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university of san diego SCHOOL OF LAW

advocate



## A Supreme Beginning

Justice Clarence Thomas Inaugurates  
Paul A. McLennon, Sr. Honors Moot  
Court Competition

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# advocate

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Top photo (left to right):  
Judge M. Margaret McKeown,  
U.S. Court of Appeals for the  
Ninth Circuit; U.S. Supreme Court  
Justice Clarence Thomas; and  
Chief Justice (ret.) Stanley G.  
Feldman, Arizona Supreme Court.

Bottom photo:  
USD law student Kara Keating-  
Stuart, winner of the first annual  
Paul A. McLennon, Sr. Honors  
Moot Court Competition.

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# message from the dean



**P**reparing the next generation of public interest lawyers to pursue justice and uphold the principles that make America the greatest nation in the world is some of the most critical work we do at the law school each year.

Our nationally recognized Center for Public Interest Law and the Children's Advocacy Institute serve not only as academic centers but as a training ground for law students to represent the real world interests of the unorganized and underrepresented in California's legislature, courts, and regulatory agencies.

In spite of our best efforts, however, the public sector is hurting. According to a recent report, almost 40 percent of graduating law students expressed a significant interest in public interest law. But the report, conducted by

Equal Justice Works, the Partnership for Public Service, the National Association for Law Placement, and the National Legal Aid and Defender Association, showed that of the 40 percent, fewer than 3 percent would actually accept a job in the public sector or government.

Why? Graduates are forced to enter private law practice in order to pay off their law school loans. At the USD School of Law, 82 percent of students take loans. Upon graduation, these graduates leave with an average debt of \$73,500. Some 78 percent of law graduates entering civil legal services expect to earn between \$25,000 and \$45,000 per year, according to a recent Equal Works report.

As a result, the interests of the poor, the very young and the very old are underrepresented by today's legal community. How could these trends be improved? Here are some solutions:

- A permanent endowment to fund the Loan Repayment Assistance Program (LRAP), which offers graduates substantial assistance to repay educational loans in exchange for pursuing a career in public interest law.
- The federal government should improve its contingent repayment option by amending the Higher Education Act to require forgiveness after 15 years, rather than 25, for borrowers who have spent more than a specified number of years in full-time public service.

- Equalize the annual unsubsidized Stafford loan limit for law graduates from \$10,000 to \$30,000, resulting in lower interest rate loans.
- Pass the Innocence Protection Act, a law that would provide student loan forgiveness to lawyers who serve as public defenders for a required number of years.
- Public interest lawyers with high student loan debt may not be able to afford the monthly payments of a 10-year plan—a 30-year repayment option may be more manageable at the outset.
- High-debt, low-income borrowers can reduce payments even more dramatically by using the federal government's income-contingent repayment option, available only for loans made or guaranteed by the federal government.

To help more students pursue careers in public interest law—and thereby help our most disadvantaged and underserved citizens obtain needed access to legal services—I ask that you strongly support and advocate these and other constructive solutions to this longstanding problem.

A handwritten signature in black ink, appearing to read 'D. Rodriguez'.

DANIEL B. RODRIGUEZ  
DEAN AND PROFESSOR OF LAW

## Thank You, Justice Thomas

Years ago when I hosted a public affairs interview program for my college radio station, I interviewed many public figures—major authors, business leaders, government officials and even a president of the United States. Although I was impressed by most of them (perhaps to some extent because I was an impressionable 21-year-old at the time), none impressed me as favorably on a personal level as U.S. Supreme Court Justice Clarence Thomas, who was the law school's guest at USD on March 18th.

As stated in the cover story of this issue of the *Advocate*, the main reason Justice Thomas came here was to lead the judicial panel that judged the final round of the first annual Paul A. McLennon, Sr. Honors Moot Court Competition. But he didn't just come for the competition and head back to Washington, D.C. right away—he spent the entire day with us, meeting with alumni, students, faculty and administrators from morning until late that night in eight different scheduled events.

Aside from during the competition itself, I was able to observe Justice Thomas at lunch that day. Initially, I had expected him, as a U.S. Supreme Court justice, to be rather solemn and perhaps a tad self-important. Instead, Justice Thomas turned out to be friendly, engaging, humorous (with a booming laugh) and remarkably approachable.

Before lunch arrived, I sat across the table from him and Prof. Roy Brooks, listening to the two of them reminisce about their days as students at Yale Law School. Justice Thomas then explained to us how he selects his Supreme Court law clerks and how he teaches them to disagree with each other without being, ahem, *disagreeable*. At other times during lunch, he talked about his career before the Supreme Court, telling us that in college and as a law student he had been quite the liberal (which, no doubt, surprised more than a few of us).

By his graciousness throughout what must have been a long day for him, Justice Thomas honored all of us and made us feel very special indeed.



A handwritten signature in cursive script that reads "George Decker".

George Decker  
Director of Publications

# campus briefs

*Winning Law Review Comment Dealt With Consumers' Privacy Rights*

## USD Law Student's Writing Judged Best In The Nation



Photo courtesy of Seattle University Law Review

**J**anet Dean Gertz, a member of the law school's class of 2003, and of the *San Diego Law Review*, was selected by Scribes—The American Society of Writers on Legal Subjects—as the winner of this year's competition for the most outstanding note or comment written by

a law student associated with a student-edited law review.

"Our faculty joins me in congratulating Janet for winning this prestigious award," says Dean Daniel B. Rodriguez. "This award is a credit to our excellent legal writing program and also the hard work of our student law journal editors."

Gertz' winning comment, *Consumer Profiling in Financial Services*, was published in Volume 39 of the *San Diego Law Review* (2002) at page 943, and dealt with consumers' privacy rights in connection with the use of their financial transaction information by financial institutions.

A resident of Escondido, California,

Gertz served as senior executive editor of Volume 40 of the *San Diego Law Review*. She has been a recipient of the law school's Academic Achievement Scholarships for the past two academic years, and ranks in the top one percent of her class. Ms. Gertz holds a B.A. in history from California State University, Northridge.

The award was presented at the annual meeting of the National Conference of Law Reviews in Seattle, Washington on March 27, 2003. This award has the dual distinction of being the only award presented at the conference and the only national award for student law review authors, which places no limitations on subject matter.

*Among Highest Rated Law Faculties in the United States*

## USD Law Faculty Ranked 22nd in Major Study

**T**he results of a major new study of law school quality were released this spring indicating that the University of San Diego School of Law faculty is among the highest rated law faculties in the United States. This study was based upon an extensive survey of more than 150 leading law professors throughout the country. These professors were asked to evaluate "the overall intellectual quality and scholarly accomplishments" of faculty at nearly seventy leading law schools. In addition, the evaluators were asked for their expert opinion on any one of eleven different areas of legal scholarship in which the evaluator was a specialist.

The study listed as one of its most "significant findings," the fact that USD, described as a "relatively young law school . . . consequently, with [a] more regional reputation," ranked solidly among the top law schools in the United States. In fact, USD ranked well ahead of other distinguished law schools in the west, including University

of California, Hastings; University of California, Davis; Arizona State; University of Arizona; Loyola-L.A.; Santa Clara; University of San Francisco; University of Washington; and Oregon. USD was also ranked among the very top law schools in five different specialty areas, including Business Law; Constitutional Law; Criminal Law and Procedure; Law and Economics; and Law and Philosophy.

"We are obviously delighted at the results of this new study," notes Dean Daniel Rodriguez. "While we have known all along that the caliber of our law faculty is world-class, we are very pleased to get this positive reinforcement by our colleagues across the country. Naturally, we believe that our faculty's success as great scholars and teachers enriches the reputation of our program and helps support the equally good works of our USD alumni."

The full results and a detailed explanation of methodology are available at [www.utexas.edu/law/faculty/bleiter/rankings](http://www.utexas.edu/law/faculty/bleiter/rankings).

*Encourages Minority Enrollment in Law School*

## **Multi-Cultural Law Day Opens a World of Opportunity to Youth**

**O**n February 22, Multi-Cultural Law Day 2003 brought a diverse group of 65 students from several San Diego area high schools to USD to preview the law school experience. The participating high schools draw many of their students from disadvantaged areas.

"The mission of Multi-Cultural Law Day is to raise awareness of the law school among high school students," says Monte Bennett '04, a member of the law school's Black Law Students Association, one of MCLD's co-sponsors. "We try to make their expectations realistic and show them that law school is reachable. To a lot of people, law school is a mythical place that only the 'entitled' can attend."

The daylong event began with breakfast and an address by Prof. Jorge Vargas. Then, the high school students split into two groups, with one group taking part in an exercise dealing with the Socratic Method led by Prof. Mary Jo Wiggins. The other group attended a question and answer panel comprised of nine minority law students and attorneys, and facilitated by Janet Madden, director of the law school's Academic Support Program, and alumnus Charles Taylor, LL.M. '02.

Afterwards, the two groups reunited to observe a mock trial presided over by Prof. Jean Montoya, and then to take a tour of the campus led by USD law students.

MCLD was launched at USD eight years ago with encouragement and money from the Law School Admission Council. "The LSAC offers a grant to law schools to do



**Prof. Mary Jo Wiggins teaches the Socratic Method.**

something to inspire students to go to college, with the idea of raising minority enrollment in law school—but not for recruitment," says Enrique Monteagudo '03, who with Rafila Burt '04 organized this year's MCLD.

This year, the event's sponsors included not only USD and the LSAC, but also the Asian/Pacific American Law Student Association, the Black Law Students Association, La Raza Law Students Association, the Native American Law Students Association and the USD School of Law Student Bar Association.

MCLD is part of the law school's overall high school outreach program, which features USD law students going

to local high schools and talking with disadvantaged students. "Our purpose is to make high school kids from low socioeconomic backgrounds conscious of their ability to go to college," says Alfonso Morales '04, who is in charge of the law school's outreach to Chula Vista High School and Sweetwater High School.



**High school students observe a mock trial in Grace Courtroom.**



19th Annual Nathanson Lecture

## Victor Rosenblum: The Constitution Must Endure in Times of National Crisis

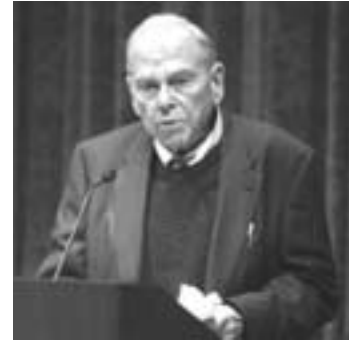
**T**he Constitution is equally applicable in war and in peace. There is no suspension of its provisions during exigencies.”

To some, this statement by Prof. Victor G. Rosenblum, the featured speaker for the School of Law’s 19th annual Nathaniel L. Nathanson Memorial Lecture, may seem like horn-book law. But to others—especially those concerned about the erosion of civil liberties in the aftermath of 9/11 and the war in Iraq—his declaration serves as an important reminder that the Constitution still prevails during war or national crisis.

On Thursday, April 10, 2003, Rosenblum, the Nathaniel L. Nathanson Professor Emeritus at Northwestern University, delivered an address titled, “A Pertinent Message for Today from

Yesterday’s Administrative Law Rulings” to an appreciative audience of faculty, students, alumni and members of the USD community gathered in the Joan B. Kroc Institute for Peace and Justice. His discourse examined key U.S. Supreme Court decisions which held that administrative action must be based on the record and comply with the Constitution, even in extraordinary conditions.

Rosenblum is a professor of political science at Northwestern, where he teaches courses in administrative law, constitutional law, torts, and law and education. He is the author and co-author of numerous articles and books, including *Law as a Political Instrument*, *Making of a Public Profession*, *Constitutional Law: Political Roles of the Supreme Court*, and *The Power to Govern*.



Prof. Victor G. Rosenblum

The annual Nathanson Lecture is provided through a generous endowment to the law school and offers one unit of MCLE credit for practicing attorneys. The lecture series brings distinguished speakers from around the country to lecture on topics of interest to the legal and higher education communities.

## Chinese Delegation Visits USD School of Law

**M**embers of the All-China Lawyers Association, the Chinese equivalent of the American Bar Association, recently met with the faculty of the USD School of Law, toured the Legal Research Center, and visited the law firm of Procopio, Cory, Hargreaves & Savitch, LLP, during a stop in San Diego. Sent by the Ministry of Justice of the People’s Republic of China, the delegation was on a fact-finding mission to research the privatization of law practice in China as the country takes on a larger role in international trade.



Members of the All-China Lawyers Association are pictured with Dean Daniel Rodriguez (center).

## USD Law Students Participate in NITA Program on Depositions

### Can We Get A Witness?

**F**or USD law students, it was part acting and part advocacy training.

One weekend in early February 2003, student volunteers from Prof. Allen Snyder's Civil Clinic and Interviewing and Counseling classes got to play the roles of plaintiff and defendant in a National Institute for Trial Advocacy (NITA) program on taking and defending depositions.

The program brought mostly novice attorneys from across the United States to San Diego to, among other things, learn how to take control of the deposition, gain valuable admissions, extract the most effective information for use at trial, and deal with obstreperous opposing counsel.

Female students played the part of a plaintiff being deposed in a sexual harassment lawsuit. Male students played the part of the defendant. "To help us prepare for our roles, they gave us a packet that included a witness statement," recalls Victoria Wiggins '03. "It also included a synopsis of different parts of the plaintiff's life and her personality."

The student-witnesses were allowed

to have some fun with their roles. For example, if the question didn't call for an answer that was in their packet, they could make up an answer. In addition, the students were often asked to do something to make the attorneys think on their feet. "I was instructed to get so flustered that they would have to stop the deposition, just to see how the attorneys would react," says Anita King '04.

Although they were not officially enrolled in the program, it proved to be a great learning experience for the students, reinforcing what they were learning in Prof. Snyder's classes at USD.

"We got to see young attorneys make the same type of mistakes that we would likely make, and got to hear the feedback," says Jason Sparta '03. "Also, we got to see witnesses' natural tendencies, like volunteering too much information."

"Coming in, I had no practical experience—now I have the basic background in how to take and defend a deposition," says Mindy Henstridge '03. "I saw how the attorneys learned." "It definitely enhanced my questioning skills, and I also learned how to handle clients," adds Po Chhim '04.



USD Law students who took part in the NITA program on depositions.

## Team of Profs Wins Student-Faculty Golf Tourney



Prof. Jack Minan proudly displays the tournament scorecard.

**A**ge and experience trumped youthful vigor at the USD School of Law Student-Faculty Golf Tournament on April 6, 2003.

A team consisting of professors Jack Minan, Michael Devitt and Frank Partnoy, and Judge H. Lee Sarokin, the law school's Distinguished Jurist in Residence, took first place with a score of 65 at The Auld Course in Chula Vista, coming in ahead of seven other teams of four.

"Devitt and Partnoy contributed long drives," recalls Minan, author of *Golf Law: the Real Rules of Golf*. "And with my midiron and Judge Sarokin's chipping, we brought considerable skills to the putting green."

The student team of Alison Durrant, Dave Greiner, Angela Pierce and Jason Sparta came in second with a score of 66. The Auld Course is 6,083 yards, with an index of 67.2 and a rating of 116.

*14,000 Feet and Climbing*

## Smith and Ramsey's Mountaineering Adventure

**S**caling the highest mountain peak in the lower 48 states was a challenge Professors Thomas Smith and Michael Ramsey could not resist last November. An expedition one crisp and clear morning had all the elements of an epic adventure: A three-day weekend hike to the peak of Mount Whitney, a route on the East Face of the mountain that was a mere seven or eight miles on the map, and a vertical ascent that took you from 8,000 feet to 14,494 feet quickly. The "Mountaineers' Route" was beckoning to the two weekend warriors to come and conquer.

It was actually Smith who talked Ramsey into coming. "I knew Mike was interested in this sort of thing and he was in good physical condition," revealed Smith as he showed the triumphant photos the two had taken at the summit.

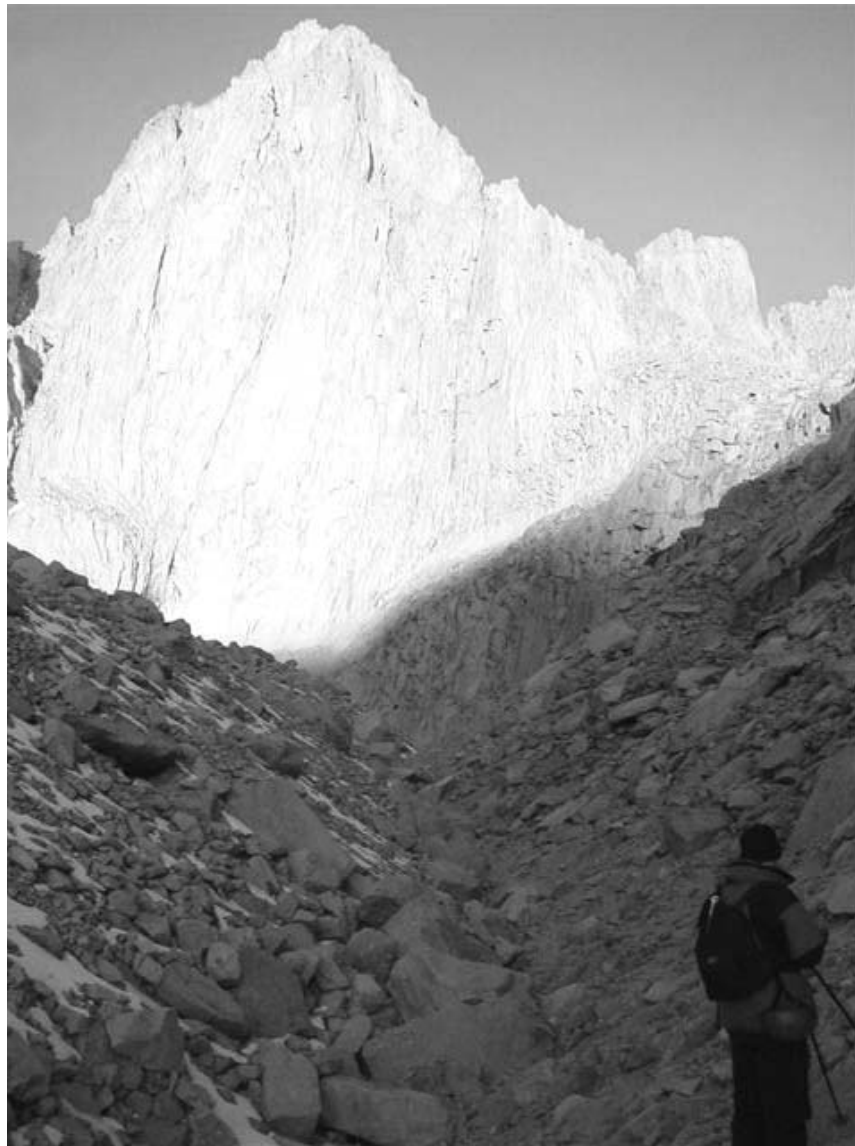
An experienced mountain climber, Smith had laid out a plan for the climb up the East Face. "The route was the shortest which is why most people try it. It was also physically tough which is why a few manage to get themselves killed on it more than any other route up the mountain." Real mountaineers like Smith consider this route 'boot camp' and the easiest of all the hard routes on the East Face. But it had been ten years since his last climb, and Smith felt a struggle lying in wait.

"We started hiking Friday morning and got to 12,000 feet or so. Halfway up the route, if you look back, you really get the feeling of being in an alien, hostile but compelling environment." recalls Smith.

And hostile it was. The two had clambered up boulders and trudged through a fair amount of ice and snow using ice axes and crampons. Along the way, the water filters they needed to drink safely from the streams also froze solid at the higher altitudes. They had traveled a distance

of only three miles but had climbed an astonishing 4,000 feet higher.

"Ideally, we would have acclimatized for a day or two but we didn't have the time. Starting the climb at 8,000 feet without getting used to it first was tough on my body. The altitude was by far the hardest thing," Smith



confides. "I suffered from some altitude sickness in retrospect and was unable to eat for most of the trip." Contemplating his loss, Smith jokes his buddy compensated for it and "ate like a horse."

The pair then started out Saturday for the last 2,000 feet to the summit. At these heights, the air was even thinner, much like breathing oxygen through a straw. They climbed down the same day.

With the climb behind them, the two began walking back that Sunday and espied an inn hidden in the beautiful autumn scenery of the Sierras—the Sierra Café in Big Pine. Just that morning they were down to their last scraps of beef jerky *although* in the vast empty spaces of the craggy highlands, there were plenty of small, furtive animals that had a way of ransacking supplies without being seen.

**Prof. Ramsey pictured with the National Park Service marker at the summit.**



**Professors Thomas Smith and Michael Ramsey at the top of Mt. Whitney.**

There was no stopping Smith. Ramsey notes, "Once we reached the Sierra Diner, Tom more than made up for his dainty appetite on the hike."

Relating his story from the comfort of his desk at Warren Hall, a jubilant Smith has not been discouraged by the deprivations of the trip. In retrospect he says, "It is still safer than going out for a bagel in the middle of LA at night."

This summer, he is setting his sights on a 6,000-meter (19,685 feet) peak in the Andes. "I have been an armchair mountaineer since I read Maurice Herzog's famous book *Annapurna* about the first ascent of that peak in the Himalayas when I was in the seventh grade."

Even Ramsey is giving the experience two thumbs up. "The trip was great but anything I can say about it comes out sounding like a cliché. I think what made it such a great experience was that it was scary and challenging enough to be exhilarating and awe-inspiring, but not so scary and challenging as to be terrifying or impossible for weekend-warriors such as ourselves."

Smith signs off with a lesson, "This trip drove home the message that getting up mountains of some size is physically very challenging, but also that I could do it, and with more preparation could do bigger peaks. In a sense it was a good confidence builder."

# In Their Own

“In Their Own Write” is a new feature of the *Advocate’s* Spring/Summer issue, in which we profile selected recently published articles authored by members of the USD law faculty.

**MICHAEL D. RAMSEY,**  
**TEXTUALISM AND WAR POWERS,**  
**69 *University of Chicago Law Review***  
**1543 (2002)**

Prof. Michael Ramsey, who teaches and writes in the areas of constitutional law, international business transactions and foreign relations law, addresses in his Article a question that must have been on the minds of many Americans during the war in Iraq: What is the meaning of the Constitution’s Declare War Clause?

To do this, Prof. Ramsey first delves into the eighteenth century use of the phrase “declare war,” and finds that, at that time, “declaring” war had a broader meaning than is commonly supposed: “It could have a narrow meaning that refers only to a formal proclamation, or it could have a broad meaning that refers to any words or actions that create a state of war.” Although he states that the latter meaning, which fits better with its constitutional context, provides a textual basis for Congress’ power to initiate warfare, Prof. Ramsey concludes that presidential actions that do not create a state of war—even if they involve the use of military force or the threat or likelihood of war—do not require congressional authorization.

**MARY JO WIGGINS,**  
**RACE, CLASS, AND SUBURBIA:**  
**THE MODERN BLACK SUBURB AS**  
**A ‘RACE-MAKING SITUATION,’**  
**35 *University of Michigan Journal***  
**of Law Reform 749 (2002)**

Why is it that in even the most affluent predominantly-Black suburbs in America—such as Prince George’s County, Maryland and south DeKalb, Georgia—one can never seem to find upscale shops such as Nordstrom, Starbucks or Barnes & Noble?

In her Article, Prof. Wiggins, who teaches and writes in the areas of property, race, bankruptcy and legal theory, addresses the historical development of Black suburbanization and its accompanying commercial “disinvestment”—which she defines as an oversupply of “low-rent” or “down-market” uses and an undersupply of “high-rent” or “up-scale-market” uses.

Prof. Wiggins offers possible explanations for such disinvestment, including zoning laws and practices, and analyzes a number of the resulting negative consequences of disinvestment to Black suburbanites. She concludes by proposing a multi-faceted approach to solving the problem, including (1) greater sensitivity to the nexus between land-use doctrines and optimal levels of commercial investment; (2) renewed efforts to close the continuing wealth-gap between Blacks and Whites; and (3) academic attention to the role that racial information might play in the valuation of the tangible and intangible assets of Black suburbs.

# Write

**GRANT H. MORRIS,  
COMMENTARY: PUNISHING THE  
UNPUNISHABLE—THE ABUSE OF  
PSYCHIATRY TO CONFINE THOSE  
WE LOVE TO HATE.**

**Journal of the American Academy of  
Psychiatry and the Law 30:556-62 (2002)**

Americans hate people who commit crimes—and the more despicable the crime, the more we want to lock up the perpetrator (if imprisonment is the maximum penalty) and throw away the key.

In his Article, Prof. Grant H. Morris, who teaches and writes in the areas of torts and law and psychiatry, provides examples of how legislatures and courts throughout the country often abuse psychiatry to keep the mentally ill—whether acquitted by reason of insanity or mentally ill at the time they complete their prison sentences—confined indefinitely.

In a stinging indictment of such practices, Prof. Morris concludes: “When psychiatry is used to substitute special civil commitment for criminal incarceration, we punish the unpunishable. Individual rights are lost, and the Constitution’s rule of law is undermined through commitment laws that separately classify for indeterminate confinement SVPs (sexually violent predators), insanity acquittees, and other mentally ill and dangerous individuals who have been involved in the criminal process but who are not sentence-serving convicts. When the people’s legislatures enact these laws and when the courts uphold them from constitutional attack, our approach differs little from that used by totalitarian regimes to rid themselves of enemies of the state.”



**Michael D. Ramsey**



**Mary Jo Wiggins**



**Grant H. Morris**

Mitch Singer and the

# Brave New

DIGITAL

211 30 492

When we arrived the day  
The 170 - we always had to  
and all around  
2001 was the day  
and so on

01:49

1 8 0 2 3 4 5 6 7 8 3

Story by Genevieve T. Silverio

# World of Digital Rights



Eighteen years after graduating from the USD School of Law, Mitch Singer '85 finds himself at the forefront of the battle to protect digital rights. The epic started 27 years ago before all notions digital and free—such as web browsing and downloading—would meld into an unquestioned expression of individual freedom.

But first, lets rewind the tape to 1976. Universal City Studios and Walt Disney Company sue Sony and seek to have its Betamax VCR impounded as “a tool of piracy.” The two entertainment giants allege that the VCR has virtually no non-infringing uses, and home taping of television is thought to violate the copyright owner’s reproduction rights. Sony was simply an equipment manufacturer then with no stake in the content business.

Seven years into the dispute, the U.S. Supreme Court disagrees and rules that home taping of television for later viewing, or “time-shifted” viewing, constitutes a fair use. Since then the doctrine of fair use has provided a reservoir of incentives to spur innovation, according to the Electronic Frontier Foundation, a consumer advocacy group.





Now lets fast-forward to 2003. Sony is on the other side of the debate. The reasons are clear: Established in 1990, Sony Pictures Entertainment (SPE) is now one of the largest film and television companies, generating over \$5 billion in revenue annually—all of it in the form of coveted content. At the same time, its sister company Sony Consumer Products continues to roll out equipment that caters to a generation of consumers who expect at the very least technology that satisfies their hunger for fresh content—content that they deem fair use—and served in ways that are unbounded by the imagination.

Singer, who joined SPE in 1990, is at the center of a shifting paradigm. He is senior vice president, strategic development and legal affairs, of SPE's Digital Policy Group. Singer was promoted to the post in November 2002 when SPE formed its own Digital Policy Group (DPG), a new corporate level organization.

Its mission is to secure the means to move SPE's copyrighted property, which includes music, games, movies, and television programs, over various distribution channels while protecting its assets against digital and online piracy.

At the core of Sony's strategy are digital rights management technologies (DRM) that are aimed at increasing the scope of control that content owners can assert over their intellectual property assets. The DRM features are going to be integrated into its digital media products and services. The patents are licensed from InterTrust in a deal valued over \$28.5 million. In essence, it gives Sony rights to 24 existing U.S. patents, plus future rights to 90 patents that are pending.

Unlike previous industry initiatives, the strategy comes complete with tooth and claw. DRM restrictions are now backed up with the force of law following the Digital Millennium Copyright Act (DMCA) that bans the circumvention of DRM technologies used to control copy-rightable works.

In the following interview, Singer gives a peek into the brave new world of digital rights.

#### **Why is Sony Pictures Entertainment forming its own Digital Policy Group?**

As we move into digital distribution and start to see a digital infrastructure rollout, we are going to need to adapt to the changing environment and we want to make sure that all of our divisions have a consistent policy when it comes to digital distribution. We want to ensure that any new digital platform protects our content against unauthorized copying and redistribution.

#### **Everyday, thousands of teenagers swap and download music files from each other's personal collections using peer-to-peer technology.**

#### **What does this picture mean to Sony today?**

Courts have consistently held that "sharing" or what I refer to as "trafficking" in music files is a violation of copyright. The unauthorized and illegal downloading of music files has completely decimated the music industry. A whole generation now believes that anything on the Internet is free. We need an education campaign especially aimed at universities to stop unauthorized downloads.

#### **What about the challenge of convergence?**

#### **How does the work of the DPG "dovetail" with industry standards defined by international groups such as the ITU or the TIA?**

The Digital Policy Group follows very closely industry standard-setting activities across all lines of digital distribution. We will develop standards that become adopted by the industry to protect our content. If we find that we are not making progress in private industry negotiations, we will be seeking additional assistance from Washington to help protect against unauthorized copying and redistribution of our intellectual property.

**Has the law fully caught up with the legal issues created by the leapfrogs in digital technology?**

The law will never keep up with technology. The Digital Policy Group works very closely with our lobbyists in Washington. If necessary we will seek legislation and regulation to try to help us with the problem of unauthorized peer-to-peer . . . and we recognize that we will never be able to fully stop unauthorized distribution, the unauthorized trafficking of music files on the Internet. It is going to be an ongoing problem.

**What about video piracy overseas, especially in China?**

China is a difficult problem for us because of the unauthorized replication of DVDs throughout Asia. There is a very well financed, concerted effort to get the film elements even before we release the film in the US. Unauthorized DVDs are sold throughout Asia. We estimate the number of illegal DVDs to be in the range of 200 million copies, which amounts to over a billion dollars of lost revenues a year just from DVDs.

**Where do you think the industry will be five years from now? Will SPE's business model stay the same as it is today?**

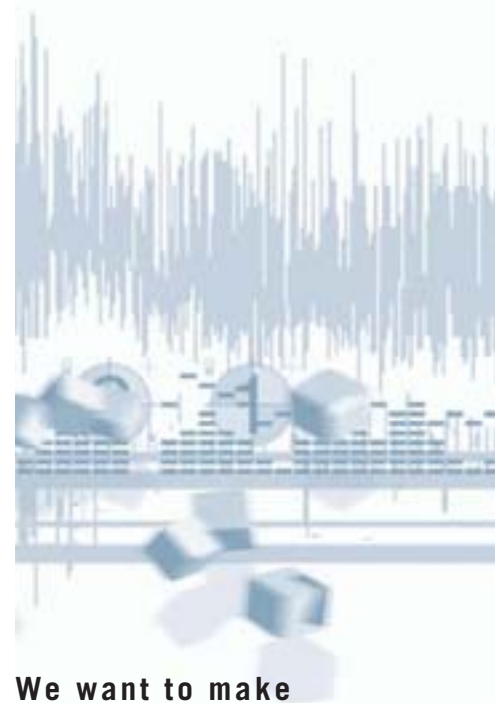
Business models will continue to change as technology evolves. We already offer our movies online and home networking technologies are beginning to emerge. Content will be delivered into the home in three different ways: broadcast, broadband, and physical media. Regardless of which platform the consumer ultimately chooses to acquire our content, we want to make sure that the consumer gets digital flexibility and at the same time protect our content against unauthorized copying and redistribution over the Internet. Our goal is to develop new digital models and offer consumers the type of flexibility they have come to expect when downloading files off of peer-to-peer sites such as Kazaa.

**Sony is a player with its feet in both camps. What do you think is the key to ending the gridlock between content owners and equipment manufacturers?**

That is a very interesting question. And I think if any company is able to solve the problem then Sony is in a unique position because they understand not only the need to sell customer electronic equipment but also the need to protect content from unauthorized copying and redistribution. Sony understands both sides of the industry. Ultimately, as new formats are adopted and as digital networks and home networking start to roll out, we are going to find that consumers have a lot more opportunity to acquire content than they may have today. SPE and Sony Electronics are working closely together to make home networking a reality.

**How long have you been in the industry? How did you get there?**

I have been with Sony for 13 years. I went into commercial litigation fresh out of law school and then moved to Sony as their bankruptcy lawyer many years ago. From there, I went into their television production legal affairs, and then over to head their legal affairs for the home entertainment group where I got involved in the copy protection of DVDs, and from there moved into the intellectual property group to do copyright, trademark and copy protection. It was just recently in just the last six months that I was put into the digital policy group to help coordinate the digital policy across all divisions.



**We want to make sure that the consumer gets digital flexibility and at the same time protect our content against unauthorized copying and redistribution over the Internet.**

# Knights of the Roundtable



# The Institute for Law and Philosophy Brings Top International Scholars to USD

Story by George Decker

Photos by Rodney Nakamoto



Long ago, a painting by Raphael titled “The School of Athens” brought many important Greek philosophers together into one sublime masterpiece, with Plato and Aristotle at the center.

The School of Law’s Institute for Law and Philosophy has a similar but far more dynamic purpose—it regularly brings together at USD some of the most distinguished scholars in the world for lively, high-level discussions on legal topics of philosophical significance. “It’s as enjoyable and intense an intellectual experience as one can have,” says Prof. Steven D. Smith.

Smith and Prof. Larry Alexander, both of whom are Warren Distinguished Professors of Law at USD, are the Institute’s co-directors. Both are internationally known scholars on topics at the intersections of law, philosophy and religion. In addition, the Institute has four affiliated scholars—professors Maimon Schwarzschild and Lawrence Solum from the USD law faculty, and professors Richard Arneson and David Brink from the Department of Philosophy at the University of California, San Diego. All four are internationally known scholars on legal, philosophical and religious topics.

The Institute seeks to advance knowledge on legal topics that involve moral, political and religious philosophical issues. Its mission is reflected in the topics of the various roundtables, conferences, lectures and debates the Institute has held since its inception in fall 2000—for example: *The Philosophical Foundations of Freedom of Expression*; *Intoxicated Consent and Sexual Relations*; *Morality and the Fight Against Terrorism*; and *Good Without God*?

The Institute was founded by Alexander and former USD law professors Heidi Hurd—now dean of the University of Illinois College of Law—and Michael Moore, who now teaches there.

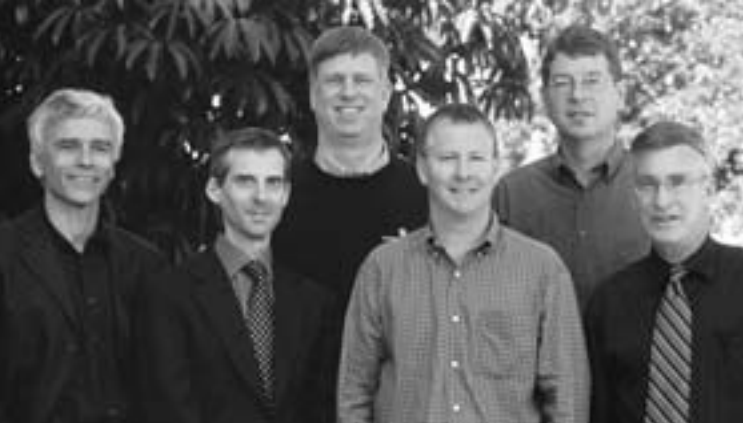
“After Michael Moore and Heidi Hurd ran an institute of this type at the University of Pennsylvania, part of their agreement for coming to USD was for the law school to finance a similar institute here,” recalls Alexander. “The institute at Pennsylvania didn’t leave with them—it’s still there. They’re like Johnny Appleseed—they plant things. Now there’s an institute at the University of Illinois.”

Currently, the Institute’s programs are of four types.

**Roundtables** are two-day conferences in which 12 to 18 scholars discuss a particular topic of legal and philosophical interest. Classic readings on the topic are assigned in advance. The aim of the roundtables is to deepen everyone’s understanding of the topic and its implications, which might translate into future teaching and scholarship. To date, the Institute has held six roundtables. Their topics have covered the topics of welfarism; non-consequentialist ethics; hate crime legislation, the philosophical foundations of freedom of expression; defining the moral community, and moral luck.

**Conferences** are usually two-day meetings at which participants present original papers on a legal-philosophical topic. Those papers are typically published in one of the law school’s scholarly journals. Unlike roundtables, which are intimate and have a limited audience, conferences are open to students, faculty, bench and bar, and interested members of the public. Continuing Legal Education credit is usually available to members of the bar who attend. The Institute so far has held conferences on legal transitions and theories of compensation.

**Public lectures** are lectures by noted speakers on legal-philosophical topics. The four public lectures the Institute has presented so far have covered the topics of consent and intoxication; morality and the fight against terrorism; moral values and liberal education; and the philosophical foundations of lawyers’ ethics.



**Public debates** are debates between two or more prominent figures on a topic of legal-philosophical interest. The Institute held its first public debate in March 2003 on the relationship between morality and religion.

In addition to the intrinsic value of the programs themselves, the Institute produces other benefits for the law school.

"The Institute identifies the law school as a place to go for these high-level exchanges," Alexander points out. "It also brings the participants here to meet members of our faculty, which is a positive interaction. It's also in a nice locale. For people not familiar with San Diego, it may plant the idea of visiting or moving here—it could help recruit both faculty and students to the law school. In a sense, it also makes USD one of the schools that set the intellectual agenda for scholars across the country. We're an impresario for scholarly events."

"Thanks in large part to the Institute and its programs, we have gained the reputation as one of the preeminent law schools in the United States in the area of law and philosophy," says Dean Daniel B. Rodriguez.

Why should the average practicing attorney care about philosophical aspects of the law?

"All lawyers, whether they think of themselves as philosophers or not, have philosophical assumptions," says Smith. "It is important for people to pay attention to these things."

"It's intrinsically interesting," adds Alexander. "Sometimes you find that the most down-to-earth, salty lawyer finds it interesting. The conference on legal interpretation scheduled for next year has direct relevance to what lawyers do every day. It would surely enhance their understanding of what they're doing."

The list of participants for that conference, scheduled for April 2-3, 2004, is nothing less than stellar. In addition to 11 distinguished professors from the USD School of Law and the UCSD Department of Philosophy, the conference will feature renowned scholars from Yale, Harvard, Stanford, Princeton, Columbia, Johns Hopkins, Chicago and Dartmouth, among others. And on November 14-15, 2003, the Institute will hold a roundtable on religion that will bring to the law school some of the most notable professors of law, philosophy and religion in the country. "For both of them, we have as distinguished a lineup as I've ever seen," says Smith.



**Top to bottom: 1. The Institute's co-directors and affiliated scholars: (front row, left to right) Prof. Richard Arneson, Prof. Maimon Schwarzschild, Prof. David Brink and Prof. Larry Alexander; (back row, left to right) Prof. Lawrence Solum and Prof. Steven Smith. 2. Prof. Schwarzschild makes a point at a recent Institute roundtable. 3. The Institute's Roundtable on Moral Luck, held April 25-26, 2003. 4. Heidi Hurd, now dean of the University of Illinois College of Law, helped start the Institute at USD while a law professor here.**

Just how good is our  
mock trial program?

Verdict:  
An Amazing  
Record of  
Success

The evidence is clear  
judging from the rows of  
trophies that reverently  
adorn the Grace Court-  
room in Warren Hall:

USD National Mock Trial Team

The USD National Mock  
Trial Program is definitely  
one of the best such pro-  
grams in the country.

Story by Genevieve T. Silverio  
Photos by George Decker

The record speaks for itself: Of the four or five competitions that the team has participated in annually since the 1990-91 session, the USD National Mock Trial Team has won on average three to four major awards, not to mention eight double wins in the Association of Trial Lawyers of America (ATLA) Western Regional and three double wins in the American Bar Association (ABA) Western Regional. Since the program's inception some fifteen years ago, at least one team in each tournament has always advanced from the preliminary round.

Each fall, the top sixteen teams in the country participate in the Tournament of Champions. USD has been invited seven times and has won once. The same committee that hosts the Tournament of Champions has also selected USD as the best team in the Ninth Federal Judicial Circuit (California, Oregon, New Mexico, Washington, Arizona, Idaho, and Hawaii) seven times since 1989.

This year, the team competed in the San Diego Defense Lawyers Competition, the First Annual Lone Star Classic in San Antonio, Texas; the Texas Young Lawyers National Trial Competition; and the Association of Trial Lawyers of America Competition.

However, even though our mock trial program is nationally renowned, its success is not common knowledge at USD.

"Coming to the School of Law, most people only know about moot court but not the mock trial program," Theresa Alldredge '03, the most veteran member of the team, confides, "Mock trial is a very practical, well-rounded program. You don't just argue the case, you also have to draw evidence from the witness, and know how to function in a courtroom setting." Alldredge is one of the team winners of the 2003 Texas Young Lawyers Western Regional, along with Shaka Johnson '03 and Jessica Matulis '03.

Alldredge offers a few insights into the process: "In mock trial you have to know constantly what you are doing, which sometimes could be three things at once. What you are doing out there is that you are listening to the witness; you are also preparing questions; and anticipating objections. It is good training experience."

#### LAST MINUTE CALL STARTED IT ALL

Professor Richard "Corky" Wharton is the founder and director of the National Mock Trial Competitions program at USD, which began fifteen years ago when he received a call out of the blue. A colleague was asking him to enter a team at the last minute to the ATLA 1986-87 competitions. Without even giving it a second thought, Wharton sprang into action and began recruiting on the spot: "Well, I spoke to the first law student I met in the hallway, Steve Hakes '87, who graciously accepted the challenge. When I asked him to suggest a teammate, Hakes named Sue Melton '87 who was also one of my students. Both trained intensively for three weeks and won first place in the ATLA Western Regional; then they spent another five days in mock trial drills to capture second spot in the ATLA National."

"Since then the method of choosing trial team members has evolved into a highly competitive selection process," explains Wharton. To build a winning team, the coaches and a panel of team alums select second- and third-year students based on their performance in the Annual Thorsnes Closing Argument Competition. "The selected students are grouped into four teams during the year. Each student typically competes in one trial competition



**Head Coach Prof. Corky Wharton and Asst. Coach Lisa Hillan flank first-place winners of the 2003 Texas Young Lawyers Western Region Competition consisting of (L-R) Jessica Matulis, Shaka Johnson, and Theresa A. Alldredge.**

# USD National Mock Trial Team

# 16 YEAR RECORD

## 1986-87 TO 2002-03

Competition	Year	1st	2nd	3rd	Total
ATLA National			1	1	2
2nd Place	1986-87				
3rd Place	1990-91				
ATLA Western Regional		9	10	4	23
1st Place	1986-87, 1987-88, 1990-91, 1992-93, 1994-95, 1995-96, 1996-97, 1998-99, 1999-00				
2nd Place	1989-90, 1990-91, 1991-92, 1994-95, 1995-96, 1996-97, 1997-98, 1999-00, 2000-01, 2002-03				
3rd Place	1993-94, 1997-98, 2000-01, 2002-03				
ABA National			2		2
2nd Place	1990-91, 1991-92				
ABA Western Regional		1	4	2	7
1st Place	1993-94				
2nd Place	1992-93, 1995-96, 1996-97, 1997-98				
3rd Place	1992-93, 1995-96				
Ninth Federal Circuit		7			7
1st Place	1990-91, 1991-92, 1992-93, 1993-94, 1994-95, 1995-96, 1996-97				
Natl Invitational Tournament of Champions		1			1
1st Place	1992-93				
San Diego Defense Lawyers		6	2	1	9
1st Place	1989-90, 1991-92, 1998-99, 2000-01, 2001-02, 2002-03				
2nd Place	1994-95, 1995-96				
3rd Place	1999-00				
Consumer Attorneys All California Trial Competition		2	1	2	5
1st Place	1997-98, 2001-02				
2nd Place	1997-98				
3rd Place	1998-99, 2001-02				
Texas Young Lawyers Western Regional		2	1	3	6
1st Place	2000-01, 2002-03				
2nd Place	2000-01				
3rd Place	1998-99, 1999-00, 2001-02				
Lone Star Classic Invitational Tournament					
5th Place (32)	2002-03				
<b>Total</b>		<b>28</b>	<b>21</b>	<b>13</b>	<b>62</b>

Note: Total of 62 excludes three 5th place wins.



in the fall and another trial competition in the spring." Lisa Hillan '92, mock trial program assistant coach and a member of USD's winning team in the '92 Tournament of Champions, is casting a wider net. With the help of the USD ATLA student chapter, she is hosting the second annual ATLA Intramural Mock Trial Tournament and opening it to all USD law students. Nearly eighty students have signed up from which four will be invited by Wharton to join the trial team.

#### THE ART OF WINNING

The preparation for each competition is rigorous. Each team practices for at least six weeks before a competition. "The schedule calls for practice sessions four or five days a week, with each practice lasting three or four hours," according to Wharton, who, along with Hillan, puts in a 60-hour work week during training.

The marathon workouts aside, a mock trial competition is definitely more intense than other law school competitions, says Wharton. "In a mock trial competition, arguments take as long as three-and-a-half hours compared to the thirty minutes typical in moot court. Moreover, during the competition you have to win six trials in three days to win the tournament."

The team's attention to both form and substance has not gone unnoticed. Wharton says that officials have approached him at the competitions to say how impressed they are about the caliber of the USD team. "Almost all of the judges remark that 80 percent of our presentations are superior to that which they ordinarily hear in court from experienced trial lawyers."

Hillan also points out that a recent Student Bar Association job survey revealed that membership on the trial team is by far the

best indicator of 2L job placement—greater than law review, journal contributions, or participation in any other program.

#### UNSCRIPTED BUT NOT UNPREPARED

Incredibly, the mock trial team achieves its success from a masterful understanding of the case as opposed to intensive memorization. The idea is bold. Imagine a debate without the benefit of rehearsed scripts. The odds are that you will have a compelling situation that Johnson calls a "very taxing, very grueling" gut-level experience that, in hindsight, was a victory for the team.

Professor Wharton explains, "Unlike other trial competition programs, the USD program does not script the trial or tell students what to say. Emphasis is placed on case construction and developing coherent themes and theories of the case. The goal is to have the student understand the case so well that the case is presented without notes or memorization." He adds, "Evidence issues are treated as discrete problems which the student must fully understand and resolve by reasoned argument regardless of the manner in which they are raised."

And that is not all. The keys to USD's success, maintains Professor Wharton, go beyond the mastery of the case itself: "Courtroom demeanor, courtesy, and ethics have always been stressed and are the hallmark of a USD team." Students who have competed in the mock trial teams say the experience has helped them fine-tune courtroom demeanor and strategy.

Allredge who has been on the mock trial team for three years and in a record-setting seven tournaments, captures the full intensity of what a competitor has to overcome with grace, precision, and wit, "These trials are usually on for four hours. During competition you will have a four-hour trial with an hour in between that. And then you will switch sides for another four-hour trial. So you will have to prepare both a plaintiff side and a defense side, and you don't really know in advance which side you are going to do."

She continues, "The National Mock Trial Competition is unique because you do not prepare your own witnesses with a scripted



**Future lawyers (L-R) Eve Brackman, Joseph Charles, Emily F. Burns, and Martin I. Aarons, who are first-place winners of the 2003 San Diego Defense Lawyers Invitational Tournament, savor a moment of calm in Grace Courtroom.**

response. Instead you are given witnesses whom you must prepare within a matter of fifteen minutes for the kinds of questions they will be asked. It adds an interesting element because you never know what you are going to get from your own witness."

#### LEVEL FIELD

What puts a bigger smile on the faces of future lawyers Alldredge, Johnson and Matulis is something they savor beyond words. The mock trial competition sets historically top-ranked, ivy-league schools on equal footing with other lesser known but academically competitive law schools. "Mock trial is a real eye-opener because judges rely on the strength of the arguments you present in court," according to Johnson. "No one will care about what school you come from or give you points for it. It is all a level field."

#### NOT FOR THE FAINT OF HEART

Hillan recalls what it was like back in 1989-1992. "When I was a law student, membership in the mock trial team was my single most challenging and rewarding experience. It is my goal as one of the coaches to enable students to feel just as positive about their participation in the program."

Hillan explains that time management becomes an art form for trial team members because the program is strictly extracurricular. "Clerkships, relationships, families, other organizations and programs, and classes tug at these students during a time when we ask 20-30 hours each week. The trial team isn't for the faint of heart or the poorly committed."

#### VOLUNTEER ALUMS

"Volunteer coaches play an indispensable role in the mock trial process," says Hillan. "We tap the expertise of various trial team alumni at specific points in out tournament preparation. Among them are cross-examination wizard Chris Lindberg of the DA's Office; Chris Hulbert and Ben Bunn who are both gifted in their ability to help students refine their case presentations as we near tournaments; Brian Worthington, who is a volunteer coach and judge during scrimmages; and Judge H. Lee Sarokin, our Distinguished Jurist in Residence, who presides over the final scrimmages."

Hillan credits their vision for keeping the team on top. "We are grateful for the generous time and assistance of these volunteer coaches and judges. They keep coming back. We know that they, like we, believe in the value of the mock trial process."

**The USD National Mock Trial Team is ready to roll as team members emerge from weeks of training. In the front row (L-R): Assistant Coach Lisa Hillan, Celeste Toy, Shauna Durrant, Jessica Mitchell, Huggy Price, Noel Fischer, Emily F. Burns, Jessica Matulis, and Head Coach and Program Director Corky Wharton. In the second row (L-R): Eve Brackman, Amy Bamberg, Amy Rose, Troy Atkinson, Kyle Rowen, Martin I. Aarons, Joseph Charles, and Theresa A. Alldredge. In the back row (L-R): Erik Liggins, John Elworth, Alfonso Morales, Ben Benumof, Paul Rizen, Jorge Alex Vargas, Shaka Johnson, and Sam Sherman. Teammates Ankush Agarwal, Megan Godochik, and Krishna Haney are not in the photo.**



# ALUMNI WEEKEND

October  
4-6,  
2002



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From top, left: 1. Rick Bernstein, Mary Lee Lindquist, Leland Welsh and Mike Angelo—all of the Class of 1977—gather at the All Alumni Reception Friday night at The Lodge at Torrey Pines. 2. Class of 1987 pals Kevin Barrett, Jeff Weaver and Greg Tavill enjoy a lighthearted moment at their Class Reunion Reception Saturday evening. 3. Dean Daniel Rodriguez welcomes guests to the All Alumni Dinner at the Hahn University Center Saturday night. 4. Trey McCormick chews on his dad's (James McCormick '97) name tag while mom Tricia McCormick smiles for the camera. 5. Walter Baechli '82 and Achim Lavermann '82 get set for a great day of golf. 6. Class of 1987 rules! Steve Romanoff and Bill LaVelle enjoy the sunshine at the Faculty-Alumni Golf Tournament at Riverwalk Golf Club in San Diego on Saturday morning. 7. Gary Schons '76 contemplates his next putt.



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From top, left: 1. Law Alumni Weekend 2002 began Friday afternoon with a ceremony to mark the addition of a rare 1541 printing of the Magna Carta as the ceremonial 500,000th volume of the Pardee Legal Research Center collection. 2. Dr. Iris Engstrand of the USD History department joins Dr. Kevin Starr, State Librarian of California, at the 500,000th Volume Induction Ceremony. Dr. Starr delivered the ceremony's keynote address. 3. Prof. Nancy Carol Carter, Director of the Pardee Legal Research Center, Dean Rodriguez and Dr. Frank Lazarus, USD's provost and academic vice president, accept the Magna Carta into the LRC's collection. 4. Deborah Davis and husband Michael Shames '83 at the All Alumni Reception. 5. Suzanne McQuaide, Beverly Busch, John McQuaide '72, and Dale Busch '72 are all smiles at the All Alumni Reception. 6. Associate Dean Kevin Cole, Prof. Emily Sherwin and Prof. Darrell Bratton share a laugh at one of the Class Reunion Receptions Saturday evening. 7. Achim Lauer mann '82, Melissa Joniaux '82 and Walter Baechli '82 are captured in a humorous moment.



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# A L U M N I W E E K E N D

# A W

# A Supreme Beginning



Justice Clarence Thomas (center), Judge M. Margaret McKeown and Chief Justice (ret.) Stanley G. Feldman Inaugurate the Paul A. McLennon, Sr. Honors Moot Court Competition



Story by  
George Decker  
Photos by  
Pablo Mason

“I’m in shock...Right now I’m feeling trepidation, fear and the desire to do well.”

Such was the reaction of USD law student Kara Keating-Stuart upon learning that she had won in the semifinal round of the first annual Paul A. McLennon, Sr. Honors Moot Court Competition on March 17, 2003, and would be arguing her case the following evening before a panel consisting of U.S. Supreme Court Justice Clarence Thomas, Judge M. Margaret McKeown of the U.S. Court of Appeals for the Ninth Circuit, and Chief Justice (ret.) Stanley G. Feldman of the Arizona Supreme Court.

Indeed, the thought of arguing before such an imposing panel of judges would no doubt generate similar reactions from even veteran litigators.

Having Justice Thomas come to USD to judge its final round topped off a superb launch for the McLennon Honors Moot Court Competition. The competition was established late last year through the generosity of USD law professor Michael Devitt and his family in honor of longtime family friend, attorney and naval aviator Paul A. McLennon, Sr. Its purpose is to give USD law students an opportunity to develop their brief writing and oral advocacy skills by focusing on one case, and to test these skills in an open, rigorous competition.

One of the first steps in getting the competition under way was to choose a case for the students to argue. Last fall, members of the Appellate Moot Court Executive Board collaborated with Prof. Leslie Oster, director of the law school's Lawyering Skills I program, to do exactly that. According to Nicole Hudspeth, the board's chair, the case selected for the competition—*Gerber v. Hickman*—was both “robust and controversial.”



*Gerber v. Hickman*, a Ninth Circuit decision that had been denied review by the U.S. Supreme Court, involved a life-term inmate at a California state prison who had sought but failed to get the prison's cooperation to facilitate the artificial insemination of his wife outside the prison's confines. The case presented compelling questions in the context of the Fourteenth and Eighth Amendments to the U.S. Constitution: (1) Whether preventing life-term inmates from procreating denies them due process and equal protection in violation of the Fourteenth Amendment; and (2) Whether depriving life-term inmates of that right constitutes cruel and unusual punishment in violation of the Eighth Amendment.

The competition is more than simulated appellate advocacy—it's also a course (in which almost 100 students enrolled for the spring 2003 semester) that involves three separate components.

First, students attend four mandatory classes taught by Prof. Devitt. Each class features guest speakers including appellate court judges, attorneys in appellate practice, and leading scholars in constitutional law. On January 27, 2003, for example, Prof. Devitt's class was standing room only when he moderated a panel discussion that gave his students remarkable insights into the legal issues of *Gerber v. Hickman*. Participating in the panel were USD law professors Yale Kamisar and Michael Ramsey, as well as the attorneys who actually had argued the case all the way to the U.S. Court of Appeals for the Ninth Circuit—Teresa Zuber (for the plaintiff-appellant) and California Deputy Attorney General Gregory Walston (for the defendant-appellee).

Students then write an appellate brief for either the petitioner or the respondent. Finally, students compete in two evenings of preliminary rounds in which they argue both sides of the case.

Thirty-two students advanced beyond the preliminary rounds. Through further competition that number was reduced to four semifinalists—Keating-Stuart, Jeff Singletary, Janet Gertz and Carrie Dolton—who argued before a panel consisting of Dean Daniel B. Rodriguez, Judge H. Lee Sarokin of the U.S. Court of Appeals for the Third Circuit (ret.) and Justice Richard D. Huffman of the California Court of Appeals, Fourth District.

"I thought all the students were fabulous," Judge Sarokin said immediately after the semifinal round. "My experience is that the caliber of the students is extraordinary and the devotion of our faculty and student advisors is remarkable."



**Jeff Singletary**  
arguing his case in  
the final round.



**USD President Alice B. Hayes with Justice Thomas.**

Only Keating-Stuart and Singletary remained in the competition on March 18, 2003.

The venue for the final round—the Peace and Justice Theatre in the Joan B. Kroc Institute for Peace and Justice—filled to capacity before the 6 p.m. starting time. After introductory remarks by Dean Daniel B. Rodriguez, Keating-Stuart, representing the petitioner, began her argument, which was interrupted soon thereafter by a question from Justice Thomas: “Should we focus on the right to procreate or should we focus on the right to artificial insemination?”

After answering Justice Thomas’ question, Keating-Stuart was peppered with more questions from Judge McKeown and Justice Feldman, giving her valuable experience in thinking on her feet and the opportunity to demonstrate her poise.

The panel wasn’t any easier on Singletary, who represented the respondent. Chief Justice Feldman, challenging the burdens on the prison Singletary was asserting, said to him, “You make it sound like this procedure will take 12 hours—maybe I’m missing something.” Singletary, not missing a beat, replied, “Well, it may not take 12 hours, but it may take 12 times.”

After hearing the finalists’ arguments, questioning them and then deliberating with his fellow final round judges, Justice Thomas announced: “This was an extremely close case. Counsel for the petitioner is the winner of this competition. I think it was a tough case and that there was a lot to this case—these are the cases that give us all gray hair. I’ve been to quite a few moot court competitions, and the material has never been better organized.” He went on to compliment Keating-Stuart and Singletary on their advocacy skills and told them that they had bright futures as lawyers.

Judge McKeown and Chief Justice Feldman also praised the finalists.

**“What you saw here was superb advocacy.”**

“What you saw here was superb advocacy,” said Judge McKeown. “They had intellectual agility. They answered our questions but got back to their message.” “We were very impressed by their storehouse of knowledge about the case and the law,” added Justice Feldman.

Before the final round, Justice Thomas, Judge McKeown and Chief Justice Feldman had spent the day meeting with USD law students, alumni, faculty and administrators. In one session, the judges answered questions—often controversial—posed to them by USD law students.

All in all, it was an exceptional day for the USD School of Law and a magnificent finish to the first annual McLennon Honors Moot Court Competition.



**Prof. Roy Brooks and Justice Thomas share a laugh.**



**Prof. Michael Ramsey, Prof. Yale Kamisar, California Deputy Attorney General Gregory Walston and Teresa Zuber discuss *Gerber vs. Hickman* in Prof. Devitt’s moot court class.**

# San Diego Law Review Turns

# 40

## Four Decades of Distinguished Scholarship and Sleep Deprivation



STORY BY GENEVIEVE T. SILVERIO

**A**ccording to an ancient Chinese proverb, a journey of a thousand miles begins with a single step. The *San Diego Law Review* took the first step in a remarkable journey of legal scholarship almost 40 years ago, in the fall of 1963.

It was at the start of the 1963-64 academic year that a delegation of top students from both divisions of the law school approached Acting Dean General George W. Hickman, Jr. and sought authority to launch a law review. Six months later, Volume 1 was published—and rather inauspiciously at that, with only one book totaling 143 pages.

In its Foreword, Hickman paints these fleeting images: *Our graduates are just beginning to make their presence known in local legal circles. The day school has less than 60 students and two-thirds of the student body study part-time. Moreover, only one hundred men and one woman have earned degrees since the school was founded, originally as a night school some ten years ago. And while the School of Law is small, the student body consists of many individuals with gifted minds and energetic personalities that the profession of law urgently needs.*

Today, the volumes of the *Law Review* brim with famous names. Of these, three are U.S. Supreme Court Justices—John Paul Stevens, Sandra Day O'Connor, and Tom C. Clark. Another is Stanley Mosk, the longest-serving justice ever to sit on the California Supreme Court. Here too is Leonard Fielding Chapman, a USMC general who implemented integration reform in the Corps and went on to become an INS director in the Nixon era. Adding a dash of pop culture is John Lennon's lawyer, Leon Wildes, who fought through five years of immigration

hearings, including four federal lawsuits, to get the former Beatle a green card.

The volumes also reflect the headlines of the day. For instance, when the United Nations declared seabeds beyond national boundaries as belonging to all mankind in the early seventies, the *Law Review* responded with a series of symposia on the *Law of the Sea*, framing the debates in its pages for scholars to read.

At forty, the *Law Review* is basking in the celebrity conferred this year by the *American Society of Writers on Legal Subjects (SCRIBES)* for the outstanding quality of one of its student comments.

#### QUEST

Keeping the *Law Review* on the leading edge is the goal of the SDLR Board. Although it has changed hands many times, the quest remains the same for the current board. "Our role is to further legal scholarship, gain respect in the legal community, and produce a perfect journal on time," says Amy M. Wood '03, Volume 40 editor-in-chief and the 13th woman to hold the office. Wood heads a board consisting of top students who have passed one of three

"Our role is to further legal scholarship, gain respect in the legal community, and produce a perfect journal on time."



1991 SDLR Board



**Charles Renshaw**



**John Roche**

challenges. "There are three ways to become a law review member: (1) by finishing in the top five percent at the end of the first semester of the first year, (2) by finishing in the top ten percent at the end of the first year, or (3) by successfully completing the write-on competition, which is a measure of students' writing and analytical skills, that takes place the week before the student's second year begins."

For those who succeed, the real work begins. Wood puts additional hours into her overstuffed schedule to pull it off. "On the average, my position requires about the same amount of hours as a full time job. As the publication deadline for each issue approaches, the hours are even more intense."

Others down the ranks are expected to do the same. Incoming 2L students are required to write a Comment and to complete cite-checking assignments before they are promoted to the rank of provisional SDLR Board members. Even so, each editorial board is in place for only one year, which makes the composition of each succeeding board

crucial to the *Law Review*. "We built on the success of previous boards and hope that future boards will build on our success. The selection of the Volume 41 Board was one of our most important duties and one of our most valuable contributions to the future success of the SDLR," explains Wood.

"Participating in the SDLR Board requires the same elements of our personalities that led us to the *Law Review* in the first place: hard work, determination, a great attitude, and an interest in law and the *Law Review's* impact on the legal community," says Rachel Tait, Volume 40 executive editor.

**IMPACT**

The impact the *Law Review* has had on the legal community can be gleaned from the applause Janet Dean Gertz '03 received this year in the prestigious SCRIBES Law Review Competition Award for "the best student writing in a law review."

Gertz shares the victory with her *Law Review* peers: "The attainment of the prestigious award is due in no small part

## Life and Times of the SDLR BY GEORGE DECKER

Among the stacks of the Pardee Legal Research Center, the collection of blue hardbound volumes of the *San Diego Law Review* from 1964 through 2001 track some of the leading issues—legal, political, socioeconomic and scientific—of those times, and feature the writings of leading figures over the years.

In 1964, Volume 1 began with an address then-Secretary of Labor (and later, USD professor of law) W. Willard Wirtz gave to the American Association of Law Schools annual meeting on December 29, 1963, in which he spoke of the impact of the assassination of President Kennedy just five weeks earlier. Five years later, while war was raging in Vietnam and college and universities across the U.S. were in turmoil, Volume 6 of the SDLR included a comment by then USD law student James R. Goodwin titled *Draft Card Burning Denied Symbolic Speech Protection Under Governmental Interest Rationale*.

Meander down the book stack to the volume labeled 1991, when Communism was either dying or already dead in Eastern Europe. In its pages, an article by Nova University law Professor Mark Rohr—*Communists and the First Amendment: the Shaping of Freedom of Advocacy in the Cold War Era*—helped explain the demise of the Soviet bloc. And almost at the end of the SDLR books, Volume 38 (2001) featured a discussion of the U.S. Supreme Court's resolution of the hotly disputed 2000 presidential election, in *A Brief Exchange on Bush v. Gore*, 531 U.S. 98 (2000).

In addition to the famous names mentioned earlier, over the past 40 years SDLR authors have included Senators Hubert H. Humphrey, Edward M. Kennedy, Sam Ervin, Alan Simpson, and Claiborne Pell; Attorneys General Elliott Richardson, Griffin Bell and William French Smith; and Nobel Prize-winning economist Milton Friedman, among other distinguished newsmakers.

## San Diego Law Review Editors in Chief, 1964 to Present

### 60s

Charles C. Renshaw, 1964 v. 1  
John L. Roche, 1965 v. 2  
Alonzo K. Wood III, 1966 v. 3  
John J. McCabe Jr., 1967 v. 4  
Peter H. Flournoy 1968 v. 5  
Richard Peter Sax 1969 v. 6

### 70s

Peter K. Nunez 1970 v. 7  
Alan M. Winterhalter 1971 v. 8  
Ignazio J. Ruvolo 1972 v. 9  
Michael J. Weaver 1973 v. 10  
James Robert Miller 1974 v. 11  
Jack Wm. Hodges 1975 v. 12  
Merribeth Boisseau 1977 v. 15  
Kathryn Lori Partrick 1978 v. 16  
Henry E. Heater 1979 v. 17

### 80s

Douglas H. Barker 1980 v. 17  
Henry E. Heater 1981 v. 18  
Susan B. Hall 1982 v. 19  
Julianne B. D'Angelo 1983 v. 20  
Thomas A. Dombrowski 1984 v. 21  
June E. Fisher 1985 v. 22  
Theodore J. Boutrous Jr. 1987 v. 24  
Thomas E. Courtney Jr. 1988 v. 25  
Lance L. Shea 1989 v. 26

### 90s

Faye H. Russell 1990 v. 27  
David P. Ruth 1991 v. 28  
Kristine S. Karila 1992 v. 29  
Michael M. Blazina 1993 v. 30  
Christian D. Humphreys 1994 v. 31  
Deborah E. Parker 1995 v. 32  
Kathryn F. Horning 1996 v. 33  
Heidi Maley Morrow 1997 v. 34  
Charles B. Witham 1998 v. 35  
Kerry Lee Wallis 1999 v. 36

### 00s

John A. Jurata 2000 v. 37  
David A. Hepler 2001 v. 38  
Kelly A. Leggio 2002 v. 39  
Amy Wood 2003 v. 40



Amy Wood



Justice Ignazio Ruvolo

to the high standard of quality set by the *Law Review* editorial board as well as the dedication and hard work of members who pored over the Comment for form and substantive integrity."

Many find membership on the board to be rewarding in a number of other ways.

"Writing skills, research skills, communication skills, problem solving, and the ability to work independently, and as part of a larger group, serve students well in the workplace," says Wood.

Still others aspire to membership on the SDLR Board to knock down doors. "For some jobs and judicial clerkships, *Law Review* membership is a requirement," Wood continues, "*Law Review* membership and especially editorial board positions are prestigious in the legal community and looked highly upon, even when not required. Furthermore, editorial positions tend to stay on lawyers' resumes throughout their entire careers."

In the case of one alumnus, the distinction remains on the resume after thirty years.

### LASTING RECORD

The website for the First Appellate District of the California Court of Appeals tells you two things up front about the Honorable Ignazio "Nace" Ruvolo '72. First, that he graduated *magna cum laude* from the USD School of

Law. Second, that he was *Law Review* editor-in-chief that same year.

Ruvolo describes Prof. Larry Alexander, the SDLR faculty advisor then as he is now, as "a brilliant mentor who helped foment his intellectual curiosity." Ruvolo and his team are also known for a tradition that has been passed down through the years—the write-on competition.

It was on his watch that the United Nations passed a resolution declaring areas of the ocean floor, with its subsoil and resources, beyond the limits of national jurisdiction to be the common heritage for mankind and were therefore to be explored and exploited for all.

Ruvolo recalls, "For a period of years international attention was focused on proprietary and pre-possessory rights that countries had over the seas that affected mineral rights, international passage, and environmental pollution. The *Law Review*, in response to the issue, hosted a series of annual symposia on the 'Law of the Sea' which was a novel idea at the time for a law review to do. For that reason, you will find in the *Law Review* of the early seventies articles written by the protagonists of the debates the symposia engendered."

What does the future hold for the *San Diego Law Review*? If past is prologue, then the *Law Review* should have a very bright future indeed. And, as everyone knows, life begins at 40.

# 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@sandiego.edu](mailto:lawalum@sandiego.edu).**



**Alexander Imberg '97**



**Edwin McPherson '82**

## '69

**T. WORTHINGTON VOGEL** has been promoted to Assistant District Attorney for Fresno County. He brings 30 years of experience to the job, having supervised the DA's municipal, juvenile, felony and sexual assault prosecution teams. Worth also spent the last 12 years as Chief of the Juvenile Unit, and is recognized as an expert in the area of juvenile justice.

## '73

**GROVER C. TRASK II** is marking his sixth term as Riverside County District Attorney this year. He was recognized in 2002 by the Los Angeles/San Francisco Daily Journal as one of the top 100 most influential lawyers in California. He serves on the board of the American Prosecutor's Research Institute (APRI).

## '76

**LARRY D. ROSENSTEIN** celebrated his 25th year in private practice with expertise in worker's compensation law. He was also elected to the Board of Trustees of Temple Israel of Hollywood, CA.

## '78

**JACK JACOBSON** was recently appointed to the Stanislaus County Superior Court bench. He had been in civil practice in the Modesto area for several years prior to his elevation to the bench, concentrating in insurance and public entity defense work.

**FREDERICK SCHENK** was named by California Governor Gray Davis to the Board of Directors, 22nd District Agricultural Association (Del Mar Fair Board). He was one of the attorneys to represent Governor Davis in the successful resolution of the State's tobacco litigation.

## '82

**KAREN E. BLACK** recently published her first novel, *Code of Conduct*, a fictional prisoner-of-war account inspired by the recollections of her husband and his companions about their prisoner-of-war experience in Vietnam.

**EDWIN F. MCPHERSON** is a partner with entertainment firm McPherson & Kalmansohn and is the chief counsel for the band Great White, which was playing when a fire broke out at a club in West Warwick, Rhode Island. He recently appeared on Good Morning America, CNN with Connie Chung, Fox News, ABC, MSNBC, NBC, CBS, The Today Show, and in a radio interview with Howard Stern.

*Need a visa? Ei se mitään (or as this Finn says, "no problem")*

## When Kathrin Mautino '90 Talks, the INS Listens



When Kathrin S. Mautino '90 is not dazzling the crowd as champion dancer at the Southwest Regional competitions or attending state galas as the Honorary Consul for Finland, you will most likely find her behind her desk at Mautino and Mautino in downtown San Diego. Her office is just past the hallway that bears the

blue and white flag of Finland and holds the trophies of her victories as a diva of dancing. Like most of us, she is buried in work, which seems more insurmountable the more you understand what she does in her practice—she is a certified specialist in immigration and nationality law.

But unlike the rest of us she is in a class by herself. Judges have their gavel to mark their authority. Mautino has her famous satin heels and the seal of Finland. In a corner of the room, her old, worn dancing shoes with the indestructible steel shank that juts down the two-inch heel reminds one of the battles she has won and the others she intends to win. She had used that same heel to bang on a desk once.

Mautino laughs at the Nikita Khrushchev impersonation. "After that, no one on the law review staff ever again made fun of ballroom dancing—the shoe dented the table," says the former immigration editor of the *San Diego Law Review*. The moment reveals the passion that underlies her dry wit and cool demeanor.

So what is an American lawyer doing in a Finnish consulate? Mautino was born in Helsinki, where her father was a diplomatic and consular officer at the U.S. Embassy. It was a good place to raise a family, and thus Mautino has her father to thank for her present position. When the previous honorary consul retired in 2000, she was one of six nominated to the San Diego post. The Finnish government approved her appointment in August 2000 and the US government confirmed her selection and conferred the status of diplomat with full use immunity in 2001. The immunity, to anyone who has ever fought for a parking spot and failed, extends to parking tickets in downtown's congested streets, but only when the parking violation is related to her consular duties.

Mautino and Mautino is a father and daughter practice that specializes in the fields of immigration, citizenship, and nationality law. Both are California State Bar certified specialists in immigration and nationality law. Both are USD School of Law alumni. Her father Robert A. Mautino '72 is one of the few nationally recognized experts on the subject of United States

citizenship law and has been active in federal court litigation against the INS, especially in mandamus and declaratory relief actions.

"In 1994, my father and I had a pact that we would try this arrangement for six months. If it didn't work out, we would go quietly on our own separate ways." Before then she was with the Immigration Court in Los Angeles as one of the Attorney General Honors Program designees and then spent two years with a large firm in San Diego. A J.D. *cum laude* and Spanish Literature undergraduate degree made her an excellent choice to groom for either a government post or a large firm career. However, office politics deflected her passion for the law and, as promising as her career prospects were, it was time to move on.

Mautino sifts through a hefty sheaf of 25 or so phone messages in her hand during her lunch break. "This is just half the stack I get each day. I have to choose between returning these calls and reviewing the 40 or so administrative cases I track on an average day."

The firm is a godsend to foreign nationals who are anxious about the passage of the Patriot Act. Caught in the sudden turn of events, they want to comply with the law and avoid the trouble the new restrictions pose to non-citizens. Some are entrepreneurs, a few are students, others are skilled workers needed desperately in the high tech and health care industries, several seek asylum—but all seek a better life and legitimacy under the new Act.

However, by the time they get to Mautino, many have learned a hard lesson about the seamy side of life in the big city. "There are many unscrupulous operators out there who dupe these folks into forking out \$5,000 or so in exchange for fake papers and false promises." It is the biggest challenge to the profession according to Mautino. "But once they find us, word travels fast in the community."

"The law has not changed, but the process has," Mautino says. "With the establishment of the Department of Homeland Security, the Immigration and Naturalization Service, as we used to know it, no longer exists. Because of the reorganization, it now takes longer to process papers because applicants are screened against criteria that are in transition. Moreover, processes that were once in the jurisdiction of the INS are being transferred out to other entities under the homeland security umbrella.

Mautino estimates the wait for a visa to be as long as seven years. In the meantime, her clients are finding shelter from the storm under the unlikely sign of the blue cross on the white flag.



## Michael Lynn Gabriel '82 Makes an Offer President Bush Can't Refuse



Michael Lynn Gabriel '82 is turning heads in Washington. The tax and estate planning attorney based in San Mateo, California presented a tax proposal that may very well be the best piece of legislation that could come out of President Bush's Economic Stimulus Package. And you don't even have to be a Republican to like it.

It was the recent meltdown in the stock market and the resulting loss of billions of retirement savings that inspired Gabriel to put his idea on paper.

"The proposal, if enacted, would permit all Americans to invest their IRA and retirement funds into their homes as legitimate retirement investment. A change in the tax law will allow nearly 50 million Americans to own their homes years if not decades sooner without costing one dime in tax revenue," says Gabriel, who was honored with the Republican Gold Medal Award for his idea.

"It was the most personally satisfying award for me," Gabriel continues. "The gist of the proposal is quite easy to understand and remarkably simple given the wide breadth of benefits it bestows to working Americans." Within the past several months, Gabriel has received two other awards: the California Businessman of the Year, at a ceremony in Washington, DC, and the California Republican of the Year Award from Tom Davis, chairman of the National Republican Congressional Committee.

Gabriel explains how the law reads today: "As the tax law now exists, Americans can use no more than \$10,000 of their IRA account for a home purchase without incurring a ten percent penalty under Section 72 of the Internal Revenue Code. The \$10,000 is furthermore subject to the immediate tax as an IRA distribution. Right now, if a couple has \$100,000 in an IRA and wish to invest in a home, the first \$20,000 would be free of the ten percent early withdrawal penalty but the remaining \$80,000 would be subject to tax. The \$100,000 would also be subject to income tax. Assuming a 32 percent total tax, that means of the \$100,000 only about \$60,000 would be available to invest in the home."

His pitch has major appeal. "My proposal, or should I now say 'The Republican Plan' would allow all Americans to invest their retirement funds into their homes the same as the other types of approved investments. The current status of the law permits IRAs to be invested into real estate provided the taxpayer is not involved

with the property, meaning that he or she cannot live on the real estate. Otherwise, such investments are considered prohibited transactions under Section 4975 of the tax code."

"With this proposal, Americans would be permitted to open Home Investment Accounts (HIAs) whereby IRAs and possibly other retirement funds could be used to purchase their homes. There would not be any penalties for investing into the accounts nor would the investments engender any immediate taxes as an IRA distribution until the taxpayer attains 70 years of age. Only upon reaching 70 years of age would the taxpayer start paying taxes on the value of the IRA account pursuant to the same schedule now in effect."

Gabriel says it also includes a nest egg provision. "Moreover, the funds invested into the HIA would be free from attachment of creditors the same as any ERISA investment. The HIA investment can be reinvested into other homes or transferred into a normal IRA upon sale of the home."

Under the current law, Americans can invest \$3,000 in an IRA each year, rising to \$3,500 if over age 55. For a couple, that means \$7,000 per year is available to reduce the principal of their home loans in addition to investing whatever they currently have in their IRAs.

Gabriel underscores the payoff: "As the median price of homes in the United States (not including the Bay Area) is around \$140,000, that means that by using an IRA investment, couples can pay off their homes within 15 years as opposed to paying it out over a straight 30-year mortgage."

Today Gabriel is grateful for the opportunity to serve on the Congressional Business Commission and the GOP's Business Advisory Council. We may hear more from him as he works behind the scenes with an all-inclusive agenda in mind. "The Republican Party has given me the opportunity to utilize my legal education from USD to provide assistance and advise to congressional leaders on both business and legal matters. I have used these positions to promote business and legal positions favorable for job creation, tax reduction, and programs that are socially beneficial to all Americans."

An entrepreneur in his own right, Gabriel is the president of Attorney Et Al, LLC, which provides continuing legal education (CLE) services in Nevada, California and Colorado. He has written 17 legal books and has served as Judge Pro Tem for the superior courts of Kern and Los Angeles counties. In addition, he served on the State Bar of California's Committee on Corporate Taxation and as Special Master for the State Bar.

# '87

**ANDREW J. LISKA** recently moved his practice to Nugent and Newnham. He serves as Judge Pro Tem in small claims and traffic court of the San Diego Superior Court.



**Jeffrey A. Snyder '90**



**Jim Ward '91**



**William E. O'Neil '96**

# '88

**FRANK BITZER** has been appointed to the IRS Tax Exempt and Government Entities Midwest Region Joint Task Force in January 2003. He published his third book on employee benefits law, *"The Insider's Guide to DOL Plan Audits."* His other books are *ERISA Facts* (1998) and *Benefits Facts* (2000). Frank and wife Dana have two sons: Griffin, born 1999, and Quinn Joseph, who will be a year old in August.

# '90

**JEFF SNYDER** celebrated the birth of first son David Christopher, born February 2003. His wife Jeanese and older daughter Natalie are doing great. Jeff is a shareholder at the firm of Thoits, Love in Palo Alto, CA, which he says is "a great town in which to live, work and raise a family."

# '91

Nora Smyth called to say that her husband, **MICHAEL THOMAS SMYTH**, was elected to the San Diego County Superior Court bench last year, and was sworn in in January 2003.

**JIM WARD** was appointed to head the Office of Patent Counsel at the Space and Naval Warfare Systems Center (SPAWAR) in San Diego, CA by the U.S. Navy Office of the General Counsel. He was formerly a senior patent attorney in the Office that handles worldwide patent and trademark prosecution and licensing activities for SPAWAR.

**BARRETT KIERNAN**, who is based in San Diego, CA, has been named senior member of Cozen O'Connor, a full service law firm with more than 450 attorneys in 17 offices across the United States and in its international office in London.

# '95

**SHARON DOORLAY NAGLE** and her husband Bill Nagle '95 recently welcomed their third child, William Henry. He joins Katie, 2, and Ryan, 3. Bill Nagle continues to practice general litigation at Bowles & Vema in Walnut Creek, CA. Sharon practices part-time at the Law Office of Thomas Nagle. She serves on the Board of Directors for the Contra Costa Bar Association and the California Association of Young Lawyers (CYLA).

# '96

**WILLIAM E. O'NEILL** opened his own practice in San Diego, CA. He specializes in general civil litigation, personal injury, employment disputes, business disputes, and professional liability.

# '97

**DENA ROUDYBUSH** recently began serving as General Counsel for Mortgage & Equity Funding Corp., which has offices in Maryland and Virginia. She and her husband Rich had their second baby boy, Ian, on June 22, 2002.

**ALEXANDER P. IMBERG** recently became a partner at Carroll, Burdick & McDonough LLP, in San Francisco, California, rejoining it after two years with a law firm in Stuttgart, Germany.

# '98

**CYNTHIA M. HART** married Dr. David Kaiden in October 2002 and recently purchased a home in Mt. Helix, San Diego.

## class action

**SHANNON W. MARTIN** is an associate in the litigation group of Lane Powell Spears Lubersky, LLP in Anchorage, AK. Shannon concentrates his practice on litigation matters, commercial disputes and oil and gas law.

**THOMAS KRITZIK** is one of nine recipients selected by the State Bar of California for the 2002 President's Pro Bono Service Awards. Krtzik was nominated for the award by Carl Poirot, the executive director of the San Diego Volunteer Lawyer Program (SDVLP) for the quality of his work, and who has since hired Krtzik as a staff attorney.

### '99

**DR. THOMAS BUETTNER** made partner this year at Forstmann, Kleist & Partner in Frankfurt, Germany. The law firm specializes in health law, food law, the law relating to medicinal products and medical devices, and competition law.

### '02

**CHRISTOPHER J. CAPALBO** is with the Central Pre-Trial Unit of the San Diego District Attorney's Office's Central Operations and Family Protection Division.

## In Memoriam

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

### Alumni

**BILL OTA '99**, who had served as president of the law school's Student Bar Association, died in a snowboarding accident. Before his death, he had practiced law in Fresno. "He was known to his colleagues as an enthusiastic, affable and energetic student leader," says Dean Daniel B. Rodriguez. "He will be missed."

**MICHELLE MARIE DAVIES '03** died May 17, 2003 by accident near Catalina Island while scuba diving.

### Challenger of Excessive Punitive Damages Awards

## Alumnus Makes *The American Lawyer's* "45 Under Forty-Five" List

**T**heodore J. "Ted" Boutrous, Jr. '87 was highlighted in *The American Lawyer's* January 2003 issue as one of its "45 Under Forty-Five"—that is, one of the 45 highest-performing members of the private bar in the United States under the age of 45.

A partner in Gibson, Dunn & Crutcher's Los Angeles office, Boutrous, 42, co-chairs the international law firm's Constitutional Law and Media Law practice groups, and serves on its Management and Executive committees. He is best known for his successful constitutional challenges to punitive damages.

Boutrous, whom the *Advocate* profiled in its Fall/Winter 2001-2002 issue, and the other 44 lawyers on the list were selected on the basis of the following criteria, according to *The American Lawyer*: "We looked for prodigies who had already notched a major trial win or complex deal, for those who had established remarkable records of professional development, for those who could point to an independent book of business, for those who might have overcome adversity. We also looked far and

wide. It would be possible to construct a list of 45 young bankruptcy specialists whose accomplishments were noteworthy (particularly in this market), but we wanted to draw from many walks of law."



Ted Boutrous '87, chats with U.S. Supreme Court Justice Clarence Thomas in San Diego on March 18, 2003.

# honor roll



## School of Law Annual Fund

**W**e are pleased to present the University of San Diego School of Law's Annual Report on Giving for the fiscal year 2001-2002. Our thanks go out to alumni, friends, law firms, companies, foundations and students for their generous contributions this past year.

Your financial support has an immense impact on the School of Law and its ability to provide students with a first-rate legal education. Each year a new class of USD Law alumni joins the ranks of lawyers and professionals who have gone before them. Your gifts provide the basis for ensuring that these graduates are fully prepared for their new careers in the law and for a life of service to the community. In addition, your financial assistance fosters the kinds of research and scholarship that have helped position our faculty among the most distinguished law faculties in the country. Most importantly, you make it possible for more students from the most diverse backgrounds to attend the law school, regardless of their financial means.

This past year, contributions were made to support a variety of areas, including faculty endowment, financial aid, legal clinics, the Legal Research Center, the Center for Public Interest Law, and the Children's Advocacy Institute. Alumni and friends alike made gifts through the Law Annual Fund and the Maudsley Fellows Giving Society, our most loyal and distinguished group of benefactors.

To everyone listed in these pages, thank you for your generosity. If you were unable to contribute in 2002, we hope that this year you will be able to join the thousands of alumni and friends whose donations have helped move USD upward through the ranks of nationally recognized law schools. Your generous contributions are essential to the future of our school and our students.



**David Norris '90 and Helen Chao '93 are collaborating to boost alumni participation in the School of Law Annual Fund.**

# honor roll

## Dean's Circle

*The Dean's Circle, founded in November 1995, recognizes those individuals and organizations whose cumulative philanthropy through June 30, 2002 to the USD School of Law totals or exceeds \$100,000. USD is most grateful to these members of the Dean's Circle.*

California Department of Justice  
 The California Wellness Foundation  
 Carthage Foundation  
 Community Defenders Inc.  
 The ConAgra Foundation Inc.  
 Mrs. Fiorenza Courtright Lucas  
 Professor and Mrs. Kenneth C. Davis  
 Friend of USD  
 Mr. and Mrs. Charles M. Grace  
 Arthur A. Herzog Family Trust  
 Maximilian E. & Marion O. Hoffman Foundation Inc.  
 The James Irvine Foundation  
 Rose M. and Arthur H. Kaplan  
 Kresge Foundation  
 Los Angeles County Department of Health Services  
 Pacific Mutual Foundation  
 Katherine M. and George M. Pardee Jr.  
 Parker Foundation  
 Helen and Sol Price/Price Charities  
 Public Utilities Commission's Telecommunications  
 Education Trust  
 Roman Catholic Diocese of San Diego  
 Rosenberg Foundation  
 San Diego County Bar Association  
 Scaife Family Charitable Trust  
 Mr. and Mrs. James E. Spain Jr.  
 The State Bar of California  
 Michael T. '68 and Carole J. Thorsnes  
 U.S. Department of Education  
 Mr. and Mrs. Frank R. Warren  
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**The Community Service Grant allowed me to spend last summer working at the Southwest Center for Asian Pacific American Law, helping those who would not otherwise have access to the legal system. I interviewed clients in both English and Mandarin, helping them to resolve family law and immigration issues by preparing petitions under the Violence Against Women Act and for political asylum. I also had the opportunity to help start a free monthly legal workshop geared toward the San Diego Chinese community, and prepared materials for a wage and hour clinic. The experience taught me the importance of access to our legal system for all residents regardless of nationality or income level.**

**Nathan Thomas '04**

# honor roll



The Community Service Grant gave me the opportunity to explore a legal career in public interest law and give back to the Arizona community. Last summer I worked as an intern at the Arizona Center for Law in the Public Interest. While I was at the Center, I researched First Amendment issues as they pertained to the state's power to levy a surcharge upon certain criminal infractions to raise money for Arizona's Clean Elections Fund. I was fortunate to be working on this litigation while it was brought before the Arizona Supreme Court last August. In addition, I researched and drafted legal memoranda regarding public trust issues in pending environmental litigation involving Arizona's Corporation Commission and educational funding system.

**Amanda Holguin '03**

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USD awards a number of Community Service Grants to law students each summer through a competitive process. The grants create opportunities for law students to enhance their education through work at community-based non-profit organizations. In addition to obtaining experience and furthering their education, the students are personally enriched by their service to the community.

### 2002 COMMUNITY SERVICE GRANT RECIPIENTS

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Elizabeth Brennan	<i>Utility Consumers' Action Network</i>
Karolyn Cardamon	<i>San Diego Volunteer Lawyer Program</i>
Heather Cassidy	<i>AIDS Legal Referral Panel (ALRP)</i>
Jack Dailey	<i>Legal Aid Society of San Diego</i>
Joseph Goodnight	<i>Casa Cornelia Law Center</i>
Fredrick Gotha	<i>YWCA Legal Advocacy Program for Domestic Violence</i>
Amanda Holguin	<i>Arizona Center for Law in the Public Interest</i>
Camille Joy Johnson	<i>Facilitator's Office</i>
Ross Meiners	<i>Elder Law and Advocacy</i>
S. June Miyagishima	<i>Dependency Court Legal Services, Inc.</i>
Merrilyn Onisko	<i>Arab-American Anti-Discrimination Committee</i>
Chris Polychron	<i>San Diego Baykeeper</i>
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James Treglio	<i>Fair Housing Council of San Diego</i>
Eugenia Wang	<i>Fair Housing Council of San Gabriel Valley</i>
Rita Warm	<i>San Diego Volunteer Lawyer Program</i>
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**This past summer I was awarded a Federal Community Service Grant to work in San Francisco at the AIDS Legal Referral Panel (ALRP). ALRP provides free legal services to individuals suffering from HIV or AIDS. Working at ALRP was an incredibly unique experience. My clients were sick and many were dying. On a daily basis I assisted them, both in person and over the phone, with such legal issues as wills, powers of attorney and discrimination. It was indescribably rewarding to know that my work was improving a sick individual's quality of life. Every time I witnessed the signing of a will, or drafted a power of attorney, I was met with relief and gratitude from my clients. Over the course of the summer I developed critical legal skills. More importantly, the experience affirmed my personal desire to practice law and my belief that the legal profession is one marked by integrity and humanity.**

**Heather Cassidy '04**

# honor roll

**For the month and a half I worked at the Domestic Violence Clinic, I became very familiar with all the forms necessary for clients to file for civil harassment and elder abuse restraining orders, kick-out orders and requests for child custody. I informed clients about the cycle of domestic violence as well as about the restraining order process in general. I interacted with clients daily and became better and more efficient each day at listening to their unique situations. Working at the Domestic Violence Clinic has allowed me to help others to break the cycle of verbal, mental, physical and sexual abuse. In addition to assisting victims, I gained invaluable experience in dealing with clients and really listening to them with a sympathetic yet professional ear.**

**Karolyn Cardamon '04**



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Last summer I had the opportunity to work for Michael Shames '83 at the Utility Consumers' Action Network (UCAN) in San Diego. The Community Service Grant provided me with an exciting internship where I helped San Diego consumers who were having service problems with local utilities. I drafted legal documents, conducted legal research and interacted with local consumers. Without the grant, I would have had to leave San Diego to obtain summer employment. I felt fortunate to stay in San Diego because this is where I ultimately plan to practice law. My internship with UCAN enabled me to increase my legal skills, and I was able to make contacts with members of the San Diego legal community.

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**I am a recipient of the University of San Diego School of Law Alumni Scholarship for Spring 2003. It is with the utmost gratitude that I write this letter thanking you for the generous gift.**

**With the receipt of this scholarship, I have been able to continue my rigorous studies of law and many extra-curricular activities here at school and in the San Diego community, without the added pressures of additional employment and with some relief to the mounting school-loan debt. For example, as Editor-in-Chief of the San Diego International Law Journal, Volume 4, the scholarship permitted me to devote at times 16 hours per day on editing the forthcoming journal that is expected to be approximately 568 pages.**

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**I would like to take this opportunity to express my deep gratitude for the generosity of the Law Alumni Association. Thank you for selecting me as a recipient of the Alumni scholarship...My experiences at the University of San Diego School of Law over the last two years have been truly amazing. I had opportunities to learn from wonderful faculty, work with talented administrators, volunteer for life-changing organizations, and participate in numerous law school activities and competitions. Your scholarship has made all of that possible for me. You can be confident that I will continue to give my best efforts in continuing my educational and professional endeavors. I will never forget the honor that you have bestowed upon me. Thank you!**

**Molly Selway '04**



# honor roll

I am very grateful to have been a recipient of the coveted Community Service Grant. It was my privilege to work in the Facilitator's Office in the San Diego Superior Court, Family Law Division, assisting *in pro per* litigants, primarily, with divorce filings, child custody and visitation, child support and restraining orders. Besides learning much about legal writing, I was able to observe numerous courtroom proceedings. The services provided by the Facilitator's Office are vital to the local community and I am fortunate to have been a part of that work. It was extremely rewarding. It felt good to know that I could assist individuals in navigating the complex court system and accomplishing their goals. Helping others while significantly contributing to my legal education made for a positive and productive experience. Thank you.

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I am writing to express my sincere gratitude for being selected as a recipient of the Warren Family Endowment for Student Assistance scholarship for the 2002-03 academic year. Your generous gift towards my legal education at the University of San Diego will be a great benefit to me. As a proud recipient of this award, I will continue to strive for academic excellence as well as find ways to continue to contribute to our school and the legal profession.

**Jae K. Park '04**

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**AUGUST 21, 2003**

Incoming Student Orientation  
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Fall 2003 Recruiting Program  
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**SEPTEMBER 6, 2003**

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Alumni Association Brown Bag for 1L Students  
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USD School of Law Distinguished Alumni  
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**Professor Terry Player** (second from right) enjoys a lighthearted moment with students at the Dean's Kegger on March 4, 2003.

parting shot



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