethics* 597 (1998).

**Presentations:**

Participant, Debate on "Proposition 209: The California Civil Rights Initiative." San Diego Junior Chamber of Commerce. February.

Presentation, "Procedural Rights." Tel Aviv University International Conference on Civil Rights. Tel Aviv, Israel. June.

"Title IX Enforcement (Civil Rights Act)" and "Affirmative Action in Federal Procurement and Contracting." Testimony submitted to the Committee on the Judiciary. United States Senate. Washington, D.C.



"Acton's Multiculturalism and Today's." Presentation at AMINTAPHIL Conference on "Civility, Stability and Fragmentation." Montreal, Canada. September.

"Their Morals and Ours: Spin, Double Standards and the Clinton Troubles." Presentation at the Rothberger Conference on Public Law. University of Colorado. Boulder, Colo. November.

#### Emily L. Sherwin

1998-99 Herzog Endowed Scholar

#### Publications:

"Two-and-Three-Dimensional Property Rights," 29 *Arizona State Law Journal* 1075 (1997).

"Ducking Dred Scott: A Reply to Alexander and Schauer," 15 *Constitutional Commentary* 65 (1998).

"Guido Calabresi," in *New Palgrave Dictionary of Law and Economics* 199 (1998).

"The Limits of Feminism," 9 *Journal of Contemporary Legal Issues* 249 (1998).

#### Presentation:

"The Problem of Rules." Presentation at the Cornell Faculty Workshop Series. Ithaca, N.Y. May.

#### Virginia V. Shue

#### Publication:

*State Computer Law: Commentary, Cases and Statutes*. Annual supplement. (Deerfield, Ill.: Clark Boardman Callaghan, 1998).

#### Bernard H. Siegan

#### Publications:

*Adopting a Constitution to Protect Freedom and Provide Abundance* (in Bulgarian). (Sofia, Bulgaria: Center for the Study of Democracy, 1998).

"Property and Freedom: The Constitution, Supreme Court, and Land Use Regulation." Chapter in *Champions of Freedom* (Hillsdale College Press, 1998).

#### Presentations:

"The U.S. Constitution." U.S. Navy Training Center for Foreign Naval Officers. San Diego. February and June.

Participant, Conference on Alternative Conceptions of Civil Liberty. Ethikon Institute. Redondo Beach, Calif. July.

"Judicial Protection of Land Use." San Diego County Property Rights Defense Fund. August.

#### Allen C. Snyder

#### Publication:

*California Evidence Code with Objections—A Pocket Guide*. National Institute for Trial Advocacy, 1998.

#### Presentations:

"Clinical Teaching Methods." Program at Sofia University and Presentation, Bulgarian New University Human Rights Law Clinic. Sofia, Bulgaria. May.

"Clinical Teaching of Dispute Resolution Skills." Rila Mountain Conference Center. Sofia University. Sofia, Bulgaria. May.

#### Lester B. Snyder

1998-99 University Professor

#### Publication:

"Taxation with an Attitude: Can We Rationalize the Distinction Between 'Earned' and 'Unearned' Income?" 18 *Virginia Tax Review* 241 (1998).

#### Kristine Strachan

#### Presentation:

"Curricular Reform: Teaching Skills." Presentation at the Southeast AALS Conference. Merdo Island, Fla. July.

#### Jorge A. Vargas

#### Publications:

"Freedom of Religion and Public Worship in Mexico: A Legal Commentary on the 1992 Federal Act on Religious Matters," *Brigham Young University Law Review* 421 (1998).

"Jury Trials in Spain: A Description and Analysis of the 1995 Organic Act and a Preliminary Appraisal of the Barcelona Trial," 18 *New York Law School Journal of International and Comparative Law* 181 (1998).

General Editor and Contributing Author, *Mexican Law: A Treatise for Legal Practitioners and International Investors*. 2 vols. (St. Paul, Minn.: West Group, 1998).

#### Presentation:

Conference Chair and Panel Moderator, "Recent Changes to Mexico's Foreign Investment Act of 1993. Investment in Real Estate and 'Fideicomisos.'" Cinco de Mayo Conference on Mexican Law: Latest Developments in Real Estate, Environmental Law, Maquiladoras and Franchises. USD. May.

#### Donald T. Weckstein

#### Publications:

Author, *Amicus Curiae* brief for National Academy of Arbitrators in *Phillips v. Hooters of Myrtle Beach, Inc.*, pending in U.S. Court of Appeals for the Fourth Circuit (August 31, 1998).

"In Praise of Party Empowerment—and of Mediator Activism," 33 *Willamette Law Review* 501 (1998).

"Professional Responsibility Code Amendments, Advisory Ethics Opinions and the Future." Chapter in *Arbitration 1997: The Next Fifty Years*. Proceedings of the 50th Annual Meeting of the National Academy of Arbitrators. 175-192.

"Court Halts Mandated Arbitration of Employment Discrimination Claims," 5 *California Dispute Resolution Council News* 6 (No. 2, Summer 1998).

#### Presentations:

"Ethics of Dispute Resolution Processes" and "How Do Arbitrators Differ?" Society of Professionals in Dispute Resolution, San Diego Chapter's 10th Anniversary Conference. La Costa, Calif. January.

Panelist, "Due Process Protocol." ADR in Labor & Employment Law Committee, Section of Labor & Employment Law, American Bar Association. La Costa, Calif. February.

"Recent Developments in Arbitration Law." California Dispute Resolution Council. San Diego. March.

"Recent Legislative Developments in Mediation and Arbitration." National Academy of Arbitrators, Southern California Region. Rancho Santa Fe, Calif. April.

"Ethical Challenges Facing Employment Lawyers." San Diego Bar Association Labor & Employment Law Section. May.



"ADR Update: Current Cases, Legislation & Other Developments." State Bar of California Section Education Institute. Monterey, Calif. May.

"Ethical Considerations in Employment Law and Litigation." CLE International. San Diego. June.

Moderator, "The Vatican-Israel Accords Symposium." USD and American Jewish Committee. June.

"Ethical Standards for Employment Arbitrators and Mediators." Report to the Due Process Protocol Task Force. Toronto, Canada. August.

"Recent Developments in Mediation and Arbitration." Presented at the Annual Meeting of the State Bar of California, Alternative Dispute Resolution Committee. Monterey, Calif. October.

"Review and Revision of ADR Ethics Standards." Society of Professionals in Dispute Resolution, International Conference. Portland, Ore. October.

#### **Charles B. Wiggins**

##### **Presentations:**

"Bargaining Across Boundaries." Presentation at the Annual Meeting of the Society of Professionals in Dispute Resolution. Portland, Ore. September.

"What Cross-Cultural Negotiators Need to Know." Presentation at the Annual Conference of the International Bar Association. Vancouver, Canada. October.

#### **Mary Josephine Newborn Wiggins**

##### **Publication:**

"A Statute of Disbelief?: Clashing Ethical Imperatives in Fraudulent Transfer Law," 48 *South Carolina Law Review* 771 (1997), reprinted in *A Bankruptcy Law Anthology*, by Charles J. Tabb. (Anderson Publishing Co., 1998).

##### **Presentations:**

"Local Culture and Judicial Discretion." AALS Annual Meeting, Section on Debtors and Creditors Rights. San Francisco. January.

#### **NEW DIMENSIONS**

### **Rai Discusses Healthcare, Technology and Chaos Theory**

With a biochemistry background and a year of Harvard Medical School under her belt, Arti K. Rai remains interested in science. As a legal scholar she is drawn toward projects involving healthcare, biotechnology and intellectual property issues.

One of Rai's latest projects has been to help organize an interdisciplinary consortium dedicated to studying healthcare systems. This consortium includes academics from USD, the UCSD Medical School and the San Diego State University School of Public Health.

"It's designed to study issues of access, quality and cost in managed care," explains Rai. "Our goal is to figure out how managed care could work better, particularly in terms of making cost-benefit tradeoffs in ways that do not endanger people's health."

Currently, the top priority is to secure funding from the local business community. To

that end, Rai says, "Our first project is designed to benefit the business community. We want to set up a web site to help employee benefits managers compare health plans."

Rai is also writing a paper that examines how information technology, particularly the Internet, can help individuals with managed care issues—this includes professional benefits managers as well as employees who are choosing among health plans. "The paper is a longer version of a piece, 'Reflective Choice in Healthcare: Using Information Technology to Present Allocation Options,' which was recently published in *The American Journal of Law and Medicine*," she says.

In the intellectual property arena, Rai is writing two articles to be published this fall. The first, "Regulating Scientific Research: Intellectual Property Rights and the Norms of Science," will appear in the *Northwestern University Law Review*. "I'm looking at

the consequences of the new 'gold rush' mentality among scientists who are trying to make patent claims for every piece of research they do, especially in the molecular biology area," says Rai. "This is very contrary to the traditional norms of science, where scientists used to think of their findings as something to publish for the greater good of the scientific community, rather than something to claim as their own and seek money from."

The second article is for the *Wake Forest Law Review*. Here Rai discusses why the federal circuit has not responded to technological changes or adjusted its patent jurisprudence to deal effectively with these changes.

Rai is also working on a more theoretical piece that examines whether chaos theory and its cousin, complexity theory, can be applied to certain social systems. "These theories deal with how spontaneous organization can arise in biological systems, and I want to see if spontaneous organization can occur in social systems," says Rai. "The idea is that complexity theory can be applied to an organic social system like the Internet."

And how does this idea relate to the law? Quite nicely. Rai says, "I'm going to try to tailor the paper to the intellectual property context: Will this spontaneous ordering produce the proper balance between intellectual property rights and the public domain on the Internet?"





CAN PROFESSIONAL RESPONSIBILITY BE LEGISLATED?

## Zacharias Evaluates Ethical Laws

After practicing public interest law in Washington, D.C. for seven years, Fred C. Zacharias spends much of his time teaching and writing about professional responsibility. "I was never in law for the money," he says modestly. Committing to academia gave Zacharias the opportunity to examine important ethical questions associated with lawyering.

In that vein, Zacharias and Professor Bruce Green of Fordham Law School are publishing "The Uniqueness of Federal Prosecutors" in the *Georgetown Law Journal*. This article focuses on recent federal legislation intended to subject federal prosecutors to normal state ethics rules. "Unfortunately, Congress wrote the legislation in such a confused fashion that it may have some pretty bizarre effects," observes Zacharias. "Congress didn't really think about how prosecutors in general—and federal prosecutors specifically—are different from other lawyers." Because of that, one may or may not want different rules to apply to them."

Zacharias also wrote a paper for a *South Texas Law Review* symposium, to be published this fall. In it, Zacharias proposes harmonizing attorney-client privilege and attorney-client confidentiality.

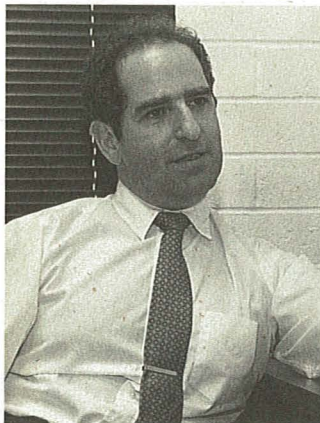
In a related article, Zacharias examines the accuracy of the perception among lawyers that the courts have recently eroded attorney-client confidentiality. Zacharias says this perception is not true. "The big problem is that the bar confuses attorney-client privilege with attorney-client confidentiality, as do the courts," he says. "The bar doesn't always understand that the courts are more interested than advocates in getting at the truth."

In another forthcoming article, Zacharias discusses how professional responsibility fits into preventive law and therapeutic jurisprudence, two fairly new fields within the legal profession. Defined broadly, therapeutic jurisprudence looks at the effects of the law on those who are part of the legal process. "Preventive law is similar to the idea of preventive medicine," explains Zacharias. "It argues for lawyers to realign their mind-set toward taking preventive measures, before litigation occurs. My paper discusses what these two subjects might have to say about professional responsibility."

Zacharias also recently completed a paper co-authored with USD Professor Shaun Martin, which discusses the ethics of coaching witnesses. They argue the rules governing witness preparation mean little if interpreted literally. In implementing these rules, lawyers have a responsibility to avoid facilitating perjury.

Currently, Zacharias is writing an article on paternalism in legal ethics codes. "There are many provisions in the legal ethics codes that take away the client's right to make choices" he says. "And there are many reasons why [society] might want to do that, ranging from protecting clients who are incapable of making wise decisions to avoiding decisions that society doesn't want clients to make." Zacharias questions whether code provisions that remove clients' right of choice are always tailored to the reasons for which the provisions exist. His hunch is that many of these provisions are flawed.

Professor Zacharias says his next project will likely focus on the professional disciplining of prosecutors. "It will be about the actual practice of disciplining them," he says. And then Zacharias adds, "something which rarely happens."



"Federal Rulemaking and the Bankruptcy Courts." Speech before the Federal Conference of Chief Bankruptcy Judges. San Diego. December.

### Paul C. Wohlmut

**Presentations:**

"The Impact of Homeokinetics on Legal Institutions Research." Presentation at Homeokinetics Conference. University of Connecticut. Hartford, Conn. July.

"Cognitive Psychology and Behavioral Regulation." Presentation for Bi-logic Section of Independent Psychoanalytic Association. London, England. August.

### Christopher T. Wonnell

**Publications:**

"Roemer and Market Socialism," 56 *Review of Social Economy* 57 (1998).

"Unjust Enrichment and Quasi Contracts," in *Encyclopedia of Law and Economics*, Subject #3900, 1998.

**Presentation:**

"Compulsory Job Security and Unemployment." Paper presented at the American Law and Economics Association Meeting. University of California, Berkeley. Spring.

### Fred C. Zacharias

**Publications:**

"Justice in Plea Bargaining," 39 *William and Mary Law Review* 1121 (1998).

"Waving Conflicts of Interest," 108 *Yale Law Journal* 407 (1998).

**Presentation:**

"New Perspectives on Nontraditional Ethics Norms." Presented at AALS Annual Meeting, Section on Professional Responsibility. San Francisco, January.



*A listing of the faculty colloquia presented during the 1998-99 academic year.*

**MARTIN H. REDISH,**

Northwestern University Law School: "Regulation of Speech in the Interest of Equality," September 1998.

**LAWRENCE MEIR FRIEDMAN,**

Stanford University Law School: "On Stage: The Criminal Trial in History," November 1998.

**DENNIS PATTERSON,**

Rutgers University School of Law, Camden: "Commercial Law: An Introduction to the Analysis and Practice of Commercial Transactions," November 1998.

**SAIKRISHNA B. PRAKASH,**

Boston University School of Law: "Deviant Executive Lawmaking," November 1998.

**MARK D. ROSEN,**

Bigelow Fellow and Lecturer in Law, University of Chicago Law School: "The Constitutionality of Municipal Accommodations of Religion," November 1998.

**DEBORAH WEISS,**

Visiting Professor and Olin Fellow, University of Southern California: "Privatizing Social Security," December 1998.

**DAN SIMON,**

University of Haifa (Israel) Law School: "Towards a Psychology of Judicial Reasoning," December 1998.

**PATRICK CRAWFORD,**

Washington College of Law, American University: "Fairness in Tax Policy," December 1998.

**MICHAEL PERRY,**

Wake Forest University School of Law: "Religion and Morality," December 1998.

**USD School of Law Annual Faculty Research Colloquium—January 1999**

**STUART M. BENJAMIN:**

"Stepping Into the Same River Twice: Rapidly Changing Facts and the Appellate Process."

Commentator: **MICHAEL B. KELLY**

**FRANK PARTNOY:** "Credit Ratings and Information."

Commentator: **CHRISTOPHER T. WONNELL**

**MICHAEL D. RAMSEY:** "The Power of the States in Foreign Affairs: The Originalist Case for (and Against) Foreign Policy Federalism."

Commentator: **MAIMON SCHWARZSCHILD**

**EMILY L. SHERWIN:** "A Defense of Analogical Reasoning in Law."

Commentator: **HERBERT I. LAZEROW**

**THOMAS A. SMITH:** "The Efficient Corporate Law Norm: A Neo-Traditional Approach."

Commentator: **LYNNE L. DALLAS**

**DEREK JINKS,** International Criminal Tribunal for the Former Yugoslavia, The Hague, Netherlands: "European Court of Justice," January 1999.

**ANUPAM CHANDER,** Cleary Gottlieb Steen & Hamilton (New York and Hong Kong): "Diaspora Bonds," February 1999.

**Panel One: How Law Engages with Other Fields of Inquiry**

**STUART M. BENJAMIN:** "For and Against 'Law and': The Example of Native American Law."

**ARTI K. RAI:** "Law and the Culture of Research Science."

**DANIEL B. RODRIGUEZ:** "Law's Uneasy Relationship with Social Choice Theory."

**PAUL C. WOHLMUTH:** "Law's Fledgling Relationship with the Information Sciences."

**Panel Two: Transnational Research in Progress**

**RICHARD CRAWFORD PUGH:** "International Criminal Tribunals."

**JORGE A. VARGAS:** "A Proposal for a California Policy Towards Mexico."

**MAIMON SCHWARZSCHILD:** "English Lawyers and Judges—Looking (Slowly) More American—and Therefore Criminal Sentencing Will, Too."

**RALPH H. FOLSOM:** "NAFTA and EU Compared."

**E. ALLAN FARNSWORTH,** Alfred McCormack Professor of Law, Columbia University: "A Contracts Show and Tell: Ah Yes, I Remember It Well," and "Promises and Paternalism," February 1999.

**JOHN ROGERS,** University of Kentucky: "The Place of International Law Within U.S. Law," March 1999.

**HOWARD FINK,** Ohio State University School of Law: "Intellectual Bases of the Law," March 1999.

**DEBORAH HELLMAN,** University of Maryland School of Law: "The Constitutional Significance of Status," March 1999.

**RICHARD WARNER,** Chicago-Kent Law School: "Computers in Legal Education," April 1999.

**JEFFREY STANDEN,** Willamette University College of Law: "Reconsideration of the Rule of Exclusion," April 1999.

**MICHAEL B. RAPPAPORT,** USD School of Law: "New and Improved Congressional Investigations: An Alternative to the Independent Counsel," April 1999.

**RUSSELL KOROBKIN,** University of Illinois, College of Law and Institute of Government and Public Affairs: "The Efficiency of Managed Care 'Patient Protection' Laws: Incomplete Contracts, Bounded Rationality and Market Failure," May 1999.

*The law school community would like to thank the faculty for their participation and assistance with the past academic year's faculty colloquia, especially the members of the Faculty Development Colloquia Committee: professors Larry Alexander, Lynne Dallas, Tom Smith and Paul Wohlmuth.*



*A look at faculty research in leading areas of scholarly inquiry.*

## Combining Law and Economics



Among USD's academic strengths is the interdisciplinary area of law and economics. In addition to Ralph Folsom, profiled on page 40, faculty members Lynne L. Dallas, Frank Partnoy, Thomas A. Smith and Christopher T. Wonnell contribute significantly to this field.

Lynne Dallas studies corporate governance issues by drawing on social psychology and organizational behavior, as well as law and economics. Her recent publications include articles for the *Washington & Lee University Law Review* and the *Journal of Corporation Law*, and a chapter in the 1998 book *Perspectives in Company Law*. In all three, Dallas discusses how actual corporate boards operate, and she makes innovative recommendations for board reform. She is currently exploring corporate governance in Japan and emerging market economies, and studying the role of trust in commercial relationships. Dallas recently spoke at the Association of American Law Schools' annual meeting, and taught a summer course on comparative corporate law for USD's Institute on International and Comparative Law in Florence, Italy.

Frank Partnoy describes his work as "looking at regulatory policy and arguing for how the rules should be changed." In an upcoming article for the *Washington University Law Quarterly*, Partnoy critiques the role of credit-rating agencies, such as Moody's and Standard & Poor's, in the regulation of financial markets. "My main finding is that reliance on credit ratings is a mistake," Partnoy says. He worries that the rating process has become corrupted because of the significant fees involved. Partnoy thinks a better determining factor would be "market-driven credit spreads," such as the difference between corporate and government bond performance. Partnoy also writes about derivatives, and is completing an article on why markets crash, focusing on the recent economic crises in Asia and Mexico.

Five years ago, Thomas Smith authored a how-to proposal for the *Yale Law Journal* on setting up remedy financing in large liability cases. The article drew notice from the judge in the Dow-Corning silicone breast implants suit. Currently, Smith is tackling the popular concept that banks, insurers and pension funds should be actively involved in corporate board management. In a recent *California Law Review* article, Smith argues, "That kind of active role is inconsistent with how big financial intermediaries must optimally invest in the stock market." Smith also questions the prevailing scholarly view that corporate directors owe a fiduciary duty exclusively to company shareholders. In an article for the *Michigan Law Review's* October issue, he says that "fiduciary duty should be thought about as it was long ago—[duty] to the corporation, the firm itself."



## Examining Constitutional Law and History



Chris Wonnell studies incentive structures created by legal institutions, with the goal of improving those incentives. He is writing an article that explores what measure of damages would better motivate parties in the contracting process—the reliance measure, which restores the pre-contract position, or the expectation measure, which advances parties to the intended post-contract position. Wonnell proposes that each measure best fits different circumstances. If the contract was a mistake from the beginning, reliance is the better method. If the contract was reasonable and the dispute is not tied to nonperformance, expectation works best.

Several faculty members focus their scholarly inquiry on constitutional law and history. They include Carl A. Auerbach, Stuart M. Benjamin, Gail Heriot, Saikrishna B. Prakash, Michael B. Rappaport and Bernard H. Siegan, in addition to Larry Alexander profiled on page 37.

Carl Auerbach continues to update the American Legal History course he introduced at USD several years ago. Auerbach's approach is to put Supreme Court decisions in historical and societal context. This approach "complements the theoretical work of others, by enabling and encouraging students to evaluate Supreme Court decisions in terms of their consequences for society."

Stuart Benjamin examines how rapid change impacts the appellate process in an upcoming *Texas Law Review* article. Appellate courts leave the fact-finding to trial courts, Benjamin says, but in the high-tech world, "suppose the trial court got it right and then things changed?" If the appellate court remands the case, he explains, the new factual findings may be stale by the time the suit returns to the appellate bench—thus creating "an infinite loop." Meanwhile, this situation "raises the problem of prospective relief based on facts that no longer exist." Although some appellate judges may "blanch" at the idea, Benjamin recommends that higher courts update the facts themselves. In addition, Benjamin has agreed to co-author a new edition of *Telecommunications Law and Policy*, the leading casebook in telecommunications law.

Gail Heriot's latest project is a book on the history and dynamics of the civil rights movement, including its effect on the law, the Constitution and American culture. Heriot plans to cover a broad swath of history, beginning with the abolitionist movement and the early women's rights movement and continuing to the present. "I hope to give in-depth



attention to the role of early and late 20th century labor legislation and regulation in preventing women, African Americans and other minorities from participating fully in the economy," Heriot says. "And to show that the exercise of power by the federal bureaucracy has been a double-edged sword for women and minorities." Her book will discuss the contemporary debates over affirmative action, sexual harassment and environmental equity, and conclude with suggestions for a redirected civil rights agenda.

Using the term "state" as understood when the Constitution was written, Michael Rappaport defends recent Supreme Court decisions that protect state sovereignty in a *Northwestern Law Review* article. In another article, Rappaport argues in favor of the "unitary executive," a term referring to the President's power over the executive branch. "I'm doing historical research on an old governmental institution called the executive council, the precursor to the Cabinet," he explains, "as a means of showing that the framers of the Constitution intended the President to control the executive branch." Rappaport also examines the role of supermajority rules in government in an upcoming book. He contends supermajority rules can serve as a substitute for the restraints on government contained in the original Constitution that are no longer enforced.

Bernard Siegan is writing his eighth book, a study of property rights beginning with the 1215 Magna Carta and including United States law through 1870. Siegan's discussion features Edward Coke and William Blackstone, early English interpreters of the Magna Carta and its subsequent updates. American courts later depended heavily on Coke and Blackstone when interpreting the U.S. Constitution. In Siegan's previous book, *Property and Freedom: The Constitution, the Courts, and Land-Use Regulation*, he focused on more recent Supreme Court cases that have affected property rights.

## Exploring Legal Theory



Several faculty members are advancing the field of legal theory. They include Cynthia Lee, Maimon Schwarzschild, Emily L. Sherwin and Paul C. Wohlmuth, as well as Larry Alexander and Roy Brooks who are profiled on pages 37 and 39.

Cynthia Lee examines the concept of "reasonableness" within the criminal law doctrines of provocation and self-defense in her first book, *Defending Violence as Reasonable: Masculinity, Race and Sexual Orientation in the Criminal Courtroom*, which New York



University Press is publishing next year. Lee uses actual cases to illustrate how the reasonableness requirement enables certain defendants to excuse or justify their violent actions by relying on social attitudes about race, gender and sexual orientation. "The problem is that the reasonableness requirement purports to embrace universal norms, when it actually reflects a very particularized set of beliefs," she explains. Lee hopes her book will encourage her readers to think more critically about the meaning of reasonableness.

Maimon Schwarzschild pulls together the diverse fields of international and comparative law, American constitutional law and philosophy of law from the pluralistic perspective of Oxford historian Isaiah Berlin. "My theme is pluralism, and the extent to which American constitutionalism permits and encourages different ways of life and a variety of legal approaches to political problems," Schwarzschild says. He recently published an article on pluralism and the Supreme Court in the *Journal of Contemporary Legal Issues* and contributed several entries to the *MacMillan Encyclopedia of the Constitution*. In addition, he is currently negotiating with the University of North Carolina Press about publishing a book on the English legal system and legal professions.

Emily Sherwin has teamed up with colleague Larry Alexander to write a book that explores the nature of legal rules and the problems they raise. *Past Imperfect: Rule, Principles and Dilemmas of Law* will be published by Duke University Press in the year 2000. Sherwin also authored an article on legal reasoning to be published in the *University of Chicago Law Review*, and a paper on the relation between rules and constitutional rights for a fall conference at Columbia University. In addition, she is writing a paper on the work of scholar Richard Epstein for a Quinnipiac School of Law conference, also to be held this fall.

Paul Wohlmuth directs the Institute for Law and Systems Research, which will co-host the World Congress of the Systems Sciences in Toronto next July. Wohlmuth will deliver the legal and political systems' plenary address, to be published in the congress proceedings. Recently, at the Mental Models in Social Science Conference held at the University of California, San Diego, he reported on his work in progress. The subject of this work is a prototype Wohlmuth and his institute colleagues are developing to access the complex structure of regulatory systems, based on highway design and regulation. They treat the highway as one of many real-life laboratories allowing experts and non-experts to interact within formidable constraints to generate patterns of regulation.

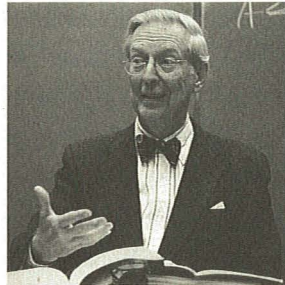


*Faculty and student groups hosted a variety of extracurricular events, which enriched the law school's intellectual life during the 1998-99 academic year.*

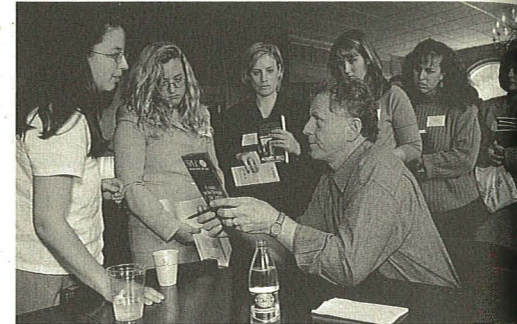


Pamela Wong '00 (left) and Professor Steven Hartwell (right) presented Julie D'Angelo Fellmeth '83 (center) with the Women's Law Caucus Outstanding Alumna Award in April.

Professor M. Carr Ferguson participated in USD's March tax conference "Emerging Changes in the Tax System."



May Harris '00, Ashley Hall '00, Kristina Larsen '99, Martha Waltz '00, Michelle Surfes '00 and Denise Tessier '99 (LL.M.) met with civil rights attorney Morris Dees after his discussion on discrimination in April.



**"A CAREER IN TAX LAW,"** Phillip L. Jelsma, Luce Forward Hamilton & Scripps, sponsored by the Tax Law Society, September 1998.

**DEDICATION CEREMONY FOR THE CLARIS FRANCES THORSNES NATIONAL MOCK TRIAL TEAM TROPHY CABINET,** Grace Courtroom, sponsored by the USD School of Law, September 1998.

**"FEDERALISM AND TAX REFORM,"** Michael Folz Wexler, Branton & Wilson, sponsored by the Federalist Society, September 1998.

**"DOMESTIC VIOLENCE,"** Peter Gallagher, Office of the District Attorney, co-sponsored by the Criminal Law Society and the Women's Law Caucus, October 1998.

**"HUMAN RIGHTS PANEL,"** First Monday 1998: Commemorating the 50th Anniversary of the Universal Declaration of Human Rights. Panelists included Roberta Martinez, the U.S.-Mexico Border Project and Kim Lewis '89, Director of the USD Law Mental Health Clinic, sponsored by the Public Interest Law Foundation, October 1998.

**"PROPOSITION C: A BALLPARK FOR THE SAN DIEGO PADRES,"** an open discussion of the stadium issue, sponsored by the Sports and Entertainment Law Society, October 1998.

**"TAX TALK: DISCUSSION OF THE 1998 TAX ACT AND RECENTLY ENACTED LEGISLATION,"** Timothy L. Hansford, Tax Counsel, House Ways and Means Committee, co-sponsored by the Tax Law Society and the Graduate Programs Office, October 1998.

**"ISSUES IN BIOTECHNOLOGY LAW,"** Calvin A. Fan, Campbell & Flores, sponsored by the Science and Technology Law Society, October 1998.

**"ETHNIC BIAS IN THE COURTROOM,"** John J. Lee, Department of the Alternate Public Defender, co-sponsored by the Asian-Pacific American Law Students Association, the Black Law Students Association and La Raza Law Students, October 1998.

**"PANEL PRESENTATION ON WOMEN AND THE LAW,"** featuring Terri Chase '88, Brenda Daly '88, Stephani Kish '96, and Helen Chao '93, Second Annual Recent Alumnae Reception, sponsored by the Women's Law Caucus, October 1998.

**"PROPOSITION FIVE: ISSUES AND ANSWERS,"** Donna Barron, Pechanga Tribe, co-sponsored by the Native American Law Students Association and the Sports and Entertainment Law Society, October 1998.

**"OPPORTUNITIES IN INTERNATIONAL LAW,"** Professor Michael D. Ramsey, USD School of Law, sponsored by the International Law Society, October 1998.

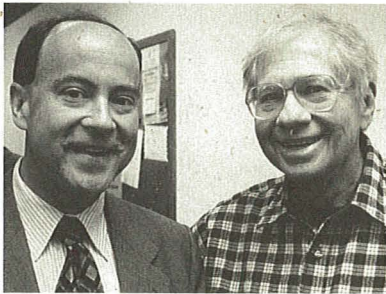
**"CHANGES IN THE IRS,"** Donald Osteen, General Counsel, Internal Revenue Service, Orange County, Calif., sponsored by the Tax Law Society, October 1998.

**"THE ROAD TO BECOMING A JUDGE" AND "PERSPECTIVES ON WOMEN IN LAW IN SAN DIEGO,"** the Honorable Judith Keep '70, U.S. District Court, sponsored by the Women's Law Caucus, November 1998.

**"WOMEN LEADERS IN THE LEGAL COMMUNITY,"** Nita L. Stormes, Chief of the Civil Division, Office of the U.S. Attorney, sponsored by the Women's Law Caucus, November 1998.

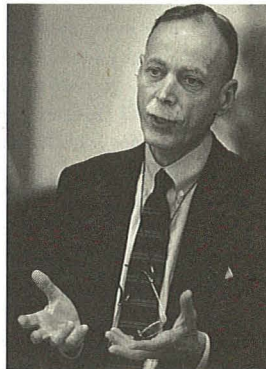
**"GOING PUBLIC: CHANGING CAREERS FROM PRIVATE PRACTICE TO PUBLIC INTEREST,"** Adrienne W. Baker, Legal Aid Society of San Diego, sponsored by the Public Interest Law Foundation and the Black Law Students Association, November 1998.





Clint Bolick (left), litigation director at the Institute for Justice, credited Professor Bernard Siegan (right) with inspiring Bolick to practice libertarian-based public interest law, during an April lecture.

Stephen Morse, professor of law at the University of Pennsylvania, discussed his paper during the February symposium "Rethinking Mental Disability Law."



**"GETTING TO KNOW YOUR CLIENT: THE KEY TO COMPETENT REPRESENTATION,"** an all-day workshop including presentations on:

**Mental Health and Psychological Evaluations,** featuring Kay Di Francesca, Ph.D.; Alex Landon '71, private practice, San Diego; and Jeffrey Elias, Department of the Public Defender.

**Criminal History, "Three Strikes," and Enhancements,** featuring Paul Pane, Field Representative, Department of Justice, Sacramento; Jacqueline Crowle, Department of the Alternate Public Defender, San Diego; and Elizabeth Missakian, private practice, San Diego.

**Sentencing Alternatives and Recommendations,** featuring Professor of Criminal Justice Administration Tom Gitchoff, San Diego State University.

**Conflicts of Interest,** featuring Browning Marean, Gray Cary Ware & Freidenrich; Professor Laura M. S. Berend '75, USD School of Law; Nelson Brav, Brav & Schwartz; and Michael Judge, Chief Public Defender, Los Angeles. Sponsored by the USD School of Law with the support of Community Defenders Inc. of San Diego, November 1998.

**"PROFESSOR C. HUGH FRIEDMAN'S RUBY ANNIVERSARY,"** sponsored by the USD School of Law and the Office of Alumni Relations, November 1998.

**"THE KOSOVO CRISIS: A WORLD AFFAIRS PERSPECTIVE,"** Professors Allen C. Snyder and Charles B. Wiggins, USD School of Law, sponsored by the Public Interest Law Foundation and the International Law Society, November 1998.

**"ISSUES AND CAREERS IN INTELLECTUAL PROPERTY LAW,"** Robert F. Gazdzinski '91 (M.B.A.), Knobbe Martens Olson & Bear, sponsored by the Science and Technology Law Society, November 1998.

**"THE BOUNTY HUNTER,"** Bob Buckner, recovery agent, sponsored by the Criminal Law Society, November 1998.

**"LIFE AS A PUBLIC DEFENDER,"** Susan Clemens, Office of the Public Defender, sponsored by the Women's Law Caucus, February 1999.

**"BLACKS IN THE BIBLE: PART I: GOD AND THE PEOPLE OF ISRAEL AND AFRICA. PART II: THE RELATIONSHIP BETWEEN AFRICAN-AMERICANS AND JEWISH-AMERICANS,"** Black History Month Celebration, William McCurine Jr., Gray Cary Ware & Freidenrich, sponsored by the Black Law Students Association, February 1999.

**"A JUDGE'S PERSPECTIVE ON THE LAW,"** Black History Month Celebration, the Honorable Napoleon A. Jones '71, U.S. District Court, sponsored by the Black Law Students Association, February 1999.

**"A PUBLIC INTEREST PERSPECTIVE ON ENVIRONMENTAL LAW,"** Cesar Luna '95, Environmental Health Coalition, sponsored by the Public Interest Law Foundation, February 1999.

**"ENVIRONMENTAL PROTECTION VS. PROPERTY RIGHTS: A DEBATE,"** Roger Pilon, Cato Institute, Washington, D.C. and Professor Robert L. Simmons (retired), USD School of Law, sponsored by the Federalist Society, February 1999.

**"POLITICS, RELIGION, AND LIBERTY,"** Doug Bandow, Cato Institute, Washington, D.C., sponsored by the Federalist Society, February 1999.

**"ISSUES IN TAX LAW,"** the Honorable David Laro, U.S. Tax Court, and Bahar Schippel '98 (LL.M. in Taxation), U.S. Tax Court Clerk, sponsored by the Tax Law Society and Graduate Programs, February 1999.

**"THE IMPACT OF CULTURE IN THE PRACTICE OF INTERNATIONAL LAW,"** Douglas B. Whiting, private practice, San Diego, sponsored by the International Law Society, February 1999.

**"RETHINKING MENTAL DISABILITY LAW: RESOLVING OLD ISSUES IN A NEW MILLENNIUM,"** a conference featuring Professor Stephen Behnke, Faculty Fellow in Ethics, Harvard University; Professor Richard Bonnie, University of Virginia School of Law; Dr. Ansar Haroun, Supervising Forensic Psychiatrist, San Diego Superior Court; Associate Clinical Professor of Psychiatry J. Reid Meloy, University of California, San Diego; Professor Grant H. Morris, USD School of Law; Professor Stephen Morse, University of Pennsylvania School of Law; Professor Michael Perlin, New York Law School; Professor Elyn Saks, University of Southern California; Charles M. Sevilla, Cleary & Sevilla, San Diego; Professor Christopher Slobogin, University of Florida School of Law; Professor Susan Stefan, University of



Miami School of Law; Professor David Wexler, University of Arizona School of Law; and Professor Bruce Winick, University of Miami School of Law. *Sponsored by the USD School of Law Journal of Contemporary Legal Issues, February 1999.*

**"TRAILBLAZERS IN THE LAW,"** the Honorable Lillian Y. Lim, San Diego Superior Court; Myrna Pascual, U.S. Department of Housing and Urban Development; and Palma Hooper, Thorsnes Bartolotta McGuire & Padilla, sponsored by the Asian-Pacific American Law Students Association, February 1999.

**"THE UNITED STATES AT FIN DE SIÈCLE: THE RULE OF LAW OR ENLIGHTENED ABSOLUTISM,"** the 15th annual Nathaniel L. Nathanson Memorial Lecture, featuring Gerhard Casper, president, Stanford University, sponsored by the USD School of Law, March 1999.

**"ISSUES AND OPPORTUNITIES IN TAX LAW,"** Visiting Professor Michael Devitt, USD School of Law, sponsored by the Tax Law Society, March 1999.

**"PRIVACY ISSUES AND THE LAW,"** Beth Givens, Privacy Rights Clearinghouse, sponsored by the Public Interest Law Foundation, March 1999.

**"INTERNATIONAL LAW OF THE SEA AND ITS RESOURCES,"** Peter H. Flournoy '68, International Law Offices of San Diego, sponsored by the International Law Society, March 1999.

**"INTERNATIONAL TAX LAW IN THE UNITED STATES,"** Patrick W. Martin '92, Procopio Cory Hargreaves & Savitch, co-sponsored by the Tax Law Society, the International Law Society and Graduate Programs, March 1999.

**"BANKRUPTCY, CORPORATE FINANCIAL AND COMMERCIAL LITIGATION,"** Michael D. Breslaur '83, Solomon Ward Seidenwurm & Smith, sponsored by the Jewish Law Students Association, March 1999.

**"SUCCEEDING AS A FIRST-YEAR ATTORNEY OR LAW CLERK,"** Robert Brownlie, Gray Cary Ware & Freidenrich, sponsored by the Asian-Pacific American Law Students Association, March 1999.

**"EMERGING ISSUES IN THE LAW,"** Professor Arti K. Rai, USD School of Law, sponsored by the Science and Technology Law Society, March 1999.

**"EMERGING CHANGES IN THE TAX SYSTEM? EXPLORING POTENTIAL BENEFITS AND PROBLEMS,"** USD School of Law Tax Conference, featuring chair Professor Lester B. Snyder, USD School of Law, and speakers Professor Michael J. Graetz, Yale Law School, and Professor Daniel I. Halperin, Harvard Law School.

**Panelists:** Alan J. Auerbach, Robert D. Burch Professor of Economics and Law, Boalt Hall School of Law, University of California at Berkeley; Joseph Bankman, Professor of Law and Business, Stanford Law School; Professor Joseph M. Dodge, University of Texas School of Law; Professor John K. McNulty, Boalt Hall School of Law, University of California at Berkeley; Professor Frank Partnoy, USD School of Law; Professor Julie Roin, University of Chicago Law School; H. David Rosenbloom, Partner, Caplin & Drysdale; Professor Alan S. Schenk, Wayne State University Law School (Visiting Professor, USD School of Law); Professor Reed Shuldiner, University of Pennsylvania Law School; Victor Thuronyi, Senior Tax Counsel, International Monetary Fund; Professor David A. Weisbach, University of Chicago Law School; and Professor Géorge K. Yin, Harrison Foundation Research Professor, University of Virginia School of Law.

**Interlocutory Panel:** Dean Daniel B. Rodriguez, USD School of Law; Professor Lawrence A. Alexander, USD School of Law; M. Carr Ferguson, Davis Polk & Wardwell, Adjunct Professor, USD School of Law; Professor C. Hugh Friedman, USD School of Law; Phillip L. Jelsma, Luce Forward Hamilton & Scripps, Adjunct Professor, USD School of Law; the Honorable David Laro, U.S. Tax Court, Adjunct Professor, USD School of Law; Professor Herbert I. Lazerow, USD School of Law; Distinguished Professor Richard Crawford Pugh, USD School of Law; Professor Leo L. Schmolka, New York University School of Law (Visiting Professor, USD School of Law); Professor Maimon Schwarzschild, USD School of Law; Richard A. Shaw, Shaw & O'Brien, Distinguished Adjunct Professor, USD School of Law; and Professor Thomas A. Smith, USD School of Law.

*Sponsored by the USD School of Law, March 1999.*

**"THE PRACTICE OF TECHNOLOGY LICENSING,"** Mark Lehberg '82 (B.B.A.), Gray Cary Ware & Freidenrich, sponsored by the Science and Technology Society, April 1999.

**"THE DEVELOPMENT OF THE TECHNOLOGY PROGRAM AT THE USD SCHOOL OF LAW,"** Dean Daniel B. Rodriguez, sponsored by the USD School of Law, April 1999.

**"DIVERSITY IN THE LAW,"** Todd Stevens '88, president, San Diego County Bar Association, sponsored by the Pride Law Students Association, April 1999.

**"A VIEW FROM THE BENCH,"** the Honorable Patricia Benke '74, California Court of Appeals, sponsored by the Women's Law Caucus, April 1999.

**"THE INTERNATIONAL TAX ATTORNEY,"** Gerhard Rettenbacher '99 (LL.M. in Taxation), Fulbright Scholar (Austria), sponsored by the Tax Law Society, April 1999.

**"AN EVENING WITH THE CALIFORNIA STATE SUPREME COURT,"** featuring Chief Justice Ronald M. George, Justice Marvin R. Baxter, Justice Janice R. Brown, Justice Ming W. Chin, Justice Joyce L. Kennard, Justice Stanley Mosk and Justice Kathryn M. Werdegar, sponsored by the USD School of Law, April 1999.

**"THE CONSERVATIVE LEGAL COUNTERREVOLUTION,"** Clint Bolick, Institute for Justice, sponsored by the Federalist Society, April 1999.

**"PUBLIC INTEREST AND CONSUMER LAW,"** Michael Shames '83, UCAN, sponsored by the Public Interest Law Foundation, April 1999.

**"OPPORTUNITIES AND ISSUES IN TAX LAW,"** Don Blackwell, Ernst & Young, sponsored by the Tax Law Society, April 1999.

**"A CONVERSATION WITH MORRIS DEES,"** featuring Morris Dees, civil rights lawyer and co-founder of the Southern Poverty Law Center, sponsored by the USD School of Law with the assistance of the Office for Community Service-Learning, April 1999.

**"NINTH ANNUAL CELEBRATION OF WOMEN IN THE LAW,"** featuring Outstanding Law Alumna, Julie D'Angelo Fellmeth '83, sponsored by the Women's Law Caucus, April 1999.



## on the docket

### SEPTEMBER 15-17

Alumni Tort Moot Court Competition  
Contact Karla Cottis '00  
Appellate Moot Court Board  
619-260-4530

### SEPTEMBER 15-NOVEMBER 1

On Campus Interviews  
Contact Cheryl Aberbach  
Career Services Office  
619-260-4701

### SEPTEMBER 24-26

1999 Law Alumni Weekend  
Reunions for the Classes of 1958 to  
1960, 1964, 1969, 1974, 1979, 1984,  
1989 and 1994

- Distinguished Alumni Award Luncheon  
for All Alumni  
Recipient: Patricia A. McQuater '78
  - Reception for All Alumni at the San  
Diego Aerospace Museum
  - Law Alumni-Faculty Golf Outing
  - Attorneys in the Outfield Softball  
Tournament
  - Career Services Open House
  - Admissions Open House
  - Celebration for Reunion Classes
  - Mass at The Immaculata
- Contact Wendy Nalbandian  
Alumni Relations Office  
619-260-4692

### OCTOBER

Dean's Distinguished Scholar-in-  
Residence Lecture  
Lecturer: Professor Edward Rubin,  
University of Pennsylvania  
Contact Theresa Hrenchir  
Dean's Office  
619-260-7438

### OCTOBER 14-16

National Criminal Procedure  
Moot Court Competition  
Contact Benjamin Galdston '00 and  
Harrison Kennedy '00  
Appellate Moot Court Board  
619-260-4530

### OCTOBER 20

Minority Mentoring Program Reception  
Contact Janet Madden '84  
Academic Support Programs  
619-260-4600, ext. 2293

### DECEMBER

California State Bar Swearing-in Breakfast  
Contact Wendy Nalbandian  
Alumni Relations Office  
619-260-4692

### JANUARY 2000

Alumni Reception, Washington, D.C.  
Contact Wendy Nalbandian  
Alumni Relations Office  
619-260-4692

### JANUARY 28-29

*Genes and the Just Society*  
Genetics Conference  
Registration and Information  
Contact Professor Larry Alexander  
619-260-2317

### SPRING

Nathanial L. Nathanson Memorial Lecture  
Guest Lecturer: Judge Mary M.  
Schroeder, U.S. Court of Appeals  
for the 9th Circuit  
Contact Wendy Nalbandian  
Alumni Relations Office  
619-260-4692

### SPRING

Tax Conference  
Registration and Information  
Contact Theresa Hrenchir  
Dean's Office  
619-260-7438





Bill Ota '99 asks his daughter, Matty, to share her Pez candies during the law school's commencement exercises.

parting shot



SCHOOL OF LAW  
5998 ALCALA PARK  
SAN DIEGO, CA 92110-2492

RETURN SERVICE REQUESTED

NON-PROFIT  
U.S. POSTAGE  
**PAID**  
SAN DIEGO, CA  
PERMIT NO. 365