SPECIAL COMMENCEMENT EDITION

THE DOCKET

UCLA SCHOOL OF LAW

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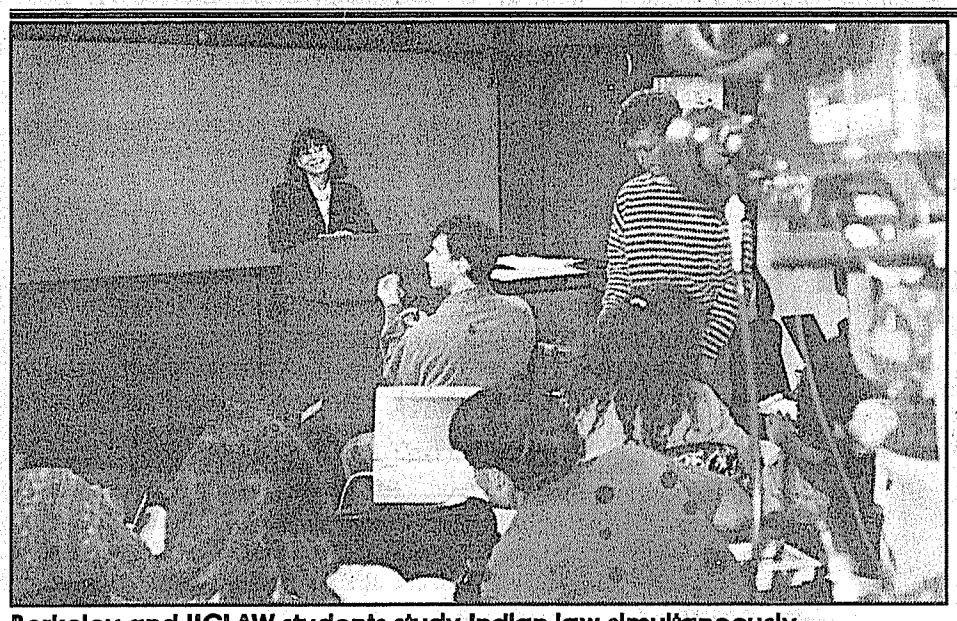


Berkeley and UCLAW students study Indian law simultaneously.

UCLAW Alum of the Year Named for 1994 and 1995

By Gerardo Camacho

Every year the UCLA School of Law Alumni Association undergoes the difficult yet enjoyable task of choosing the winners of the Alumni of the Year Awards from among the Law School's many exemplary alums. There are two Awards given each year, one for Public/Community Service and one for Professional Achievement. The 1994 Alumni of the Year Awards were not announced last year so four Awards were given this year at the Annual Dean's Dinner hosted by Dean Susan Prager.

The 1994 Alumni of the Year Award for Public/Community Service went to Legislator Henry A. Waxman ('64), and the 1994 Award for Professional Achievement went to Justice William A. Masterson ('58). The 1995 Awards were presented to Antonia Hernandez ('74) for Public/Community Service and Kenneth Ziffren ('65) for Professional Achievement. Each honoree accepted his or her Award with UCLA-like integrity and aplomb, beginning with Congressman Waxman, the first alum honored.

"I want to thank the UCLA School of Law because some very important points came through to me when I came here," began Waxman. "I saw that learning law was not just to earn a livelihood, but that the law could make a real difference in the lives of people. I came away with a conviction that public service is a very important job for all of us."

Representative Waxman was born in Los Angeles and currently represents California's 29th Congressional District. Prior to his twenty-two years of congressional service

WHITE HOUSE LETTER
SEE PAGE 15

Waxman served three terms in the California State Assembly where he was chairman of the Health Committee, the Committee on Elections and Reapportionment and the Select Committee on Medical Malpractice. He is author of such major legislation as the Fair Campaign Practices Act, the Fair Credit for Women Law, legislation establishing standards for Health Maintenance Organizations in California and was the primary author of the Clean Air Act of 1990.

The next alum to be honored was Jus-

To ALUMS on p.15

The Road to Roscoe Pound

A Moot Court Guide For Ambitious 1Ls

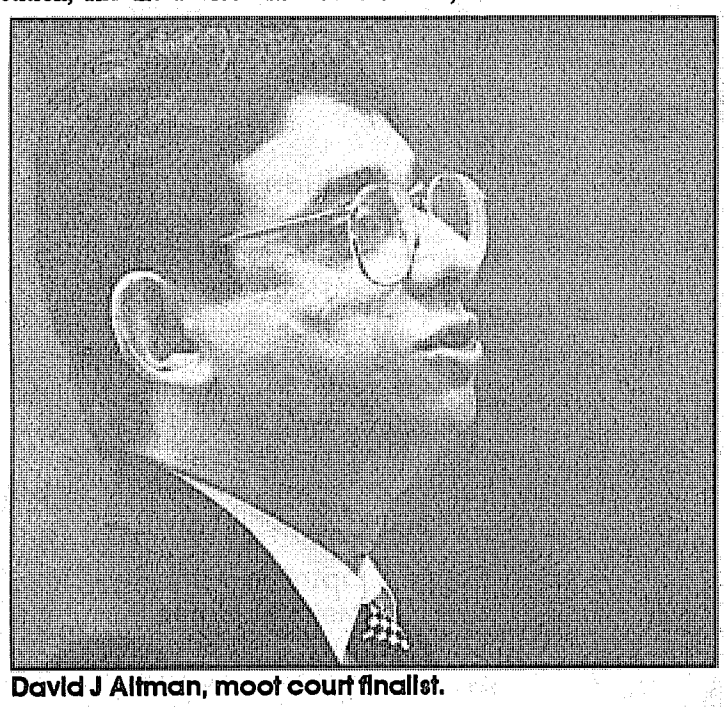
By David J. Altman

The road to the Roscoe Pound Tournament, the ultimate pinnacle of the UCLA Moot Court competition, is strewn with peril. Although more people participate in Moot Court than Law Review (200 advocates this year alone), there is much less institutional knowledge about Moot Court than virtually any other voluntary law school activity. There are no great guides detailing how to do well in the competition, and the advice most heard from veterans is "Do what works for you". Gee, thanks, that's useful.

Indeed, there seems to be a complete lack of hoopla surrounding the event. Perhaps because of all the above factors, most participants are pretty blasé about the moot court competition — at least until competition actually starts.

The major conflicts of, and pain associated with, the moot court competi-

To MOOT on p.14



David J Altman, moot court finalist.

Goldberg-Ambrose Goes "Live" With Indian Law

First Use of Law School's New Technology

by Robert Jystad

"Berkeley, can you hear me?"

Professor Carole Goldberg-Ambrose stares ahead into the camera hoping for a response and, as soon as she hears it, launches into her course on Federal Indian Law. The course is being "simulcast" to UCLA and UC Berkeley law students.

It is the first law school course to use the UCLA Distance Learning Center. The Distance Learning Center is a fully equipped television studio capable of transmitting UCLA courses to similar facilities at other UC schools via a closed circuit computerized network. To date, it has hosted such courses as Armenian History, Religions of Ancient Iran, Turkish and Greek.

"What I really like is saying 'gesundheit' when someone at Berkeley sneezes," said Professor Goldberg-Ambrose.

There have been minor technical problems, but they rarely interfered with the course. On a couple of occasions, audio connections were lost and both classes waited briefly while the problem was repaired. One time, Goldberg-Ambrose was in the middle of discussing the midterm

To BERKELEY on p.14

Alumna of the year Antonia Hernandez. (UCLA FILE PHOTO)

GTE Foundation Gives $350,000 to Library

The GTE Foundation has made the largest corporate grant ever received by the UCLA Law School to help fund the Hugh and Hazel Darling Law Library building project. UCLA has agreed to recognize the $350,000 grant by naming a major conference room in the new library for GTE.

Dean Susan Prager, reflecting on the grant said: "We are indebted to a number of individuals at GTE, both here in California and at the corporate headquarters in Stamford, Connecticut for their interest in and support of our library project. I am convinced that a grant of this magnitude from GTE will not only help us complete the private fundraising effort for our library project but will draw the attention of other corporate donors to the law school and to UCLA."

Made near the end of calendar year 1995, the GTE grant was a crucial piece in helping the law school compete for The Kresge Foundation's $1-million challenge grant. "Without the GTE commitment, which demonstrated corporate interest in the library project, I am certain we would not be in the position we are today with respect to the Kresge Challenge," Dean Prager remarked. "GTE executives were aware of the Kresge requirements and stepped forward at a critical time in the law school's history to help us qualify for the Challenge Grant."

News & Notes

UCLAW Faculty Adopts New Admissions Policy

by Gerardo Camacho

In two recent faculty meetings, the UCLA School of Law adopted a new formulaic admissions policy.

The faculty revised its admissions policy largely in response to the University of California Regents' mandate to eliminate the use of "race, gender, ethnicity, color, or national origin" in admissions to the law school. The policy relies on a combined index of Law School Admissions scores (LSAT), grade point average (GPA) and socio-economic status (SES).

The change in admission is the first in almost 10 years and replaces the consideration of race and ethnicity with a greater emphasis on an SES assessment.

The formula-driven admissions policy was part of a final report produced by the Dean's Task Force on Admissions, a com-

To ADMISSIONS on p.12

Life After Law

Alums Achieve Top Positions In the Business World

by Karen Nikos

Every year when *Inc.* Magazine prepares its list of the "Inc. 500" — the fastest-growing private companies in the United States — Rinaldo Brutoco waits for the phone to ring. He knows a staffer at the business publication will call to ask if he was joking when he filled out his questionnaire. "I always name Mother Teresa as my business mentor," says a matter-of-fact Brutoco, delighting in the caller's confusion over his unconventional answer. "They think that's strange."

"Look, the woman started out with nothing but a handful of lepers, no money and a few followers," explains Brutoco '71. "Now, her followers are in the millions; she has been tremendously successful at raising money; she has thousands of employees all over the world; she is the ultimate example. Sounds like a successful business plan to me."

Brutoco, like many of the people fea-

To BIZ WORLD on p.16

Daughters' Day

by Diane Klein

On Thursday, April 25, 1996, UCLAW played host to some ten daughters, sisters, and other assorted young female friends of members of the UCLAW community, in the WLU-sponsored observance of "Take Our Daughters to Work" Day.

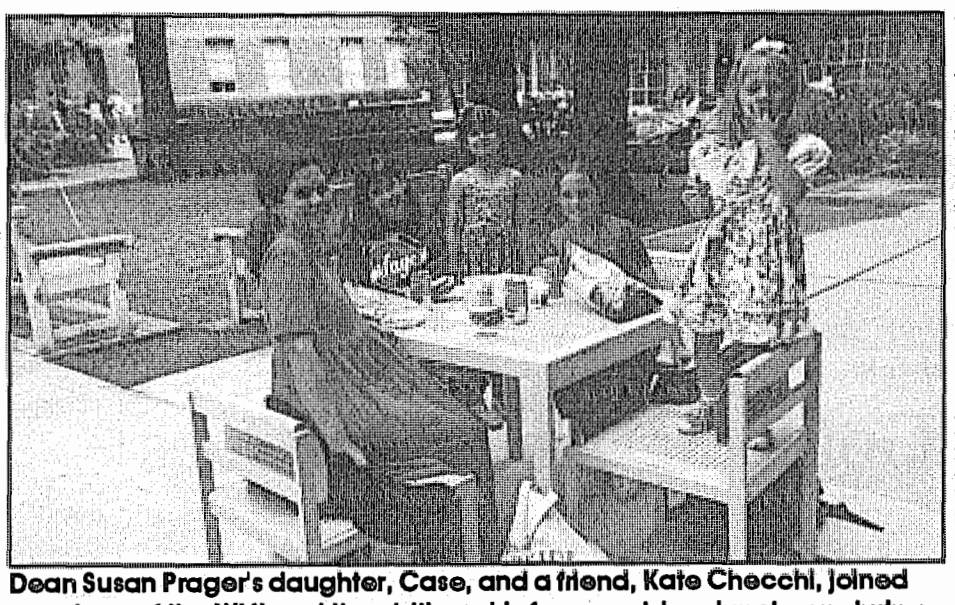
Older girls attended a variety of classes, including Prof. Cheryl Harris's first year Constitutional Law class on race and gender discrimination, Prof. Martha Matthews' Civil Rights Litigation class, and Prof. David Sklansky's Criminal Procedure. (Controversy over class content resulted in the removal of Prof. Robert Goldstein's Constitutional Law class, which was slated to discuss Roe v. Wade and other abortion rights cases, from the schedule.) Younger girls Tracey Awad, 6, and Siobhan Mahaffey, 3, also took time to climb trees and collect bugs.

Even lunch was intellectually stimulating: Prof. Susan French conducted a mini-"Brown Bag" lunch on the rudiments of property, attended by WLU members and guests including Prof. Michael Asimow.

The highlight of the day for Sonya Reynolds, 11, sister of 2L Lorena Reynolds, came in Prof. Jodi Freeman's environmental law class, when the students shocked the teacher by successfully negotiating together for the placement of a toxic waste dump. "It was really cool," she said.

Visitors and members of the Women's Law Union spent the last hour of the day munching homemade cookies and brownies and sipping ice-cold milk.

Other attendees were Nita Reynolds, Natili Stacey, Nicole Horas, Emily Gray, Sarah Dusseault's niece Lauren, and Mary, who came with Papaya Van Dyke.



Dean Susan Prager's daughter, Case, and a friend, Kate Checchi, joined members of the WLU and the visiting girls for an outdoor luncheon during the Daughters' Day schedule.

UCLAW Students Punish Themselves With Marathons

At least there was a reason for the first marathon. According to Greek lore, a soldier named Phidipides ran to Athens to announce the victory at the Battle of Marathon. He finished the run and made the announcement. Then he died.

To most people, Phidipides' fate supports the notion that the human body should not be subjected to such a grueling and pointless activity. Of course, many would say the same thing about law school. Maybe that explains why a number of members of this year's graduating class have taken to mara-

To MARATHON on p.12

UCLAW'S Library of the Future

by Myra Saunders

When the law school opened in 1949, the law library contained approximately 21,000 volumes. In the intervening decades, not only the size, but the breadth, depth and quality of the collection has continued to grow.

Today, the library collection exceeds 450,000 bound volumes and, in addition, includes a wealth of materials in seven other formats with increasing emphasis on a wide variety of computerized information resources.

Computer and library staffs have developed World Wide Web "home pages" to assist the law school community in locating materials available on the Internet.

The American Bar Association now ranks the UCLA Law Library 14th among U.S. law school libraries for book titles held in its collections. The law library now holds more book titles than Stanford, NYU, Duke, Penn, or Georgetown.

One distinctive component of the library's holdings has been the quality of its Anglo-American law collection. More recently, the library has focused on developing an exceptional international and comparative law collection, with special emphasis on legal materials from the People's Republic of China, Mexico and Japan.

The library's print collection is complemented by the "virtual library" which is accessible to the law school community in their offices, computer labs and at home through the law school computer network (LawNet). Central to the electronic collection are LEXIS /NEXIS and WESTLAW.

Orion and Melvyl (the online catalogs of UCLA and the University of California) are offered through the network. Orion provides access to UCLA local databases and the Internet. In addition to providing access to the collections of other UC libraries, the Melvyl system provides access to a number of databases such as the Index to Foreign Legal Periodicals, Congressional Quarterly and Medline.

The Internet provides access to worldwide information services, and the computer and library staffs have developed World Wide Web "home pages" to assist

See LIBE on p.22

Docket Announces New Editors

Concluding a year-long search, graduating Docket editors Bruce Barnett, Robert Jystad and Gerardo Camacho have announced their successor editors, Armen Martin and David Altman.

David James Altman graduated Summa Cum Laude from UCLA in 1994, with a B.A. in Economics and Business.

Armen Martin comes to UCLA from Claremont-McKenna College in Pomona where he was editor-in-chief of the student newspaper.

THE DOCKET
UCLA SCHOOL OF LAW

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SCHEDULE OF CLASSES

Orange County • LIVE/VIDEO LECTURES

Monday, April 29, 1996 **6:30 pm to 10:30 pm** **CONSTITUTIONAL LAW II** (Procedure, Due Process, State Action, Thirteenth/Fifteenth Amendment, First Amendment Rights: Speech, Association, Press, Religion)	**Wednesday, May 1, 1996** **6:30 pm to 10:30 pm** **EVIDENCE II** (Hearsay, Privileges)	**Thursday, May 2, 1995** **6:30 pm to 10:30 pm** **CRIMINAL LAW**	**Friday, May 3, 1996** **6:30 pm to 10:30 pm** **CONTRACTS II-U.C.C.** (Assignments/Delegations, Third Party Beneficiaries, Conditions, Breach, Remedies)	**Friday, May 3, 1996** **6:30 pm to 10:30 pm** **CIVIL PROCEDURE I** (Jurisdiction, Venue, Choice of Law, Pleadings, Joinder, Class Actions) **Video: Room 106**
Saturday, May 4, 1996 **5:30 pm to 9:30 pm** **REAL PROPERTY II** (Sale of Land, Recording Act, Easements, Profits & Licenses, Covenants, Equitable Servitudes, Eminent Domain)	**Saturday, May 4, 1996** **5:30 pm to 9:30 pm** **REAL PROPERTY I** (Concurrent Interests, Future Interests, Adverse Possession, Class Gifts, Landlord/Tenant) **Video: Room 106**	**Sunday, May 5, 1996** **1:00 pm to 5:00 pm** **CONTRACTS I-U.C.C.** (Formation, Defenses, Third Party Beneficiaries, Breach, Remedies)	**Sunday, May 5, 1996** **1:00 pm to 5:00 pm** **REMEDIES II** (Damages, Rescission, Restitution, Reformation, Specific Performance) **Video: Room 106**	**Sunday, May 5, 1996** **6:30 pm to 10:30 pm** **TORTS I** (Intentional Torts, Defenses, Negligence-Causation Emphasis, Defenses)
Sunday, May 5, 1996 **6:30 pm to 10:30 pm** **EVIDENCE I** (Relevancy, Opinion, Character, Impeachment, Best Evidence, Types of Evidence, Burdens/Presumptions, Judicial Notice) **Video: Room 106**	**Monday, May 6, 1996** **6:30 pm to 10:30 pm** **TORTS II** (Negligence Defenses, Strict Liability, Vicarious Liability, Products Liability, Nuisance, Misrepresentation, Business Torts, Defamation, Invasion of Privacy)	**Tuesday, May 7, 1996** **6:30 pm to 10:30 pm** **CIVIL PROCEDURE II** (Class Actions, Disclosure/Discovery, Summary Judgment, Attacks on the Verdict, Appeal, Collateral Estoppel, Res Judicata)		

All **live** courses will be held at Pacific Christian College, 2500 E. Nutwood Ave. (at Commonwealth), Fullerton (across from Cal State University Fullerton) Room 205
All **video** courses will be held in Room 106

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Attorney at Law • Legal Education Consultant

For the past fourteen years, Professor Fleming has devoted his legal career towards the development of legal preparatory seminars designed solely to aid Law Students and Bar Candidates in exam writing techniques and substantive law.

Mr. Fleming's experience includes the Lecturing of Pre-Law School Prep Seminars and First, Second and Third Year Law School Final Reviews. He is the Organizer and Lecturer of the Baby Bar Review Seminar and the Founder and Lecturer of the Legal Examination Writing Workshop. Both are seminars involving intensive exam writing techniques designed to train the law student to write the superior answer. He is the Founder and Lecturer of Long/Short Term Bar Review. In addition, Professor Fleming is the Publisher of the Performance Examination Writing Manual, the Author of the First Year Essay Examination Writing Workbook, the Second Year Essay Examination Writing Workbook, and the Third Year Essay Examination Writing Workbook. These are available in Legal Bookstores throughout the United States.

Mr. Fleming has taught as an Assistant Professor of the adjunct faculty at Western State University in Fullerton and is currently a Professor at the University of West Los Angeles School of Law where he has taught for the past twelve years. He maintains a private practice in Orange County, California.

REGISTRATION FORM *(Please Type or Print)*

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Telephone: (_____) _____

Law School: _____ Semester in Which Currently Enrolled: _____

Seminars and Locations to be Attended: _____

Form of Payment:
❑ Check ❑ Money Order *(Make Payable to: Fleming's Fundamentals of Law)*
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News & Notes continued

May, 1996

An Open Letter To The Class of 1996:

The Office of Career Services staff congratulate you on achieving your first goal in the legal profession — graduation! The services and resources of this office are available to you for as long as you wish and include:

- The Graduate Job Bulletin — an edited version of the graduate listings available upon request and issued bi-monthly, by subscription.
- Graduate job listings — on file in the Office of Career Services.
- Job listings from other UC law schools on file in the Office of Career Services.
- Lexis passwords — for ongoing career searches in Martindale/Hubbell.
- Professional career counseling — for initial entry positions, later lateral moves, or career redirection. (Late hours on Tuesday and Thursday to 7:00 pm for your convenience).
- Resource library - in the Office of Career Services, and continually updated.
- Reciprocity arrangements with other UC law schools through which you may use the services and resources of those schools for your job search. Reciprocity is not available during fall OCIP dates (late August to December 1st.).

The Office of Career Services is here to assist UCLAW Alumni in any way we can. We wish you luck and continued success in all future endeavors.

Bill McGeary Laurie Seplow
Jason Mascarenas Linda Kressh
Rosemarie Benitez Jill Manning

PILF Award winners, left to right (FRONT ROW) Holly Traube, Janai Nelson, Kelly Rozmus (BACK ROW)Stewart Kwoh and Prof. Rick Sander.

UCLAW Future Clerks Lunch With Mentors

by Diane Klein

The UCLA School of Law students who have accepted federal judicial clerkships for the 1997-1998 term were feted Wednesday, April 10, 1996, at a celebratory/informational brown bag lunch with Professors Eugene Volokh and Jerry Kang. The larger Law School community has reason to be proud of the nineteen members of the 2L class, along with two 3Ls and a recent graduate, who have been offered these sought-after positions as clerks to federal judges at both the United States Court of Appeals for the Ninth Circuit and federal district court levels.

Although the job varies greatly by individual judge and type of court (trial or appellate), the judicial clerk is a judge's closest assistant, and the relationship between judge and clerk one of trust and responsibility. Clerks do a great deal of research and preliminary writing of judicial opinions, and in that sense play an important part in judicial decisional law-making. The hours are long, the pay roughly half that offered by a large private law firm, and yet the up-close look at how decisions are made, and the opportunity to work closely with a federal judge, make these positions among the most desired in the country.

UCLA will be well-represented in the southwestern part of the Ninth Circuit, sending Darrin Mollett to Judge Mary Schroder of Phoenix, AZ, Alison Wauk to Judge Charles Wiggins of Nevada, and Andrea Russi (3L) to Judge David Thompson in San Diego. Molly Dillon (Judge Arthur Alarcon),

To CLERKS on p.18

Wardlaw Appointed to Federal Bench

by Elizabeth Vella

Kim McLane Wardlaw, named outstanding graduate of the class of 1979 by the UCLAW Alumni Association, earned her "dream job" when the Senate recently confirmed her appointment by President Clinton to the federal bench in Los Angeles. Wardlaw's nomination for the U.S. District Court for the Central District was widely supported by influential political, legal and community leaders including Senator Dianne Feinstein, who nominated Wardlaw to President Clinton and federal appeals court Judge Joseph T. Sneed.

Wardlaw's confirmation adds to her exceptional record of legal experience and public service. Prior to her appointment, Wardlaw, 41, was a business litigation partner with the downtown office of O'Melveny and Myers.

Her path to the judiciary may have been predestined. In filling out a career questionnaire in her first year of law school, she responded that she wanted to be a federal judge. Explains Wardlaw, "I felt, probably because of the law school, that I could do whatever I wanted to do. If I worked hard and did well in school, the doors would be open. That's what UCLA teaches you."

"I believe it is important that each person who comes into the courtroom walks away feeling that the process was fair."

In the next few years, Wardlaw obtained first-hand judicial experience when she externed for the Honorable Joseph T. Sneed of the 9th Circuit Court of Appeals. She spent the year after graduation clerking for U.S. District Court Judge William P. Gray.

Despite her top law school credentials, including Order of the Coif and serving on the UCLA Law Review, Wardlaw realized that competition for the bench included many highly qualified people. "I knew that even if I never had the chance to be a judge, I would be the best lawyer that I could be. Then, if the opportunity presented itself, I would be ready."

Her chance came when Feinstein recommended Wardlaw to President Clinton in May 1995. Letters of support poured in, and Wardlaw received the President's nomination in August. To prepare for her October confirmation hearing, Wardlaw scrupulously reviewed her own writings and transcripts of similar hearings. After her careful preparation, the hearing flew by in six minutes. Wardlaw was sworn into office on January 8, 1996.

Since then, she and her husband, Bill Wardlaw '72, who co-chaired Clinton's California campaign and is a political advisor to Mayor Richard Riordan, and their two children have learned to cope with the demands of her judgeship. "Although we are working seven days a week, early mornings and late nights, it doesn't feel like work because I find every bit of it challenging and rewarding."

Throughout her professional career,

To WARDLAW on p.12

Trial Attorneys Defeat Tort Reform Measures

by Armen Martin

Round one of the tort reform wars concluded last March with the defeat of three tort reform measures dubbed the "terrible two's" by their opponents. The three measures (Propositions 200, 201, and 202) would have created a no-fault auto insurance system, put restrictions on filing shareholder derivative suits, and put caps on certain types of contingency fees. The first two propositions did not stand much of a chance of passing from the beginning and were defeated by wide margins. The third initiative however, Proposition 202, which would have capped contingency fees, was narrowly defeated by a 51% to 49% vote.

Specifically, Proposition 202 would have mandated that contingency fees charged by attorneys for personal injury and other tort actions would be capped at 15% if settled within a 60-day period after the lawsuit was filed. If the case went to court and the plaintiff recovered more than what was offered initially, the contingency fee would be 15% up to the amount of the offer and the normal fee for everything over the offered amount.

The trial attorneys have already qualified a counter-initiative for the November ballot titled the "Frivolous Lawsuit Limitation Act."

Mike Johnson of the Alliance to Revitalize California, the major backer of the initiative, responded to the defeat of the initiatives by saying "We knew from the outset that this would be an uphill fight." The trial lawyers succeeded in confusing the voters enough to defeat [the three initiatives]." The Alliance is made of a coalition of business groups such as the California Chamber of Commerce and consumer groups such as Voter Revolt.

The Alliance spent over $11 million to qualify and promote the initiatives ... Not to be outdone, the trial attorneys spent over $10 million to defeat the

Harvey Rosenfield, a spokesman for trial attorneys and other consumer groups opposed to the measures stated "This is the first time that the corporate community has placed its entire anti-consumer agenda on the ballot for public consideration, and the result in California is a devastating rebuke."

The campaign over the three initiatives proved to be very costly. The Alliance spent over $11 million to qualify and promote the initiatives, $4.1 million of which went into broadcast ads. Not to be outdone, the trial attorneys spent over $10 million to defeat the initiative, of which $6.6 million was spent on ads. The coalition to defeat the measures did not just consist of plaintiff's attorneys however. Corporate defense attorneys raised more than $ 620,000 in their campaign against no-fault.

Backers of the initiatives attributed the defeat of the initiatives, and especially the narrow defeat of Proposition 202 on two factors. First was their "all-or-nothing" decision not to abandon Props 200 and 201 even though polls showed them trailing badly. The second factor was that much of the money for ads came in too late to offset the barrage by trial attorneys early in the campaign.

The reaction of law students to the defeat of the initiatives varied.

Jeff Reyna, a 1L who opposed Proposition 202 as it was written stated, "Contingency fees, in my opinion, help provide people with limited means with adequate legal representation in situations where they otherwise wouldn't be able to afford it."

3L Matt Bixler summed up his support of the Propositions by stating, "Any-

To TORT on p.12

Summer 1995 Bar Exam
First Time Taker Pass Rate

Overall UCLA Pass Rate:	**88%**
UCLA Students Supplementing With PMBR: (73 of 75 Passed)	**97%**
UCLA Pass Rate: (Students NOT Supplementing With PMBR)	**84%**

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PERSPECTIVES on COMMENCEMENT

Dolphins In Sharks' Waters

Reflections Upon My Graduation from Law School

by Bruce Barnett, M.D.

The old riddle goes something like this: Why did the attorney, but not the doctor, survive a swim across the shark-infested channel? Professional courtesy.

This well-worn joke derives from the long-standing custom of referring to lawyers as "sharks." A few years ago, The New Yorker ran a cartoon variation on this cold blooded theme. In typically wry fashion, the cartoon shows a father and children gazing at alligators (in suits, carrying brief cases) on display in an amusement park called "Uncle Bernie's Litigator Farm." The father tells his wards, "Watch out now, I near lost my arm to one of those."

According to some humorists, lawyers may be not even that far up the evolution chain. The Capitol Steps, a popular Washington D.C. cabaret comedy group, sings a song (to the tune of "Amoré") where they ask "who descended from worms and evolved into firms?" The audience predictably cries out, "That's a lawyer!"

Most students learn to apply their sense of humor to the pervasive lawyer bashing. In the end, it is easier to not take the lawyer-as-shark parody too seriously.

But many attorneys do not find such animal metaphors at all funny. Attorneys' images were the subject of sincere discussions some years ago following the murder of attorneys and staff working at 101 California Street in San Francisco. Leaders in the California Bar earnestly called for a moratorium on lawyer jokes. Shortly thereafter we all entered law school.

Not that many of us worried that we were entering a high risk field. Police work is high risk. Firefighting is high risk. The delivery of health care and dealing with blood products and bodily secretions is a high risk job these days. The murder in San Francisco's financial district was an aberration.

All the same, we should still be concerned that anger over lawyers' roles in litigation drove a mad man to kill. Of course, during the years past we have often worried mostly about whether or not we would indeed become lawyers at all.

Now that we are graduating and soon to begin work as lawyers, it is appropriate to consider whether we are indeed, as the public perceives us, sharks. In one way, at least, the term is misapplied. Sharks are notoriously stupid. Ask any fisherman. Vicious, but stupid.

The rigors of legal education at UCLA has surely taught us that lawyers are anything but stupid. I invite any UCLA law student who thinks otherwise to explain

To DOLPHIN on 18

No Consent by Silence

by Kay Otani, 3L

with thanks to Kathay Feng and Saul Sarabia

For those of us who support diversity, graduation seems a natural time to reaffirm our commitment to equal opportunity and justice for all people. Others have been crying, "Don't politicize graduation!" What these criers do not understand is that this year's graduation is already political. Last year's passage of Proposition 187, the Supreme Court's recent decisions curtailing affirmative action, Governor Wilson and the UC Regents banning race as a criteria for UC admissions, the so-called "Civil Rights Initiative"— these are all skirmishes in the new War on Diversity.

Nothing is viewed in a vacuum. No act, no event, takes meaning without context. A person is shot — it could be murder, an execution, a casualty of war. Without context there is no way of telling.

This graduation cannot be viewed in a vacuum. It takes place within the context of the new War on Diversity. "But that has nothing to do with graduation!" the same UCLAW criers cry — and of course they would feel that way. So long as there is no overt politicism at graduation, the ceremony affirms *their* political views. The criers want to keep graduation "apolitical," so that their own political views can be presented unchallenged.

UCLAW has been a shining example of the success of diversity. UCLAW has taken exceptional people who have overcome adversity caused by race, gender, poverty, and physical challenge — and proven that in a just society they would have been here in the first place. UCLAW has one of the highest pass rates on the California Bar (largely recognized as the toughest in the nation)—about ninety percent compared to California's overall passage rate of under fifty percent. At the same time UCLAW's diversity program is one of the largest — forty percent of our students bring to us the wealth of their unique life experiences.

Our diversity students are white, black, Latino and Asian. They have overcome poverty, race and gender discrimination, and physical challenge. They are parents, Ph.D.'s, community leaders, migrant farm workers and teachers. On their way through our program, diversity students give this school an invaluable gift, the gift of their experience. In torts class a student tells us what it's like to be a migrant farm worker sprayed with pesticides. In criminal law class parents tell us of being on the edge of poverty — torn between taking their child to the doctor and fear that if they do, their child will be taken from them. Our diversity students teach us about the *effects* of law, as much as the faculty teaches us about the theory of law.

Last year we were evaluated by the deans and faculties of other law schools. They could not believe the richness of our class discussions and the open discourse between students of vastly different backgrounds. They wanted to know how they could copy our success.

Sadly, *we* will not be able to copy our success. Thanks to Governor Wilson and the UC Regents, after the class of 1999, ourgraduation stage will no longer have this rich diversity of colors and experiences. *There is no way to reproduce our successes under the new rules of admission* — and many deserving minds will be lost, and those who come after will be denied the richness of diversity we experienced.

For many, this graduation is at most bitter-sweet. A once proud program, the shining success of open-doors and open-hearts, is brought to its knees. The supporters of equal opportunity — those who have fought for equality and social justice — mourn the loss of all our gains.

Direct beneficiaries of diversity are especially hurt knowing that their degrees are among the last to be awarded to people who share their colors and experiences — in the future the door will be shut to their children, and their communities will suffer from lack of legal representation. They must also endure knowing that in spite of their objective academic success and their contributions to UCLAW, many in this nation believe diversity students do not deserve their diplomas.

The politics of UCLAW's criers are ascendant — and now they wish our silence so they may savor their victory in peace and comfort. They desire our silence both as a symbol of our acquiescence and as

To SILENCE on 22

The Uses of Diversity

by Donna H. Smith

At the opening convocation of our class Dean Prager uttered the words notoriously spoken to first year law classes, "Look at the person on the left of you and the one on the right of you," — "but," she said, "unlike most law schools which go on with 'and one of them won't be here at the end of the year' — at UCLA one of them will be ethnically different from you." I was thrilled. I had never been part of a class — a school — a day to day group of my peers where this had been true. But what did it mean?

When our class entered, 47% were women and 39% were tagged ethnically diverse. How has our diversity made its mark on UCLA Law School? During our three years here, the Law School has changed its grading system and its first-year exam-schedule, restructured the Career Services program, and is once again grappling with an admissions policy which will meet both constitutional and Regents' mandates. Members of our class have helped precipitate and address these issues. On the streets of campus and in the greater metropolitan area, they have been leaders in the fight over Proposition 187 and in arguing against the "anti-affirmative action" decision of the Regents. But, what mark will we make on the profession of law?

When I applied to UCLAW. I was aware, in a non-lawyerly way, of the Bakke decision's admission that a diverse student body, including those with a variety of qualifications and characteristics as well as varied ethnicity, creates the best academic environment.

So — what? What does that mean? Does it really happen?

I would like to share some vignettes with you. Their cumulative impact has increased my human depth perception.

The first day of Civil Rights Class, the professor numbered us off to meet in groups. She asked each person to relate our first experience of "race." Our experiences were as varied as we were, but in the discussion one classmate said, "You know, I would never have said this to a white person before. . ." I was able to ask another, "Why, then, do you choose to identify yourself as an African-American when people meeting you would not?" And he explained that he identified with the group that made him

To DIVERSITY on p.23

This Never Happened to Any Other Law School

by Jerylin Lopez Mendoza

Does anyone else have the feeling that law school was much more similar to high school than college? I've had that feeling very strongly since first year. My youngest brother is a junior in high school, so the experience is closer to me than it is to many of us. But here are some similarities I've noticed: we're stuck in one big building; we're assigned lockers; we all gossip much too much about people we barely know; we speculate about our professors and what they do when they're not professing; we complain about the food, the homework, and the lack of good parties. This may come as a surprise to our families and friends, but for many of us, the average law school day has looked a lot like an average high school day. How?

Well, let's start with bake sales. Those of you not familiar with the law school may not know that THE most popular way to raise money for anything at UCLA Law is to have a bake sale. Anyone who was involved in any group or law journal at one time had to bake or buy something to bring to a sale. Or if you forgot to bring something, your punishment was sitting behind a table selling the goods, feeling just a little goofy, not knowing the answer to the dreaded question, "What is that brown stuff anyway?" And then came the next inevitable question, "Who made it?," as if knowing the identity of the cook will somehow make the item taste better, or at least seem more appetizing. I can't count the number of times I entered the law school in the mornings, confronted by the choice of bagels or muffins, or if I was lucky, Rice Crispy treats, you know, the ones with marshmallows?

OK, so after being guilt-tripped into buying a cookie, recycling ten pieces of paper from my box, and replying to all of my e-mail, I may think about going to class. What stories we all have to tell about our classroom experiences! Like high school, we are stuck in the same seat for the entire fifteen week semester, so the teachers can learn our names, complete with a seating chart. At least that's what they tell us. This is particularly a problem during our first semester in law school, when you don't know anybody and sit next to any random person

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Opinions

CLAUSE C

Have Opponents of CCRI Found the it's Achilles Heel?

by Robert Jystad

The "California Civil Rights Initiative" (CCRI) will appear as a ballot measure in the fall election. The initiative's goal is to remove race-based and gender-based preferences from public employment in California. Its backers dream nostalgically of a time when preferences did not exist and all hiring was based on merit. I must confess a memory lapse. Without affirmative action, merit is still too easily confused with influence or, worse, with being white.

Despite these poignant criticisms, the latest concerted attack on CCRI focuses on the language that opponents say will hurt women. The attack targets "Clause C" of the initiative; strategists, apparently, hope to deflect debate away from race and onto gender. Presumably, only a gender-based attack can defeat the initiative at the polls.

California Democratic Party Chair Art Torres has said, commenting on Clause C, "This initiative is an attempt by the right wing of the Republican Party and the Christian Coalition to do away with women's rights in California." (*LA Times,* Metro, Apr. 14, 1996.)

This tactical move may be brilliant, but it troubles me. If opponents of CCRI follow this path, we will lose the opportunity to capitalize on the UC admissions scandal and other concrete evidence of wealth-based preferences. More importantly, I have my doubts that Clause C is as threatening as its detractors make it out to be.

Clause C says: "Nothing in this section shall be interpreted as prohibiting bona fide qualifications based on sex which are reasonably necessary to the normal operation of public employment, public education or public contracting."

Clause C is the initiative's version of what the federal Civil Rights Act of 1964 calls a "bona fide occupational qualification." The federal BFOQ is meant to be an escape hatch for employers whose jobs are so unique as to make complaints of sex, national origin or religious discrimination seem idiotic. Italian restaurants might want to hire Italian waiters. Strip joints might not want to hire male strippers.

How is it that a provision that seems utterly reasonable could be so evil? It turns out that federal legislators enacting the Civil Rights Act voiced similar concerns about the federal BFOQ that CCRI opponents now raise about Clause C. Accordingly, the federal law excluded race as a BFOQ defense to intentional discrimination. Lawmakers feared that white employers would successfully argue that white clientele would be driven away if their waiters, salespersons, etc., were black. That exclusion, however well intentioned, left us with the oddity that Spike Lee could be sued for not auditioning white actors in the role of Malcolm X.

The problem with Clause C is that the escape hatch it creates for public employers who would prefer to hire men is very broad. Technically, the initiative lowers the level of scrutiny courts must apply to defenses to charges of intentional sex discrimination where there is direct evidence of sex discrimination. Instead of requiring employers to assert a compelling reason for excluding women from jobs, they only have to come up with a justification that the exclusion is "reasonably necessary."

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Editorial

Balance

by Armen Martin

Balance is defined as "equal distribution; a state of equilibrium; harmonious arrangement of parts." The more I think about it, the more I realize that we, as UCLAW students, lack balance; we find it difficult, if not impossible, to arrange our personal goals harmoniously with those the legal community imposes on us.

I believe that most if not all law students, at UCLA and elsewhere, have had balance in their lives prior to law school. After all, isn't that what administrators say they are looking for in applicants? Further, I believe that many law students will leave law school and re-attain the balance that has been missing for the last three years of their lives. However, none of this deters me from the conclusion that we, as individuals, currently lack balance.

You may ask, what defines balance as a law student? Balance, as I see it, is the ability to set aside law school and view the big picture. This may involve pro bono work, writing for the law school paper, or even taking a day of to hit the beach. It seems like from day one of our law experience we are told that unless we are in the top 10%, make *Law Review*, get to the Moot Court finals, and have a $1500/week job at the end of our first year with O'Melveny, we are total failures as lawyers and people. The people saying this are not administrators, faculty, or other university officials. Instead they are our fellow students. And where does this lore come from? The law firms.

What can the law school do if the people who are perpetuating this atmosphere are our classmates? Before answering this question, we first should remember that UCLAW is probably one of the least competitive and least stressful top law schools in the country. Further, the administration and faculty have taken affirmative steps in the last few years to decrease the stress level: the new grading curve and pass/fail procedures. Finally, to a great degree, we should concede that law school is inherently stressful, perhaps as a result of the pressure applied by the law firms themselves. After all, the very things we are told we must strive for, high grades, *Law Review*, etc., are the very things which firms tell us are most important. However, this does not mean the administration and faculty, working in conjunction with the students, cannot do more to transform law school into a learning experience that also happens to include grades.

Some of the ideas that other schools have experimented with range from pass/fail grading in the first semester to curve elimination in the second and third year. While every possibility needs to be examined carefully in order to see if it fits the needs of the students and the demands of a competitive legal market, dialogue should not be seen as criticism of the current system, but rather a step towards its improvement.

Next year ***The Docket*** will devote a series on how the school can facilitate a more balanced life for law students, especially during the first year. We welcome any and all opinions on this subject from the faculty, administration, and students. Until then, I wish you a "balanced summer."

Affirmative Action and Merit

by Professor Ken Graham

A study a couple of years ago by Professor Rick Sander disclosed that the overwhelming bulk of UCLA Law students come from the wealthiest American families. It is generally conceded that the disproportion would have been even more striking were it not for affirmative action. This surprising correlation between LSAT scores, undergraduate grade point average, and family income raises questions about the common assumption that affirmative action represents a departure from an admissions policy otherwise based on "merit."

One explanation is that it is sheer coincidence that wealthy families produce children of greater merit than working class families. This is possible, but unlikely.

Since social tasks are socially constructed, one's merit depends on the society into which one is born ... Moreover, this definition of "merit" can provide a defense of affirmative action.

The Bell Curve crowd has a simple answer. Wealthy families have a superior genetic endowment. If this is true, it tends to undercut the assumption of merit since it is not usually thought that surpassing those with lesser capability is an indicium of merit. The fact that Kareem can slam dunk and I cannot is not usually regarded as evidence of superior merit on his part, whereas a similar feat by Tyus Edney is.

Another explanation is that children in wealthy families are raised in a culture that provides skills more suitable to high grades and LSAT scores than children from working class families. This, too, would not seem to reflect any superior merit on the part of the student. Most people would regard someone who had learned a second language through study as exhibiting greater merit than one who had similar skills as a result of being born into a bilingual family.

One might argue that undergraduate grades and LSAT scores are a measure of how hard one has worked; in other words, the harder you work, the better your scores. This would generally conform to common definitions of "merit." The problem, however, is to explain why those born to the wealthy work harder than those born to parents of modest means. The answer has to be something other than genetic endowment or parental example if it is to succeed when the prior two explanations fail.

One way to avoid these problems is to eliminate any notion of desert from the definition of "merit." For example, "merit" means suitability to perform the task at hand. High grades and LSAT scores mean that the person is more capable of obtaining high grades in law school, passing the bar, and becoming a successful lawyer than do those with lower scores.

Here, at least, there is a plausible reason why children of wealthy parents might have greater "merit" than those from the

To MERIT on p.15

The Lawyer as Client

Conclusion of a series of four articles

More Than a Paying Client

When the jury was empaneled, the parties' opening statements began. As a client, I saw once more how important the lawyer's opening is to a successful outcome. The opening statement must deliver a powerful persuasive message. As the client, I wanted to hear my lawyer speak in terms that made the jury realize that he knew me as much more than a paying client. My lawyer not only must know the facts but must make clear that a verdict for me was the right, the moral, the just verdict. I heard such an opening statement on my behalf.

It was difficult to watch people do for me at trial what I would typically do for someone else. I had to just sit there without reacting. As lawyers, we know that the client is on the stand in a figurative sense during the entire trial. Jurors steal glances at the client at what they see as unguarded moments. They watch the client's family. They want to see how the client reacts to the testimony. They want to see the client's degree of concern. They want to assess the client's relationship with the lawyer. Everything they observe is the persuasion mosaic.

I stayed as nonreactive as I could. No extensive note taking at counsel table. No whispering in my lawyer's ear during testimony. I reacted only when blatant perjury spewed from a government witness. I spent time with my family and lawyer at the breaks. All of it was genuine. I was present when the jurors arrived, and I stayed there until they left. I left no doubt — because I had none — that my life was at stake.

My demeanor off the stand was terrific. It was on the stand that I failed, true to the adage that lawyers make poor witnesses. I did not quibble with the prosecutor. I was courteous, albeit cool, and I was not evasive. I made one critical mistake, however, from which I never recovered — at least with those jurors who were looking for a reason to convict.

The mistake now seems obvious. In deposition or in court, my clients testify for no more than an hour at a time for two hours in the morning and two in the afternoon, with an hour and a half off for lunch. Clients are not lawyers or expert witnesses. As smart as they are in their own lives, answering questions with the precision that lawyers demand is not a natural skill — even for lawyer-clients. And all the preparation in the world can never make up for fatigue.

Yet my lawyers and I allowed the prosecution to begin its cross-examination of me at 4:05 P.M. I had been on the stand for two and a half days of careful direct. The previous five days had been devoted to other trial preparation, leaving only four to five hours each night for sleep. I had jettisoned my usual daily run. The jurors were tired. My lawyer was tired. Why not break early? Probably because none of us thought of it.

The cross began with inquiries about a declaration I had signed that was unrelated to the case. The government claimed that it was false. I knew where the prosecutor was going, but my reaction was slower than my mind. In response to a question about whether I knew that a false declaration was a crime under federal law, I responded no. The mock horror reaction of the prosecutor

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Entertainment

UCLA Professors Bring *REEL JUSTICE* To the General Public

Book Review by Bruce Barnett

REEL JUSTICE
by Paul Bergman and Michael Asimow
Andrews and McMeel, Kansas City 1996

Reel Justice is no ordinary set of movie reviews, for the authors are not only keen movie buffs, but are also highly respected law professors and authors in their respective specialities. Countless law students have gained knowledge and confidence in the court room from their exposure to Paul Bergman's lessons, either in class or through his texts on evidence. There is no one more qualified than Bergman to tell us whether a movie's court room objection was proper.

Bergman's colleague, Michael Asimow has an equally impressive command of modern American law. His teaching and writing in the field of taxation and administrative law have had far reaching effects, extending even to the drafting of recent California administrative law amendments. In fact, Judge Alex Kozinski, in his sincere foreword to their book, describes Asimow as the professor "who taught me most of what I know about tax law."

What makes this book so extraordinary is the simultaneity of legal and film insights offered in each page. Each of the 69 movies reviewed contains a story synopsis, followed by a legal analysis of the story line. A thorough reading of this book would therefore educate readers in such topics as the coerced confessions (*I Want to Live*), voir dire (*Inherit the Wind*), the felony murder rule (*Let Him Have It*), character evidence (*Anatomy of a Murder*), hearsay and best evidence rules (*The Verdict*), insanity defense (*Nuts*), discovery (*Class Action*) and much more.

Some of the reviewed films raise a surprising number of legal issues. Professors Bergman and Asimow use the parable of a gratuitously shared lottery ticket in *It Could Happen to You* to offer lessons in no less than four distinct areas of study: contracts (the role of consideration), property (defining a gift), taxation (exclusion of gift from income

The reviewed films raise a surprising number of legal issues.

It Could Happen to You
[offers] lessons in no less than four distinct areas of study.

tax) and family law (the equitable distribution of marital property).

In many of their reviews, the authors also provide a "trial brief" to bring the reader up to date with the actual events upon which the movie was based or which resemble the movie. For example, in regards to the story of a shared lottery ticket, we learn that "it not only could happen, it did happen to Bob Cunningham in 1984 ... Bob fulfilled his promise to Phyllis and split his winnings with the full support of his wife, Gina." On a far more serious note, we learn that the movie *Philadelphia* is based on an actual AIDS discrimination case by a New York City Lawyer named Geoffrey Bowers against the law firm of Baker and McKenzie, and that the award of $500,000, seven years after Bowers' death, has been appealed. Dozens of factual reports like these make the reading of Reel Justice especially stimulating, and worthwhile.

Notwithstanding its didactic values, this book is replete with wit and good humor. Furthermore the authors make it plain that they are not interested in keeping anyone from having a good timeat the movies. In many cases, they invite the readers to suspend all disbelief and enjoy a film despite glaring legal inconsistencies or absurdities. In presenting their review of the venerable British mystery *Libel*, Bergman and Asimow go so far as to laugh at themselves and warn that "reading this analysis might be hazardous to your enjoyment of the movie." But the real warning should be to law students who are nearing finals because this book, once opened, is simply too engaging to put down.

The 1997 Law School Musical Wants YOU!

by Professor Ken Graham

What, you may wonder, remains for our intrepid band of law school Thespians now that they have "been there" and "done that" with Moussorgsky? Believe it or not, Irving Berlin has never been the subject of our musical comedy parodies. So the 1997 UCLAW Musical will be based on his best known Broadway hit, *Annie Get Your Gun.*

With songs such as "There's No Business Like Show Business", "Doin' What Comes Naturally" and "Anything You Can Do, I Can Do Better" and a plot premised on the remark of a Presidential candidate that the 1950's were the high point of American civilization, *Anti-Kids 'n' Fun* is a 50's farce subtitled *The Show That Gives Nostalgia A Bad Name.*

Marcia ... escapes from a sanitarium where she has been confined under a conservatorship ... to seek retribution and rehabilitation.

Next year's musical, a commemoration of 15 years of these spoofs, is scheduled for February 1, 1997, in a new venue, the Northwest Campus Auditorium in Griffin Commons. This is a real theater with better amenities for both the cast and the audience.

Why are we telling you all this now? Because we want you to give serious consideration to joining the cast or crew for this special production. If you have ever wondered if you could sing or act, or think your resume looks too nerdy, or just want to engage in a cooperative effort with an interesting group of people, join 403 N.W.2d 143 (as Casey Stengel used to say, "you could look it up") and see why so many alums say it was the most fun they had in law school.

Anti-Kids 'n' Fun takes place in the fictional Los Angeles law firm of Lawless, Liffert, Lipscomb & Beale. The year is 1954. Nixon is Vice President. The Minneapolis Lakers are NBA champs. The hydrogen bomb. LaSalle defeats Bradley in the NCAA finals. GM announces a $1 billion dollar expansion. Though Bill Haley's "Shake, Rattle and Roll" crept onto the charts at the end of the year, the best-selling record of the year was the ever popular "Little Things Mean A Lot" by the unforgettable Kitty Kallen.

Though Brown v. Board of Education has just been decided, the folks at L.L.L.&B. could care less. They are more worried that someone who is Italian or Jewish might fool their recruiters now that managing partner Norbert Studley has decided the time is ripe for the Yale-dominated firm to hire its first associate from "that damned diploma mill"— Harvard.

Worse yet, because Norbert is ideologically simpatico with the Dean at that hotbed of anti-communism, the firm has just hired Shirley "Hugh" Guest from UCLA. The partners are gratified to discover that though editor-in-chief of the Law Review, Hugh seems no smarter than Ed Studley, Norbert's idiot brother and a partner in the firm. ("Merit" had an even funnier definition than it does now.)

Compared to this, television comedy looks as sophisticated as Noel Coward.

Also starting work as a receptionist at the firm is Penelope Porche, who is hiding the facts that she is a lawyer that no firm will hire because she is a woman and (because of the firm's anti-fraternization) that she is Hugh's intended. The romance becomes complicated when Nick Charles, a junior associate puts moves on Penny, and Ginny S. Linn, a "permanent associate", rather forcibly seduces Hugh.

The plot further thickens when Marcia Mantovanni, heiress to the controlling interest in the firm's major client, escapes from a sanitarium where she has been confined under a conservatorship instituted by the firm and returns to seek retribution and rehabilitation. Marcia, who may or may not be suffering from multiple personality disorder, and a troupe of fellow escapees keep popping up in various disguises — most notably, as Richard Nixon and his bodyguards.

The lawyers fall all over each other in their varying ambitions to be the one who gets Marcia out of the way before she blows the whistle on them. Nick gets a group of mobsters to put concrete overshoes on Marcia and dump her in Santa Monica Bay (there were no environmental restrictions in those days). Instead, Eli Hale, the recruit from Harvard, gets the free scuba lesson.

To MUSICAL on p.22

Business & Finance

BUSINESS AND THE LAW

by Professor Theodore A. Andersen

Recently a group of Catholic nuns were enthusiastically transforming an abandoned and dilapidated building into a home for the homeless. After spending a great deal of time and money the worthy project had to be canceled. An elevator would have to be installed even though it would be totally useless. The cost would be prohibitive so both the community and the homeless ended up unnecessarily the losers.

There are of course innumerable "horror stories" of the laws being all too often counter-productive. At times I have taken leaves from the academic community to serve the government in Washington, DC and later in Sacramento, California. As a regulator I found myself administering laws that frequently were doing more harm than good. As a group we regulators had good intentions but laws sometimes are ill-suited to achieving positive results.

When El Paso Natural Gas was unable to meet its delivery commitments to its Southern California customers the Federal Power Administration (FPA) ordered the utility to merge with a Mountain State gas producer that needed more markets. This would lead to lower gas rates and better service to the West Coast. The Anti-Trust Division of the U.S. Attorney General's Office objected on the grounds that the merger would result in one fewer gas producers. Since the two utilities were serving two completely separate markets this objection seemed far-fetched. The U.S. Supreme Court voted against the merge while admitting it was in the public interest. This decision perplexed the FPA which under the Natural Gas Act was supposed to regulate gas rates in the public interest. Also, it is questionable whether either the U.S. Supreme Court or the Anti-Trust Division were in the better position to evaluate the technical and economic issues involved in the distribution of gas. It is not surprising, therefore that the public ended up being worse off.

In another example the people of California voted for a 20% rollback of auto insurance rates. The California Courts intervened, however, and said the insurers were entitled to a reasonable rate of profit on their investment. Thus their rates could cover their costs plus a 10% profit on their equity capital. This meant that high cost firms could charge higher rates than lower cost firms. Thus the regulation resulted in rewarding the less efficient and penalizing the more efficient. A neat reversal of a principle of economics. Furthermore the extra costs of regulation were passed on to consumers and taxpayers.

Taking a broader view we note that virtually all aspects of economic activity are regulated. Production, distribution, wages, prices, sales promotion, finance, etc. are all subject to some regulation at either or all the federal, state and local levels. While individual acts of regulation are often justifiable, the sum total has the effect of discouraging the start-up of new business and the growth of small business. The social result is more unemployment, more underemployment, more poverty, less revenue for government, etc. Thus regulation induced economic stagnation generates the need for more governmental service for the less fortunate and at the same time less revenue for providing needed social services.

California Courts [ruled] insurers were entitled to ... cover their costs plus a 10% profit on their equity capital ... Thus the regulation resulted in rewarding the less efficient and penalizing the more efficient.

Clearly business and the law need to work together in greater harmony to lessen stagnation and thereby help promote a healthier society. While there has been overall economic progress the families in the lower 20% of the income groups have been losing ground. And, it is precisely this group that must achieve the most progress if we are to progress towards a more equitable society.

The accepted rate of economic growth by the Democrats and Republicans in their agreement to balance the federal budget in 7 years was 2.2%. However, I am more in agreement with Felix Rohatyn (*Wall Street Journal* article, 4-11-96), one of the nation's most distinguished economists, who asserts 4.4% should be our target. With the labor force growing at 1.5% and productivity at 3.0%, a non-inflationary growth rate of 4.5% is attainable. This rate was achieved in the 1958-66 period and the rate of price inflation was only 2.1% per year. Today, with capital formation growing at a historically high rate and technology advancing faster than ever a 3.05 rate of productivity gain is feasible.

The difference between a 4.5% growth rate and 2.2% from now till the year 2000 is about one trillion dollars. That is, real gross domestic product would be higher by one

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Randall Selected for Top Post at MCA Inc.

by Alisa Perren

Karen Randall '76 left her position as co-managing partner at Katten Muchin Zavis & Weitzman on March 1 to become senior vice president and general counsel at MCA Inc. in Los Angeles.

Randall, who gained experience both as an entertainment lawyer and a corporate litigator at Katten Muchin Zavis & Weitzman in Los Angeles, has already found that her new position has broadened her outlook on the law. "It is very refreshing to have a new perspective on the business of our profession," says Randall. "After 20 years as an outside counsel, the move to the inside has opened my eyes to a different level and view of client service. New experiences and a vast wealth of information lie ahead in this exciting transition."

Among the clients for whom Randall has previously handled litigation are the Mobil Oil Corporation, Spelling Entertainment Group Inc., Metro-Goldwyn-Mayer Inc. and Forrest Whittaker. She also recently negotiated Earvin "Magic" Johnson's 10 percent purchase of the Los Angeles Lakers as well as his partnership with Sony Pictures Entertainment to develop, build and operate multiplex movie theaters.

A number of publications have profiled Randall recently for her continuing successes in entertainment and corporate law. The December issue of American Lawyer selected Randall in their feature, "Forty-Five Under 45," foreseeing her as one of 45 young lawyers who are making their mark now and seem certain to lead the profession in the future.

In addition, the March issue of California Lawyer featured Randall and described some of the unprecedented successes she has had in entertainment law. The article notes that just last year, she became the first black woman to hold a managing partner position with a major law firm.

Randall also made inroads into protecting celebrities' privacy through her role in the Tony Danza case, in which the actor chased away two photographers and grabbed their cameras. When the photographers sued Danza, Randall countersued, charging invasion of privacy and stalking — the latter charge an unusual one for such a case. Of the suit, Randall explained to California Lawyer that "attorneys who represent celebrities are facing the challenge of innovating new ways to protect their clients' valuable images and rights of publicity from being taken from them."

In addition to her contributions to entertainment law, Randall has remained active in the community. She represented the Watts Health Foundation, which operates the largest HMO in South-Central Los Angeles, and also served as deputy counsel, pro bono, to William Webster, special adviser to the Los Angeles Police Commission during the course of the investigation of the LAPD response to the 1992 uprising. "It's invigorating to be involved with those types of clients and their missions," she said.

Randall also is a member of the American Bar Association and serves on the Advisory Committee of the ABA Conference of Minority Partners in Majority/Corporate Law Firms and the Law Practice Management Section.

Networking

Phillip Lee, 1L

It's not just who you know ... it's what they think of you.

Even if you weren't convinced right away, you've probably realized by now that a lot of what you're going to get done in law school and afterwards is determined by "who you know."

The word, "networking" often conjures up images of endless schmoozing, partying with people you think you would rather ignore,
and a sleazy sort of world where your grades do not matter (actually, some of us are probably glad when they don't!)
But what about when you strike up the right job through a friend of a friend of a career center counselor? Is that networking to? Yes. And do not think it all has to be 100% schmooze.

In fact, John Kobara, Associate Vice Chancellor of UCLA University Relations, is still looking for a new word to replace "networking" because of those negative connotations. Kobara presents workshops that emphasize a more reciprocative, interconnected notion of networking. The idea goes back to a Golden Rule, "Do unto others as you would have them do unto you" and is perhaps so obvious that we overlook it.

So if you want to make the most of your jobs this summer, and be in better shape for the search next year, pay attention to who you meet. And don't just think about what they can do for you, but get to know them as people. Sometimes you need to be the first person to give information, and that does not just mean carrying around an extra copy of your resume for everybody you meet (although that is another technique to consider!).

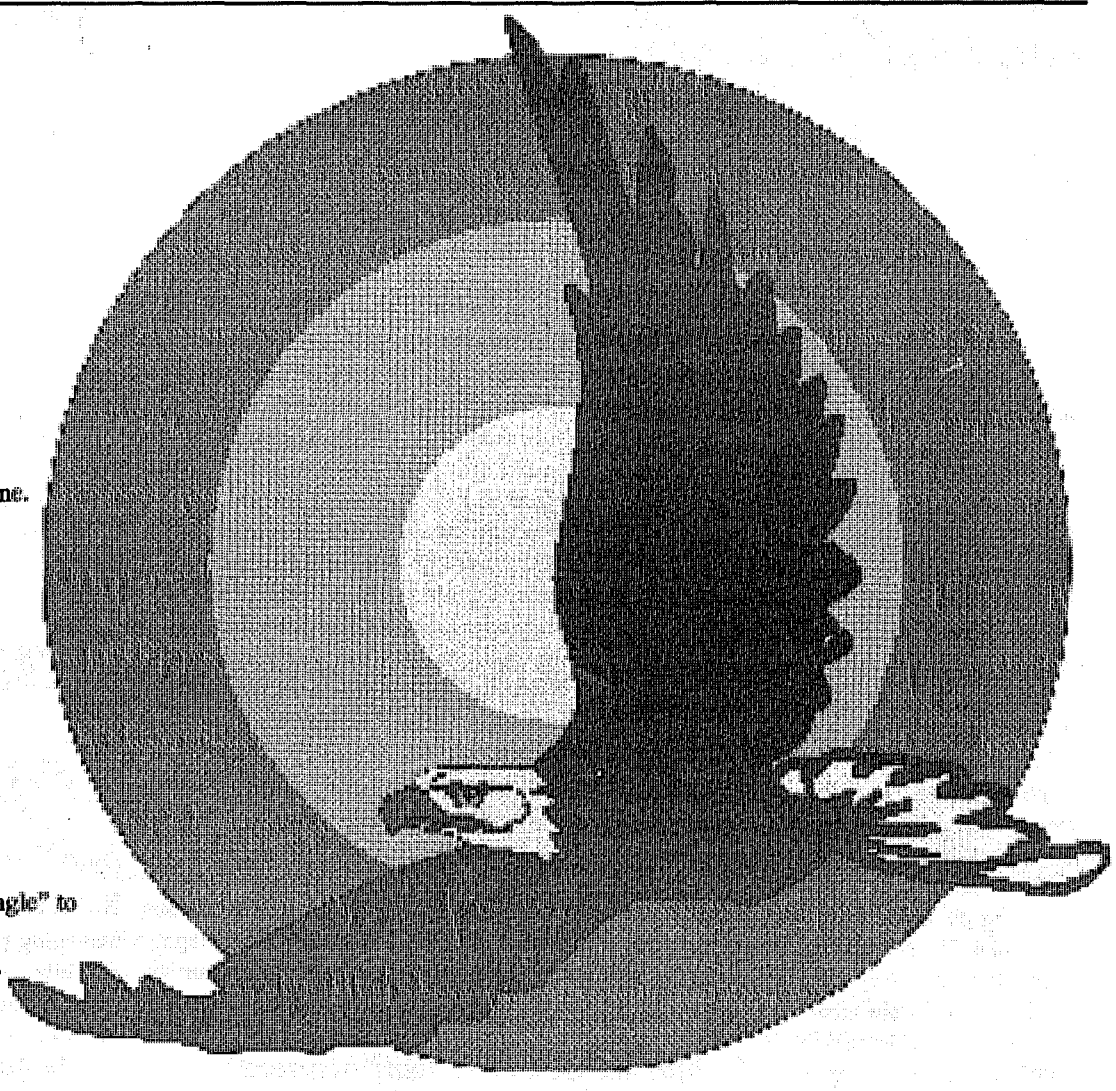
Be willing to help others out by being a contact for them too. You might even get a reputation as a helpful resource, instead of just someone looking out for himself or herself. They might not even realize that you've been networking!

They'll be glad for it, and come Rolodex-time, maybe it's your name that will jump ahead of someone else's business card. As businessman and author Harvey Mackay points out, even if you are second in line, when you are standing in enough lines ...

(The writer of this article is a student with "the kind of GPA that requires networking" and he'd like to hear about your interesting network stories. And so would the Docket. Collect some tales over the summer and watch out for more information next fall!)

The Eagle

by Nicole Marie Ricci
[Very Loosely Adapted From Edgar Allen Poe's "The Raven," And Dedicated To All One-Ls Everywhere]



Once upon an evening, weary, I sat perusing casebook dreary,
Determined to distinguish model penal code from common law.
Attempting anxiety to confine, whilst vaguely fending off madness, borderline.
I didst outline, outline, outline all these intricacies of the law
(a full-time occupation of every first-year student of law,
At the UCLA School of Law).

Then o'er the campus rooftops bleak, I heard an eerie midnight shriek;
Another one-L pushed to his pique was the conclusion I didst draw.
When, through my open window, front and center, this impressive bird didst enter,
Keen of eye with mien of Mentor, my full attention he didst draw -
Created to inspire awe, this bird of prey with fearsome claw,
On campus at the UCLA School of Law.

I knew Aquila legalis his name must be, more commonly known as "legal eagle" to you and me,
No question of this could there be, no turkey he, this bird learned in the law.
Atop my bookcase he didst perch, the better his eagle eye my soul to search,
From some ivory-tower aerie perch, the daunting creature that I saw,
This legal eagle, haunting a lowly first-year student of the law,
On campus at the UCLA School of Law.

This bird, with his beak aquiline, didst my confidence sorely undermine,
As he sat there, stern and saturnine, practice test, unanswered, in his claw,
I dared ask of this most legal eagle, with his bearing almost regal,
"Tell me, where's justice in all this that's legal and doth me overawe?"
"How doth all this legal mumble-jumble not stick within thy craw?"
Quoth the eagle, "It's the law."

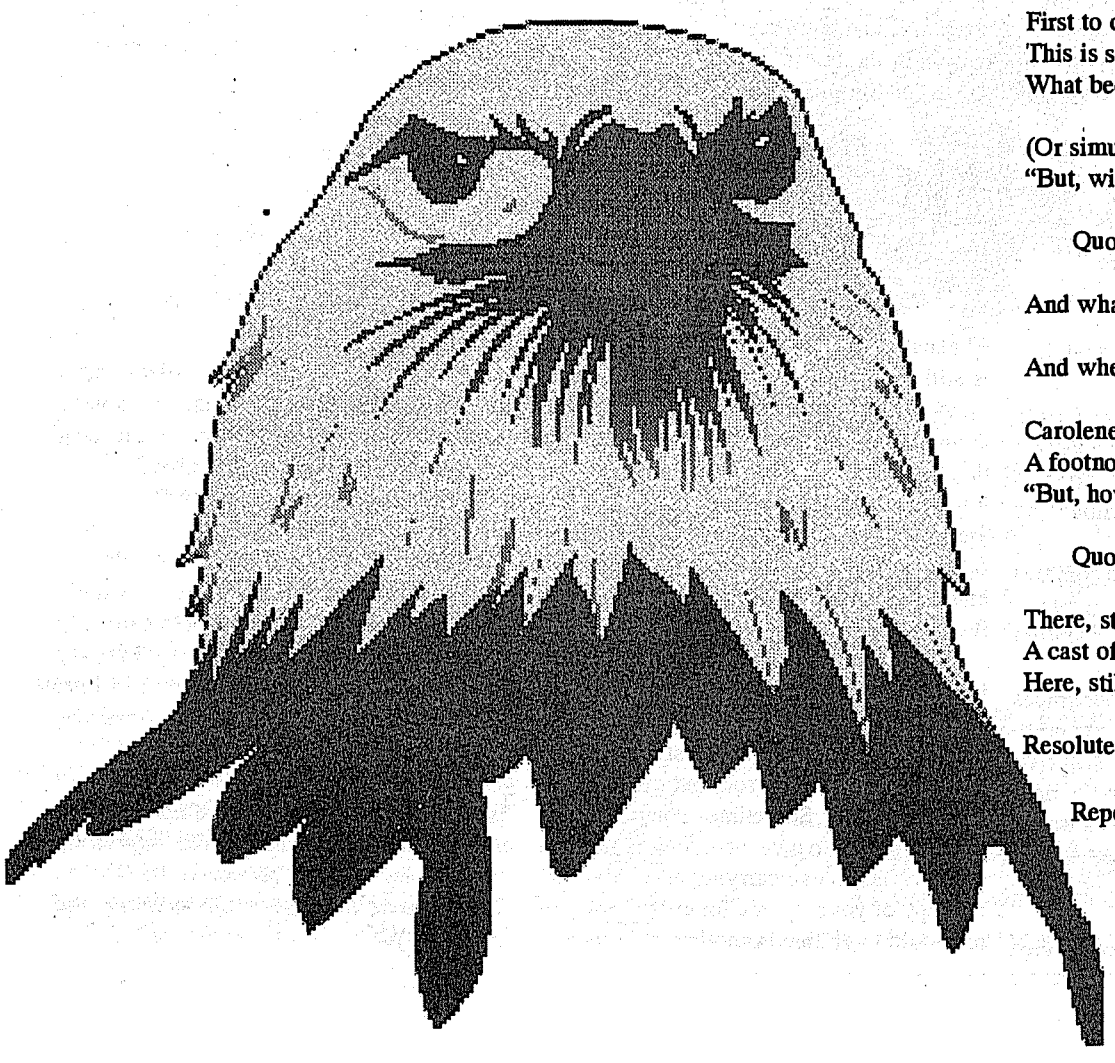
Palsgraf, Polemis, Wagon Mound, Ploof! Causes, "but for" and proximate, therein's proof.
"Do we to Adam and Eve a trail of blame draw? Favor Andrews, and could it be law?"
Favor underdogs! Favor bosses! Apportion blame and spread the losses!
"How justify it- and where is there a line to draw —
In this inedible, oft hard-to-swallow tort law?"
Quoth the eagle, "It's the law."

The mens rea of an offense (intent, wanton disregard, or negligence)
With actus reus and attendant circumstance are crucial to criminal law,
Where we have manslaughter and murder by degrees with mitigating circumstances and insanity pleas.
No doubt the latter of these would excuse any first-year student of the law.
"Is not Socratic method also 'adequate provocation' at common law?"
Quoth the eagle, "It's the law."

If all the rest drives not a one-L ga-ga, there's collateral estoppel and *res judicata*,
In civil procedure (the insider's guide to the law).
All this procedure is so hard to take — then it's amended by committee o'er winter break,
And, following that, we have an earthquake (a mere day's diversion at the UCLA School of Law).
"Are not after-shocks predictable with the Socratic method of teaching law?"
Quoth the eagle, "It's the law."

As all this in my mind didst mingle, my GTE telephone didst jingle,
Perhaps, someone from this dismal, dark despair wouldst me withdraw-
From this dreadful state dejected-no, it's my boyfriend; ***he*** feels neglected.
"Tell me, bird, is there no respite from all this that at my brain doth gnaw?"
"How do I learn it — how discern it — all this that seems so fraught with flaw?"
Quoth the eagle, "It's the law."

Promisors, promisees, assignors, assignees, obligors, obligees-
Well established are rights and duties of these in the study of contract law.
So worthy of contemplation, this cow "with calf," Sherwood's legal aberration,
Is due many hours of consideration by every first-year student of the law.
"Sole case of its kind in all creation, what conclusion shouldst I draw?"
Quoth the eagle, "It's the law."



First to capture wins in Pierson v. Post. Possession is what matters most.
This is stressed uppermost in the study of property law.
What becomes of Blackacre on death of "B" (or after deaths of heirs of "C")
(Or simultaneous deaths of "A" and "D") is clearly defined under the law.
"But, with ambiguities enough to make any one-L snap, what about this Rule Against Perpetuities (RAP) in property law?"
Quoth the eagle, "It's the law."

And what of hours spent in deep devotion, pondering "chickens at rest" and "cows in motion,"
And wheat causing Wickard such commotion with the constitutional commerce clause?"
Carolene Products, footnote four, all one-L's remember evermore,
A footnote important to explore, in the study of constitutional law.
"But, how justify we 'any conceivable basis' to dispute economic due process cases under the law?"
Quoth the eagle, "It's the law."

There, still he sitteth and blinketh not-damn Socrates and all his lot-
A cast of pity he hath not-this legal eagle, expert in law.
Here, still I sitteth, midst Gilbert's and Legalines, mere legal eaglet, completing outlines.
Resolute am I, determined to master this study of the law — this beleaguering, fatiguing, intriguing subject —— the law.
Repeateth we all, "It's the law."

May 1994

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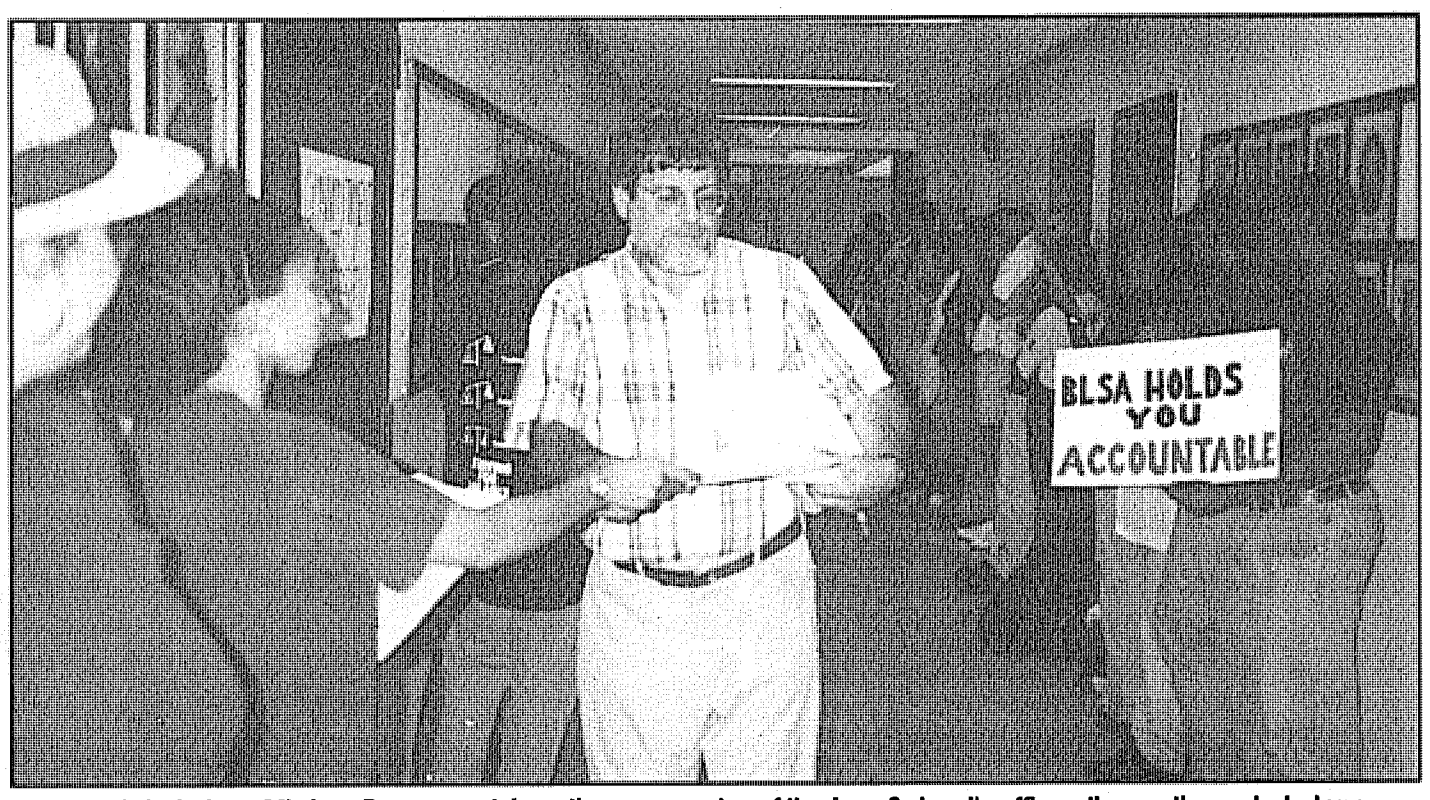
TORT

from p.4

thing Ralph Nader's opposed to, I support."

Brian Elder took a different view. According to Elder, a 1L, the propositions should be viewed as a professional self-interest issue. "I'm in law school," said Elder. "I want to be a lawyer. Anything that stifles my ability to practice law, I'm against. That's just common sense."

The war is not over yet though. The trial attorneys have already qualified a counter-initiative for the November ballot titled the "Frivolous Lawsuit Limitation Act" that would have overturned the contingency cap contained in Proposition 202. In response, the Alliance is trying to qualify what might be termed as a counter-counter-initiative that would duplicate the trial attorney's initiative but would contain a contingency fee limit similar to the one contained in Proposition 202.



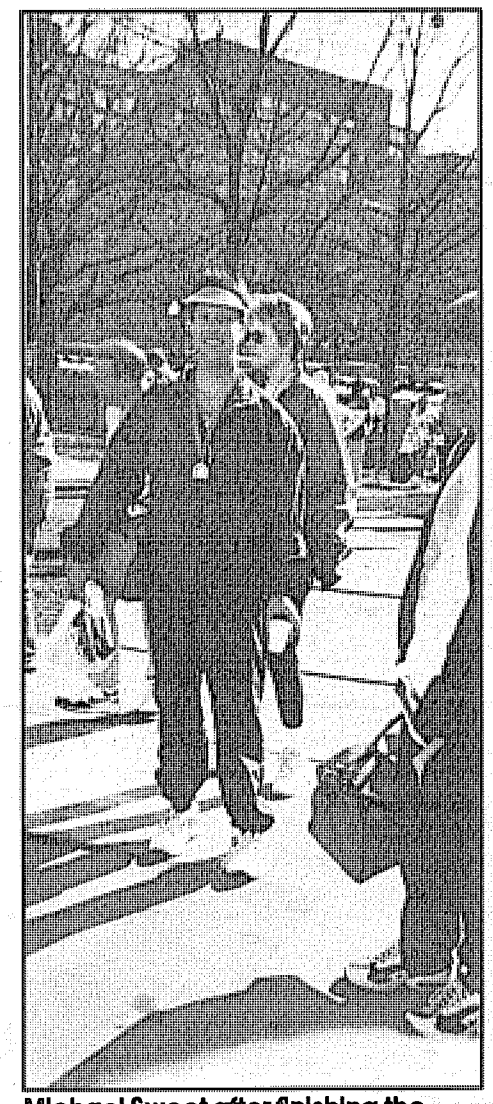
Dean of Admissions Mickey Rappaport, longtime supporter of the Law School's affirmative action admissions policies, enters the April 19 faculty meeting which resulted in a 28-6 vote implementing the Regents' mandate to eliminate racial considerations in school admissions.

CCRI

from p.7

So it does sound as if CCRI would make it too easy for public employers to exclude women from a wide variety of law enforcement, defense, construction and other formerly exclusively male jobs. But it is hard to imagine any decent court discounting the fact that women have proven that they are more than capable of handling any of these jobs. How can you argue in good faith that being male is a reasonably necessary qualification for being a police officer when women have already conclusively demonstrated that it is not? So even though Clause C might be significant in some arcane legal sense, practically speaking it is impotent, maybe even a decoy.

That provision is what opponents of CCRI are now banking on to bring about the defeat of the initiative. If it works, then someone out there is a political genius. But it is extremely unfortunate that in California it is not enough to point out the obvious: (a) official affirmative action has been effective at enabling women and people of color to obtain decent jobs otherwise wrongfully denied to them and (b) unofficial affirmative action is a way of life for the wealthy and well-connected.



Michael Sweet after finishing the Boston Marathon.

ADMISSIONS

from p.2

mittee meeting since last fall with the specific mandate to devise an admissions policy that would comply with the Regents' directive. In adopting the formulaic admissions policy, the faculty rejected a more discretionary admissions proposal as well as two student-generated admissions proposals.

The new policy is expected to comply with restrictions in the California Civil Rights Initiative, an ballot measure Californians will vote on in November.

UCLAW students held two demonstrations to show their concern over the future of affirmative action at UCLAW. Creating a human gauntlet, approximately 100 students silently lined the hallway outside the faculty meetings.

"It's an incredibly strong feeling walking through that," stated participant Julia Mass, "and I'm just a student."

Walking through, one at a time, each faculty member and administrator was offered a flyer listing proposals by the Black Law Students Association, the Asian Pacific Law Students Association, the American Indian Law Students Association, and La Raza.

MARATHON

from p.2

thon running in their "spare time." (Yes, law students do have some spare time. Most choose to sleep.)

When the sun rose on the City of Los Angeles on March 3, 1996, close to twenty-thousand people gathered downtown for the eleventh running of the LA Marathon. At least seven third-year law students from UCLA started and finished the race.

For one runner, Samantha Hardaway, even entering the race was an accomplishment. Last September, Hardaway underwent surgery at the UCLA medical center to remove a brain angioma. Commenting on her remarkable recovery she noted: "I had planned on running the marathon before the surgery. It was always a goal for me but I suppose it was much more meaningful when training became a gauge of my recovery."

For first-time marathoner Aaron Friedland the running seems to have become addictive. Just days after the race he was searching the runners' tabloids for the next competition. His plans now include the Palos Verdes Marathon in June 8 and the San Francisco Marathon in July. Rumor has it he might also choose to take the California Bar Exam beginning on July 30.

Chris Patay also ran his first marathon that March morning in Los Angeles. Although his immediate running plans are not as ambitious as Friedland's he will also participate in the Palos Verdes half-marathon on June 8. "After running 20 miles, having to run 6.2 more wasn't the most pleasant experience, but I can't imagine that studying for the bar could be any worse," said Patay. "I knew if I could get through that, I could get through anything."

Other student marathoners include Marissa Suarez, Alex Lee, Saul Saribia, and Hyunu Lee.

Six weeks after the LA race, third-year Michael Sweet made the trek east to participate in the 100th running of the Boston Marathon. "Many people thought I was crazy to do Boston so soon after LA. Of course, most people think marathon runners are crazy anyway." Said Sweet, who completed his first three Marathons since starting law school. He added "I wouldn't have traded the Boston experience for anything. Forty thousand runners and 1.5 million spectators made for an incredible celebration."

According to Patay, running also helps him deal with the stresses of law school. "It really clears your mind," said the Southern California native. Sweet adds "my training schedule seems to help me stay focused. By the time I get to my nine am class, I've usually run six or eight miles. Any grogginess I felt when I woke up is long gone."

"Just finishing is such an accomplishment that its worth allthe training, pain and effort," remarks accomplished 3L marathon runner Alex Lee. "It also gives you something to work for that keeps your mind off school and gives you a sense of accomplishment outside of your grades. I have said never again several times and every year I'm out there."

One concern for these runners will be their ability to train once they leave school. "Michael [Sweet] and I once ran 8 miles in pouring rain at 6:30 in the morning," says Patay, "It'll be hard to be that motivated once I'm working 12 hour days."

Getting through law school has been a marathon in itself for most of us. Hats off to those who have put in the extra effort on the roads.

WARDLAW

from p.4

Wardlaw has balanced legal practice with a strong commitment to serving on behalf of the disadvantaged. After graduating from UCLA summa cum laude, Wardlaw decided law school could help further her commitment to public service. "I loved law school," says Wardlaw, who made lasting friendships during her years at UCLAW. "Two of my closest friends today, Gail Lees and Dick Burdge, were in my first-year section, my study group and we did Law Review together."

Wardlaw reserves special praise for the law school faculty. She enjoyed many professors, including Susan Prager and the late Mel Nimmer. Of Professor Ken Karst,Wardlaw says: "He was a phenomenal teacher. To this day, I look at some of my notes from his federal courts class. I reviewed them throughout my confirmation process."

Professor Karst returns the praise. "If you were to set out to list the qualities that make a good judge, I think you would find that Kim has them all," Karst says. "She is very bright, she has her feet on the ground, she has good judgment and she is a genuinely caring person. What more could anyone want?"

During her career, Wardlaw has served as president of the Women Lawyers Association of Los Angeles, on the board of governors of the Association of Business Trial Lawyers, as a trustee for the Los Angeles County Bar Association and as a founding member and officer of the Women Lawyers' Public Action Grant Foundation, which funds law students who pursue public interest summer projects.

During the 1994 gubernatorial campaign, Wardlaw chaired Kathleen Brown's Debate Negotiations and Preparation Team. Wardlaw also was active in Los Angeles Mayor Richard Riordan's run for office and worked on his transition team. During the 1992 campaign, she was a Clinton delegate to the Democratic convention and oversaw Hillary Clinton's California campaign schedule. Wardlaw later became part of the Clinton Administration's transition team, serving in the Justice/Civil Rights cluster.

Now on the bench, Judge Wardlaw looks forward to helping those who visit her courtroom understand the legal system. "Our system seems to be suffering in the public eye as a result of some recent high-profile trials, and I believe it is important that each person who comes into the courtroom walks away feeling that the process was fair. They may not agree with the outcome, but at least they will feel that the judges are doing their best to do what is right."

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BERKELEY

from p.1

when the sound went off. She strolled to the chalkboard and wrote "I am giving UCLA the answers."

"Actually, the problems made the class even more interesting," said UCLA law student David Fleck. "It was easy to forget that you were part of a high tech experiment."

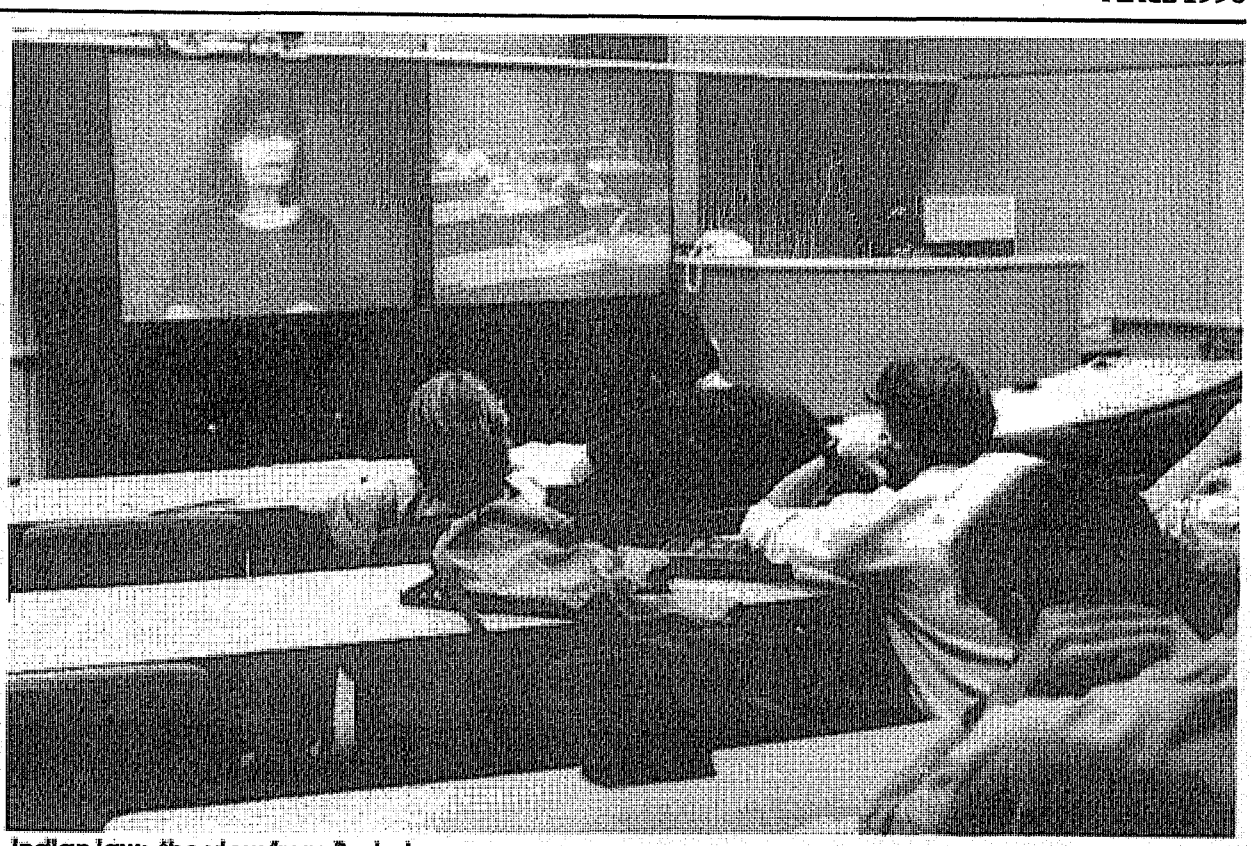
As Chair of Academic Senate, Goldberg-Ambrose has often pondered how to reduce costs without reducing the quality of academic programs at UCLA. Meanwhile, Boalt Hall has been trying to find ways to bring her to Berkeley to fill its gap in Federal Indian Law. The Distance Learning Center turned out to be a good answer to both problems.

"No one else teaches Federal Indian Law at any of the UC law schools," she said. "In fact, students at UC Davis were disappointed that they were not included in this course."

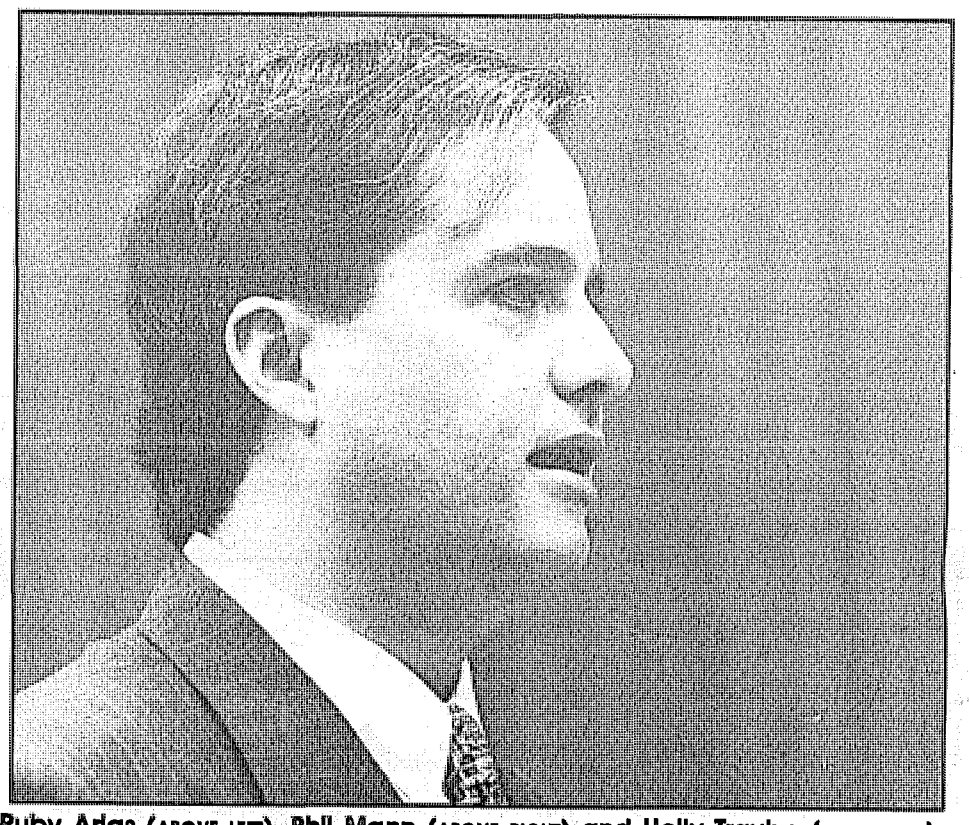
Chris Chavez, a law student at Boalt Hall, told the *Daily Californian* (Cal's *Daily Bruin*) that she was skeptical at first but has found the class effective.

"This professor has been really good at communicating with e-mail and she flies up for office hours," she said. "It wouldn't be as effective with a less dedicated professor."

"I would definitely do it again," says Goldberg-Ambrose. "It's challenging but a lot of fun."



Indian law: the view from Berkeley



Moot Court finalists Ruby Arias (ABOVE LEFT), Phil Mann (ABOVE RIGHT) and Holly Traube (BELOW LEFT).

MOOT

from p.1

tion start with the writing of the first brief and continue throughout the rest of the competition. Much of this frustration can be entirely bypassed if you, the participant, deal with a few issues before the competition starts.

First, realize that moot court is a team event. That means two people working together. Having come to this realization, you must decide who you would like to be partners with. Everybody's first instinct is to buddy up with someone who they liked and got along with in section – i.e. your best section friend. Before you commit to that person ask yourself these questions:

1. Do we both have the same attitude regarding moot court ?

Are both of you in sync ? If one of you really wants to win, while the other is just there to have fun, you're going to be frustrated with each other. The competitive partner will want to put in a lot more time and effort, and he'll be much more high strung, than his less competitive cohort. Thus, differences in attitude can become a major point of friction between partners.

2. What kind of person is this ?

Inevitably, the two of you will put in some very (very) long hours (usually at the briefwriting stage of the competition). More than likely, a few sleepless nights will be involved. The questions you must ask yourself are: Will this person come unglued under the pressure of long hours spent reading cases and writing ? Will this person remain focused and productive until we're finished ? Very few things are as important during an all-nighter as a calm, cheerful, supportive and productive partner. No amount of coffee or Vivarin compares to the bolstering qualities of a good partner. On the other hand, the absence of these important positive characteristics can turn a merely trying time of hard work into a vision of DantJ's Inferno.

3. Is this person available ?

Amazing, but that person you assumed would be your partner — well they actually accepted the offer to be someone else's partner. You must lock in your partner ASAP if you want to be sure that next year you have the partner of your choice.

Now that we've dealt with the partner issue, let's go on to the briefwriting. The important thing here is to outline (and I mean in detail, taking note of any good or bad language in the case), then brief, the cases you read — as you read them. Once you've finished reading all the cases you should have a complete outline of all the cases. Be sure to keep in mind at all times during this reading and briefing what your issue is.

Finally, oral argument. Here is some generally accepted wisdom about oral argument — be interactive. What does that mean ? It means that the judge will expect you to know and answer any questions regarding cases. You are expected to have read your opponent's brief, understood their arguments, and created counter-arguments. At all times the judges will make it your job to tell them why you should win. Also, never forget to capitalize on the weaknesses in your opponent's arguments brought out by the judges themselves. Listen to the judges, see where they disagree with your opponents, harp on those issues while giving due credit to the judges for discovering your opponent's vulnerable spots.

If it looks like the judges agree with some part of your case, play it for all its worth. In other words, ADAPT OR DIE ! If you give the same argument to the judges regardless of what your opponents and the judges do, you are not presenting effective oral advocacy.

Also, answer the judges' questions. Don't dodge or ignore them if at all possible. The judges will know that you're hiding from the issues, and they won't like it.

And that's about all the real wisdom there is on moot court, except ... Don't forget to do what works for you.

ALUMS

from p.1

tice William A. Masterson, appointed to the Los Angeles Superior Court in 1988 and to California's Second District Court of Appeal in 1992.

"When I was about 15 I didn't like where I was and I figured an education was the only way to get me out," explained Justice Masterson, who was the first in his family to go to college. "What I want to express is gratitude for the University of California system, for without it I do not know where I would be ... The system is currently under attack and criticism from a variety of places but there must be others out there who were dealt the same hand that I was. I would hope that the system will remain for others the life saver that it was for me. For all those who wish to change the system, and change is inevitable, I would only ask that in the process of changing it, for God's sake do not destroy it."

Antonia Hernandez, the President and General Counsel of the Mexican American Legal Defense Fund ("MALDEF"), was the third Alumni of the Year to be recognized. Hernandez's dedication to public interest law, which has been phenomenal, is probably due to her special life experiences that include working as a migrant farm worker and a garment laborer. In her first job out of law school she worked as a Staff Attorney for the Los Angeles Center for Law and Justice from 1974 to 1977, after which she was Directing Attorney of a Los Angeles office of the Legal Aid Foundation. She subsequently served as Staff Counsel to the United States Senate Committee on the Judiciary from 1979 to 1981, and then began her series of positions with MALDEF.

"When I decided to go to law school I had no idea what the law was or what a lawyer was. All I wanted to do was use the law as a tool for justice and equality ... Today, as you look at the debate of affirmative action and decide whether it is good or bad ... I want to tell you that before you stands a human being, a product of affirmative action. If it was not for affirmative action I would not have been able to do what I have done. Affirmative action is equality, it is fairness, it is opening the door for someone like me to fulfill her dream. For that I thank UCLA."

The fourth Alumni of the Year Award was given to the prominent entertainment lawyer Kenneth Ziffren, whose firm represents Dreamworks SKG, many of the industry's most successful writer/producers and celebrities such as Harrison Ford and Eddie Murphy. In accepting the Award, Ziffren reflected on his path to success.

"It's a series of ironies that brings me to this podium, along with a lot of good luck, major influences and help. Despite coming from a family of lawyers you should know that I had no intention originally of practicing law. Instead I was an avid math student with a strong interest in politics ... Struggling to maybe a B average and reasonably good LSATs I decided to apply to law school. This is where my uncle ... became a major force I my life. He had in fact graduated in the first law school class at UCLA. When he heard I was applying to law school he conducted one his more vigorous and inspired campaigns and persuaded the school to admit me ... Could it happen today? Probably not."

The evening was capped off with the reading of a letter from the White House by David Tseng, Special Assistant and Policy Advisor to the Department of Labor.

White House Letter

Warm greetings to everyone gathered in Los Angeles for the Annual Dean's Dinner at the UCLA School of Law. I join you in congratulating Antonia Hernandez, Judge William Masterson, Representative Henry Waxman and Kenneth Ziffren as they are honored with the 1994 and 1995 Alumni of the Year Awards. I commend the UCLA Law Alumni Association for your long-standing dedication to excellence in higher education and justice for all. Encouraging law students from a variety of backgrounds to pursue their dreams and creating a supportive environment for your alumni across America, you are making a great contribution to the quality of our National life. The accomplishments of the distinguished alumni you have chosen to honor reflect your extraordinary record of achievement and I salute them and you for helping to create a world where each of us is free to make our own contribution to society.

Best wishes for a memorable event,
Bill Clinton

MERIT

from p.7

working class. That is, the law school curriculum deals with subjects that are of more intrinsic interest to the rich than to the poor and "successful lawyers" are those who cater to the interests of the rich. (On the other hand, it is also plausible that those without property and constitutional rights in their families might be more interested in them than those for whom these are commonplace.)

But if this specialized definition of "merit" works to explain why it is disproportionately found in wealthy families,it would also seem to drain the notion of "merit" of much of its moral weight. Since social tasks are socially constructed, one's merit depends on the society into which one is born. In a society of warriors, those with superior ability to kill would have merit, whereas had they been born into a peaceable culture their merit would be considerably less.

Moreover, this definition of "merit" can provide a defense of affirmative action. If the task of a public law school is to provide lawyers who can make the law more egalitarian, then "merit" defined as suitability for the task at hand, would seem to suggest that greater "merit" exists in those from poorer families than in those born to wealth.

The specialized definition of "merit," however, suggests one way in which grades and test scores might be thought to measure something like real merit. If the SAT is in fact a measurement of one's "scholastic aptitude", then one for whom the SAT predicts undergraduate grades in the "C" range who achieves a grade point average of "B" or better might be said to have demonstrated "merit" in the sense that a Tyus Edney slam dunk does.

So far as I know, this approach to "merit" has never been systematically applied. If you think about it for a while, you can easily find plausible explanations why not. However, the most obvious explanations why this definition of "merit" will not work also tend to undercut arguments that the traditional use of the numbers produces people of greater merit than those rejected.

BIZ WORLD

from p.2

tured in this article, decided to use his law degree in a venue other than practice, building up a highly successful series of businesses — including his co-founding of both the first pay cable television network and a high-volume mail order company, Red Rose Collection, which he now operates. Others enjoyed the practice of law for several years, but as time went on became more interested in making a living doing what some of their clients were doing. All of the UCLAW alums you'll meet here clearly used their legal education to their advantage in the business world, in some cases building tremendous business empires lauded for their financial performance or overseeing such endeavors as the marketing of trademarked materials for Major League Baseball, as does '83 graduate Don Gibson. In still other instances, the alumni-run companies have been critically acclaimed for their contributions to the arts or to preservation of the planet. For example, a '75 graduate, Deborah Arron, has made a living giving speeches and writing books for those interested in leaving law to go on to something else — a business she developed after making an emotional decision to leave law. In doing so, she saw that others needed the same kind of career-transition guidance she lacked. Two alumni, JosephKornwasser and Jerald Friedman — who did not attend the law school at the same time — teamed up while working at the same Los Angeles law firm. A couple of years later, they formed their own law firm. They went into the commercial real estate business together and have developed Price Costco shopping centers nationwide.

"Sometimes, attorneys can't see the forest for the trees, and that can kill a deal. We know what the forest is."

—Jerald Friedman '69
CEO of K & F Development Co.

Brutoco was so enthusiastic about practicing law that he took on a number of cases while still at UCLA, which entered him into a fair bit of controversy. "Murray Schwartz — it's a true story — tried to get me kicked out of law school for practicing law without a license," says Brutoco. Besides starting the California Public Interest Law Center out of a small storefront where the Federal Building now stands in Westwood, Brutoco worked on a number of cases with Los Angeles attorneys. Always a health food connoisseur, Brutoco became involved in a case that set the standards for what is now law in California requiring that produce meet certain specifications before it can truly be considered "organic." He wrote a chapter for a treatise by the late Professor Monroe Price ("I took the chapter on insanity," Brutoco quips. "Monroe and I both thought that was appropriate"). He created an externship for himself and 10 other students in criminal law — the first at UCLA — where he worked for both the district attorney's office and the public defender's office. He discovered through this experience, he adds, that he did not want to practice criminal law.

While developing the California Public Interest Law Center — the state's first nonprofit law center and a project borne out of Brutoco's original idea to start a West Coast branch of Ralph Nader's Center for Science in the Public Interest — he began working with attorneys on a class-action suit against Pacific Bell. The suit, which came to represent the pinnacle of his short lawyering career, sought to refund to California residents millions of dollars in what the class claimed were illegal rate hikes. The case was appealed all the way to the California Supreme Court, giving the newly graduated lawyer an experience even few veteran attorneys can boast.

"We won. We recovered $130 million," he remembers of the litigation in which he participated with a team of attorneys. But Brutoco was dissatisfied. Although he had achieved monetary damages for his clients, he didn't feel he had accomplished anything to change the system — something he initially sought to accomplish as a lawyer. "I had been before one of the most powerful courts. I had gone against one of the most respected law firms (Pillsbury, Madison and Sutro). And yet I really didn't feel like I had achieved my objective," he says. "I decided then I would sue no more. I didn't want to use my legal knowledge as a weapon, but as a tool kit."

Beyond his unusually expansive list of community and charity endeavors, he achieves that through business. He is founder and, since 1981, president of Dorason Corp., a privately owned merchant bank and is CEO of Red Rose Collection Inc., the San Francisco Bay Area company he founded with his wife, Lalla Shanna Brutoco, in 1986. The company, which is about to go public by selling stock to its customers, markets books, tapes and other personal growth items with an attitude toward preserving the planet. While the business is, Brutoco admits, "Californian" in nature, only 17 percent of its business is from California, an indication that this niche market has roots far beyond the state. The project started humbly enough a decade ago when Lalla Shanna Brutoco presented as a gift to her husband a photo of a red rose she had taken with a quote from an author-friend's inspirational, philosophical book, *A Course in Miracles*, inscribed in calligraphy. Rinaldo decided they should give one to the publisher, too. Before they knew it,many of the Brutocos' other friends wanted them. They obtained a mailing list and marketed the items. Before they knew it, a business was born.

"I decided then that I would sue no more. I didn't want to use my legal knowledge as a weapon but as a tool to build."

—Rinaldo Brutoco '71
President of Red Rose Inc.

Their other endeavors include a San Francisco retail store, a "magalog" called *Catalist*, The Red Rose Gallerie, and Red Rose Naturals Inc., a company centering on nutritional practices. Marketing analysts attribute Red Rose's success, in part, to the personal nature of *Catalist*, which Lalla designs by putting together personal growth and development articles and photos of products in a format much more reminiscent of a magazine than a marketing effort. Red Rose — a company started on a kitchen table — mailed 7 million catalogs in fiscal 1995 and generated $13.6 million in sales. Its rapid expansion distinguishes it as only one of two catalog companies in the "Inc. 500" that year.

"I've kept using my legal knowledge to get into other areas," proclaims Brutoco, who relishes his business experiences as a furtherance of his lifelong commitment to educating himself. "Part of the reason I've been able to do that was because I went to a law school like UCLA, where I was able to explore many fields."

Barbara Boyle '60, who has produced such films as the recently released "Bottle Rocket," and such classics as "My Left Foot" and "Reversal of Fortune," had no intention of practicing law by the time she reached her third year of law school. In fact, the successful producer, who was one of four women in her graduating class, remembers that during her last year of law school, Professor Murray Schwartz told her she had been a disappointment and had not performed as well as expected. "He basically told me I was unemployable."

Boyle — now a partner in Boyle-Taylor Productions in Los Angeles — remembers explaining to Schwartz that although she planned to take the Bar exam, she did not want to practice law. She told him she intended to continue waiting tables — just as she had throughout law school — in the Ashgrove, a '50s-style coffee house in West Hollywood. But, a few months later, as finals approached and Boyle sat among the library stacks studying, she was handed a note asking her to go see Schwartz immediately. Thinking there had been a family emergency or some tragedy, she ran to his office in a frenzy. He told her he wanted her to interview for a job as a labor attorney at a studio. When she called the number, she was told to get to the studio immediately.

"At this point in my life, I had hair I could sit on, and I was wearing jeans. I was not dressed for an interview," Boyle recalls. She found a piece of chalk and scrawled a note: "I took the car" in the parking space for her UCLA-student husband, Kevin Boyle. She drove down to La Brea and Sunset to Charlie Chaplin's former studio, which was then American International Pictures. When she entered the lot, a parking kiosk attendant directed her to the interview.

"When I got there, there were three or four absolutely gorgeous, color-coordinated women sitting there waiting. I didn't know them — at that time I knew all the women law students from UCLA, Boalt and Stanford, and I didn't recognize these women. I thought maybe they were from Harvard or Yale."

Boyle was finally called into the interview, only to find the "prototypical studio guy," she says. "Here he is, feet up on his desk, the whole thing. The first thing this guy said to me is: 'Take off your jeans.'" Boyle was outraged, and used her lawyering skills to tell him so in no uncertain terms. After the confrontation, the interviewer was able to explain himself, and she learned that a mixup had occurred. She had been misdirected to a casting call for a beach movie. "We were all supposed to be in swimsuits," she says, laughing. The confusionresolved, Boyle was directed to the right interviewer in a different building on the studio grounds, and she secured the attorney job for $100 a week. "When I asked him how much I'd get after I passed the bar he said I'd get a raise to $125 a week. And that was it."

"There were only 12 employees, little business, and I was out of money. It was awful. My partner took cash advances on his credit cards to make payroll and I moved in with friends. And it was all worth it."

—Jim Eisenberg '83
reflecting on the risks he took in setting up a business

So Boyle entered the world of entertainment, where she was one of only a handful of women in a business that is today, like many industries, still trying to break gender barriers. Boyle admits that being a woman in a man's world was tough, but that it did not consume her.

"I had gotten used to it," she explains, adding that she grew up with a brother. And, later, when she had children, she had sons. "Gee, even my dog is a male. All my peers were men." She adds, however, that she had a credential most women and many male peers did not have. "I was a woman in this business, yes, but that was superseded by the fact that I was a lawyer. I really think that made a difference. Without my law degree, given the same intellect and capabilities, I don't think I would have stood a chance."

Joseph Kornwasser '72 and Jerald Friedman '69 became attracted to some of the work their clients were doing when they ran their own law firm in Los Angeles. "We were representing some clients in commercial real estate who were buying retail shopping centers and hiring property managers to manage them. It was a good business," explains Friedman '69, who had no previous real estate experience when the two began their real estate partnership in the late 1970's . "We saw what they were doing. It seemed like fun. And we said, 'hey, we can do that.'"

Their speculation led to what is today K & F Development Co., an outgrowth of a series of the business team's enterprises. K & F was a joint-venture partner of Price/Costco Inc. and Price Enterprises Inc., a major developer of regional and "power" shopping centers, referring to the grand-scale shopping centers anchored by a large warehouse or department store. Both men also serve on the board of National Bank of California, a bank they founded in 1984.

During the next year, they met Sol Price, for whom the Price Club is named. "He said he wanted to work with us as a joint-venture developer developing shopping centers adjacent to Price Club stores," Friedman explained. In that joint venture, Kornwasser and Friedman developed land throughout Southern California initially and then throughout the nation. K & F has offices in Los Angeles, San Diego, Phoenix and New York. As the joint venture evolved, Friedman became chief executive officer of K&F Development Co. And Kornwasser became chief executive officer of The Price REIT Inc., a real estate investment trust affiliateof K & F.

Friedman and Kornwasser both entertained some notions of going into business while still in law school — Kornwasser having entered law school the fall after Friedman had graduated. To boost his business know-how, Kornwasser had taken course work at the UCLA School of Management for a year during law school. As an undergraduate at UCLA, he had majored in finance and business. Friedman had started out in chemistry, switching his major to political science at UCLA. He attended law school, graduating first in his class and having served as an editor on *UCLA Law Review*.

They say their legal education has helped them immensely in business. "If nothing else, we can move things along faster," says Kornwasser. Additionally, they can feel more confident in their decisions when making transactions, deal making, negotiating purchase agreements and conducting other business, Kornwasser says. "We don't have to rely on our attorneys," he explained. "We can make negotiations shorter and more meaningful."

Friedman finds that their legal experience enhances their business deals because they can keep in mind the best interests of their business while operating within the law. "Sometimes, attorneys can't see the forest

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BIZ WORLD

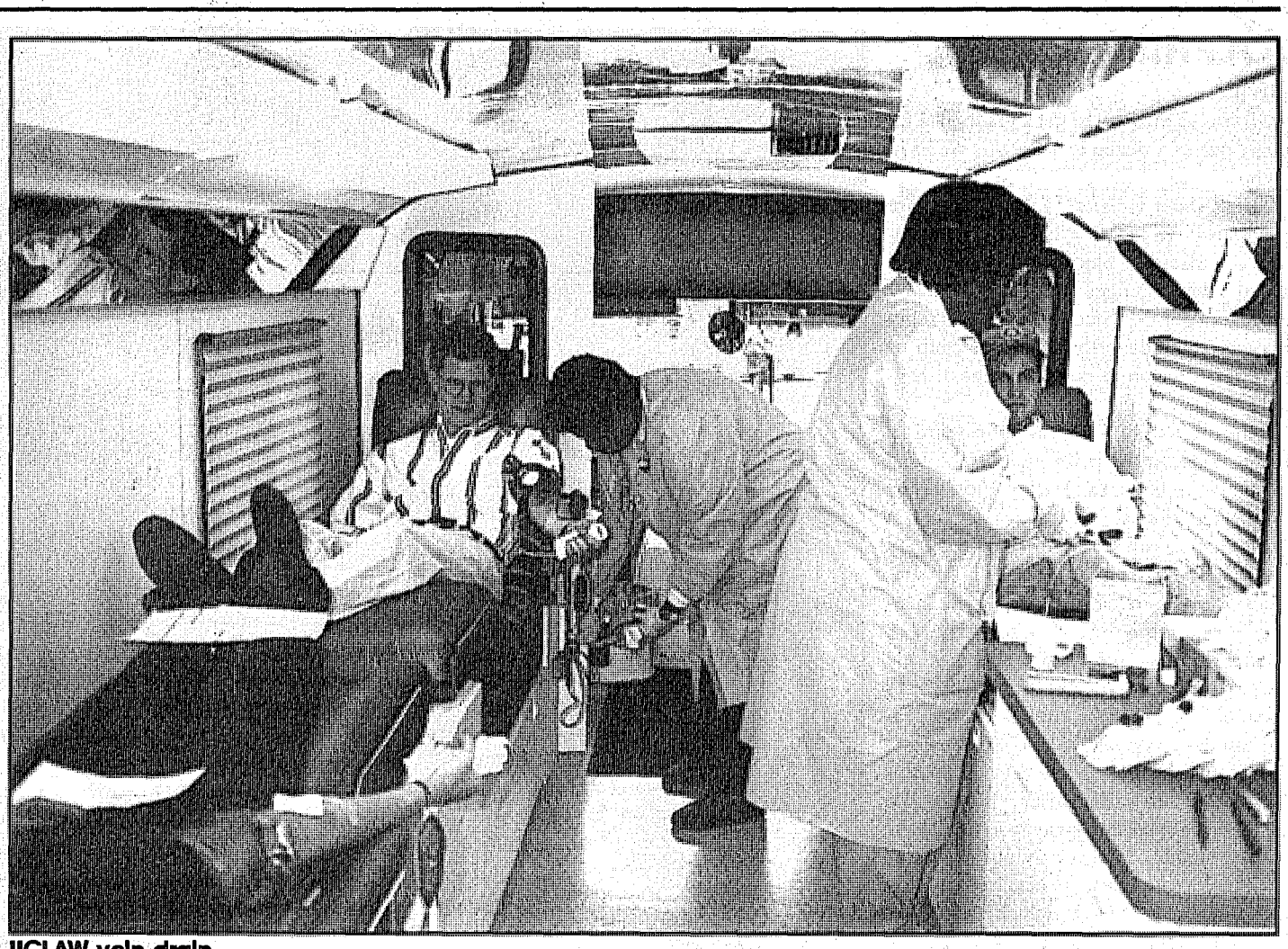
from p.16

for the trees, and that can kill a deal," Friedman philosophizes. " We know what the forest is."

Deborah Arron '75, the daughter of a lawyer, attended law school with the thought of possibly becoming a public defender or going into politics. While in law school, she enrolled in now-Los Angeles Superior Court Judge Paul Boland's yearlong trial advocacy course, she was an editor on *UCLA Law Review* and was a good student. When she graduated, she returned to her home state of Washington to practice law, and became the first female associate at a Seattle law firm dealing mostly in civil litigation. She later became a partner in a small firm, and later was a solo practitioner. After 10 years, she decided to try something else. But she didn't know what.

"It was a very depressing time for me," says Arron of her decision to take a year off to figure out her next career move. "So much of my self esteem came from being a lawyer. When I quit, I felt worthless." What Arron found outside law practice was a number of lawyers who felt the same way she did, and they too were looking for answers. She talked to a number of them and started a support group. The result was her first book in 1989: *Running from the Law: Why Good Lawyers are Getting Out of the Legal Profession* (now in its fourth printing). Seminars and workshops followed in what became Arron's new career as a consultant and motivational speaker, first locally, then nationally and recently internationally for lawyers in transition and law students or those looking for more satisfying careers inside, outside and around the law.

A second nationally recognized book by Arron, *What Can You Do with a Law Degree?: A Lawyers's Guide to Career Alternatives Inside, Outside and Around the Law*, offers a self-paced workbook approach to career change and is now in its second edition. She is co-author of *The Complete Guide to Contract Lawyering*, aimed at those who still want to practice law, but in a different way.



UCLAW vein drain.

"I was a woman in this business, yes, but that was superseded by the fact that I was a lawyer. I really think that made a difference. Without my law degree, given the same intellect and capabilities, I don't think I would have stood a chance."

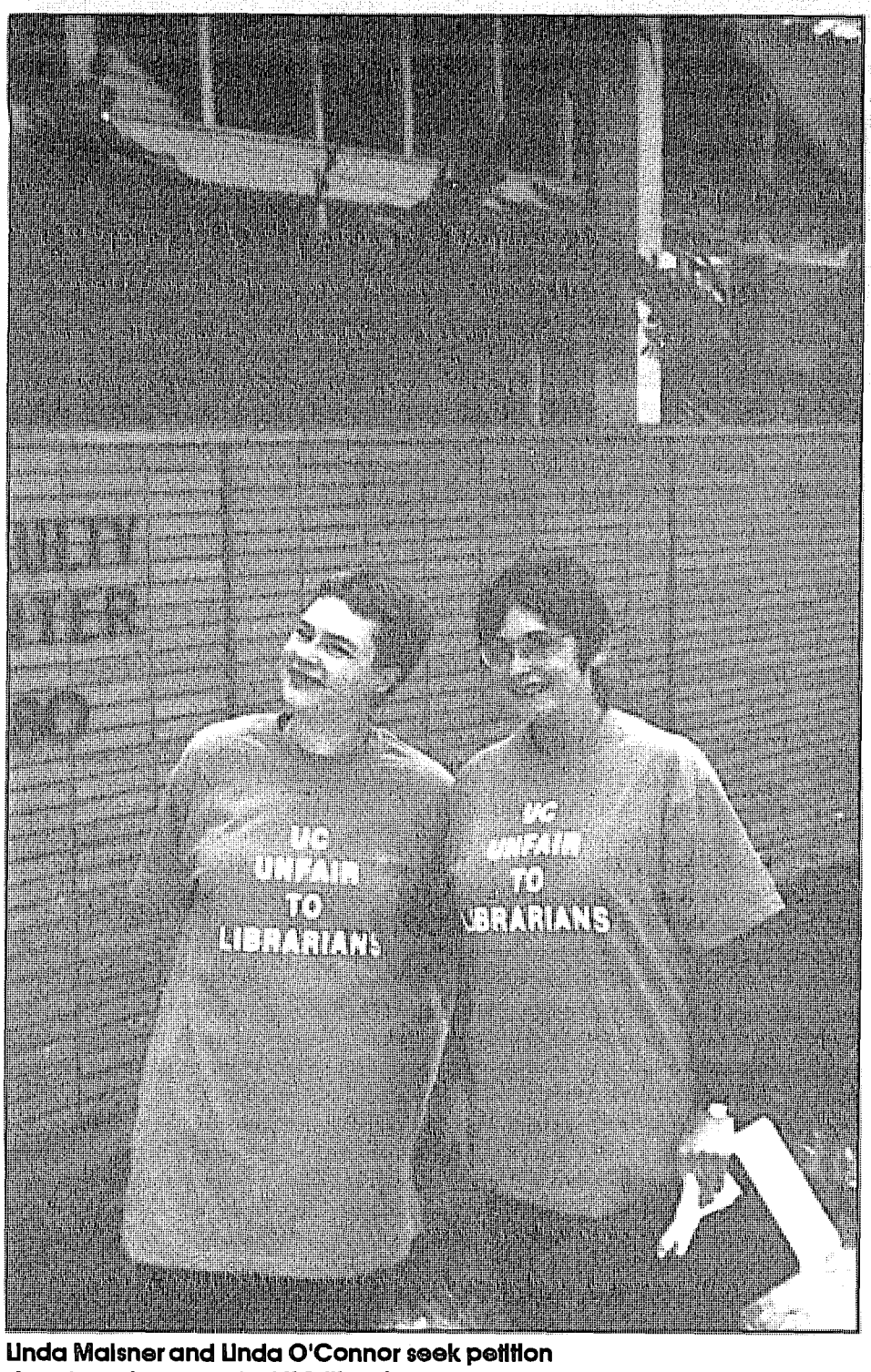
—Barbara Boyle '60
Boyle-Taylor Productions

"What a lot of lawyers don't realize is that law school provides you with an excellent education that can be used in other fields besides law," she explains. "Law school teaches you how to think analytically, to handle enormous workloads under pressure and to deal with difficult people." Arron adds that her participation in the clinical program and in law school, in general, helped to hone her skills in public speaking, something she both immensely enjoys and depends on in her new career.

She explains that for many people with good grades but no clear career goals, including herself, law school was a logical next step after college. But, she continues, many people make the mistake of believing they have to stay in law when they are no longer enjoying it, or simply want to try something new. "We say, 'Law school was hard; I was able to do it. It must mean I ought to stay in law.'" She says this attitude permeates the lawyer population so intensely that lawyers are sometimes afraid to admit they don't want to be lawyers anymore. "I have people come up to me and whisper, so no one can hear: 'Thanks somuch for doing what you do. I want to change careers, but don't know how to go about it.'"

In her writings and presentations, she tries to teach attorneys how to integrate "their left and right brains."

"A lot of lawyers don't know how to do that." Arron elaborates: "Lawyers distrust their intuitive — their feeling — side, but they need to pay attention to it when they are thinking about a career change. I try to appeal to their left brains, and to make them think about why they are doing what they do; what it is they really want to express through their work.?"



Linda Maisner and Linda O'Connor seek petition signatures in support of UC librarians.

BUSINESS

from p.9

trillion if the higher rate were achieved. In the distribution of material income about 73% goes for compensation of employees. The rest goes to business profits, form income, rental income and interest or savings. Thus employee income would be about $600 billion higher with a faster growth rate. And of course it is the employees with lower incomes who are in the greatest need for a more prosperous economy.

Most everyone who has attempted to start a business, or grow one, complains of the extensive anti-growth and unreasonable regulation of economic activity. The Catholic nuns encountered this even in a charitable activity. Certainly a major barrier, if not the most important one, is the extensive counter-productive regulation of economic activity. This is not an argument for *laissez-faire* but only a criticism of economically cancerous regulation. It grows and grows and destroys and destroys.

Laws naturally tend to be inflexible and static. When applied to the complex and dynamic nature of economic activity they run the very great risk of doing at least some economic harm. The decision of the Anti-Trust Division in the El Paso Natural Gas case certainly hurt the economy and no significant benefit was achieved to balance off the harm.

The difference between a 4.5% growth rate and 2.2% from now till the year 2000 is about one trillion dollars.

How do we deal with the legitimate need for government regulation of economic activity and at the same time reduce the great harm it is doing to society? Should not the leaders of the professions of business and the law join forces to seek a reduction of counter-productive regulation? The answer I believe is yes and I hope the current UCLA Law School students will choose over time to help promote such a movement.

DOLPHIN

from p.6

why it was so difficult to get a grade over 85 on any one of a dozen or so exams we have taken.

How about vicious? Law students are not vicious. In fact, a great many law students are afraid of blood altogether. They squirm when a judges opinion graphically describes a murder. Students are remarkably uncomfortable describing loss of limb or other more gruesome consequences of negligent acts.

Unfortunately, lawyers soon learn to hide their discomfort in the midst of the most disquieting of human suffering. Prosecutors seeking the longest possible sentence for a first time drug offender either suppress pity or just do not care that mitigating circumstances drove the offender to his crime. Likewise, defending attorneys vigorously seek justifications for the torture and mayhem wreaked by their client and shed only crocodile's tears for the victim. Civil litigation can devastate surely as a jail sentence, and yet to lawyers, the pain thus inflicted is just another day at the office. In this way, the public believes that many lawyers behave just like sharks. Sharks care not what they eat in the ocean; lawyers seem to hardly reflect on the ruin of those unlucky enough to become entangled in the legal system. The successful lawyer prevails and it matters not who was the adversary.

There are many considerate attorneys who dedicate themselves to the relatively low paying profession of public interest law, but their number is relatively small. The siren call from high paying firms all but drowns out the cries of the poor and needy, starting in the first year of law school. Throughout the year, class work and exams emphasize theories and tactics, leaving little time for compassion or sympathy. It is rare that any student asks about the well-being of either plaintiff or defendant at the close of the law suit or in the context of legal bills. It should surprise no one that most Americans have grave reservations about lawyers' ethics and morals.

Perhaps lawyers could improve their image by making a conscious effort to avoid behavior which resembles sharks, alligators, or worms. Surely we would prefer to be thought of as smart, social and considerate as well as aggressive. Ultimately, lawyers should be seen as helping society far more than they harm. Dolphins come to mind as a reasonable and realistic alternative mascot. Dolphins have many human, lawyer-like characteristics. Dolphins are intelligent and generally gentle, yet they are not kind and serene when under attack by predators. In addition, like their homo sapiens counterparts, male dolphins can behave rather badly towards females. Researchers report that packs of oversexed male dolphins routinely subjugate and harass female dolphins.

Clearly lawyers do not want to take on all of the dolphins' habits. For one thing, sexism in the legal profession is nothing to be blithe about. But dolphins do display a number of exemplary attributes worthy of emulation. For example, dolphins have saved the lives of humans adrift in the high seas without expectation of reward or thanks. (Only recently have humans made nominal efforts to reduce the slaughter of dolphins by commercial fishing ventures).

Can lawyers be also be selfless, even self-sacrificing? That would be a lot to ask for from sharks.

Future law clerks meet for a briefing.

CLERKS

from p.4

Steve Haydon (newly-elected Articles editor of the ULCA Law Review) (Judge Robert Boochever), Karin Schwindt (Judge Cynthia Hall), and Candice Yokomizo (Judge Wallace Tashima) will remain in the L.A. area. Their co-clerks will be top-ranked students and law review editors from the nation's best law schools. For instance, Brian Hoffstadt UCLA '95, preceding Ms. Schwindt in Judge Hall's chambers, will spend 1996-1997 in the Supreme Court chambers of Justice Sandra Day O'Connor.

Bruins will also be prowling the halls of both the old and new Federal Buildings downtown, home to the United States District Court for the Central District of California. Eric Carlson will clerk for Judge Robert Kelleher, Christine D'Angelo for Judge Harry Hupp; Brian Flavell for Judge Stephen Wilson; Scott Garringer and Travis Stansbury for Judge William Keller; Diane Klein for Judge Lourdes Baird; Robert Leach for Judge John Davies, Cheryl Sheinkopf, newly-elected Comments editor of the UCLA Law Review, for Judge Mariana Pfaelzer, and Gabrielle Albert for Bankruptcy Judge Thomas Donovan.

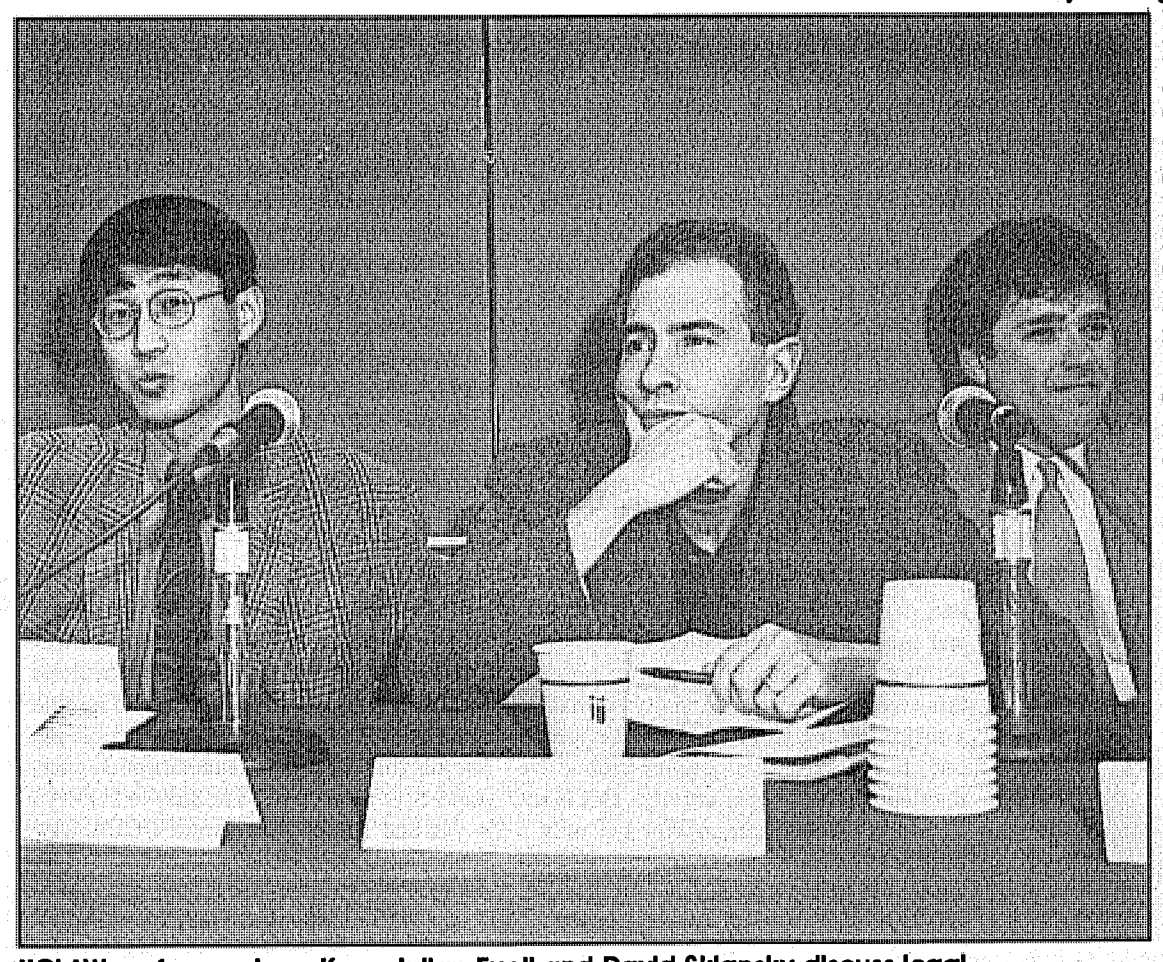
Other federal district court clerks in California include Monica Emerick (Judge Napoleon Jones) in San Diego, Gennady Shnaider (Judge David Levi) in Sacramento), and Craig Van Rooyen (Judge Alicemarie Stotler) in Santa Ana. Elizabeth Yang will spend 1997-1998 in the Richmond, VA chambers of Judge Robert Merhige of the Eastern District of Virginia.

The 1996 graduating class includes thirteen students who will be clerking in United States Courts of Appeals and District Courts in California and elsewhere. Kristin Holmquist-Moscato, David Kowal, Janice Kroll, and Julia Mass will be clerking for judges in the Ninth Circuit. Christopher Camponovo, Jonathan Hersey, Susannah Miller, Andrea Russi (who will clerk in the following year for the Ninth Circuit), Bill Thomson, and Craig Van Rooyen (clerking 1997-1998) will be clerking in the Central District of California, Gabriel Gregg in the Southern District of California, Janai Nelson in the Northern District of Illinois, and Lisa Pondrom in the Eastern District of Virginia.

Seven other graduating students will be clerking in specialty and state courts, Michael Tu in the U.S. Magistrate Court; Enid Colson, Andrew Gilmour, and Jonathan Shenson in Bankruptcy Court; Janet Tongsuthi in L.A. Superior Court; April Chung for the Nevada Supreme Court, and Matthew Topham for the Colorado Supreme Court.

Professor Kang stressed to the clerks-to-be the importance of treating one's judge with respect, while sticking to one's own principles, and emphasized that the clerk must strive for the very highest degree of professionalism in his or her work and relations with co-clerks and others in the court. Professor Volokh drew incredulous, if muted, laughter with his suggestion that work given to the judge be "a 25th draft"— or more. He also humorously pointed out the dangers of a too-intimate relationship with the other clerks in one's own chamber. Students came away from the lunch with a heightened sense of the responsibility that clerkship entails, but also much better informed about the details of the job.

Several of the future clerks expressed interest in more events of this kind, and next September, nascent Clerks Society organizer Diane Klein plans to invite members of the class of '96 who have just begun their clerkships to return to UCLA to speak at a panel entitled "Clerkship: First Impressions." The Clerks Society aims at increasing UCLA's representation among federal judicial clerks to at least 10% of the graduating class, the national average among law schools, and Klein believes helping UCLAW students to be better-informed applicants and better-prepared clerks is an important step toward that goal.



UCLAW professors Jerry Kang,Julian Euell and David Sklansky discuss legal issues at a weekend conference involving members of the class of 1999.

WALLACH

from p.7

was matched by the unsubtle reaction of the judge. A lawyer not know it was a crime? Something was clearly wrong with me.

Two days later, on redirect, I explained that as a civil lawyer, I had never read the U.S. criminal code. In California, a declaration certainly had to be truthful, I said, but I had never experienced the treatment of an untrue declaration as a crime. A rational explanation but too late. We learned after the verdict that the television lady used that incident as proof of my guilt on the unrelated charges. Is it any wonder that even judges call jury trials crapshoots? Thus, I learned why cross-examination is called the "graveyard of honest men."

As a witness, I had my share of impediments. My manner was quiet. I was soft-spoken to the point that court reporters positioned themselves carefully to hear me. As a client, I was a silent figure at counsel table for three months, while the prosecution portrayed me as a very bad man. In New York City, plaintiffs' lawyers are at the bottom of the barrel of professional and community regard. Wedtech was the big scandal of the bonfire summer. Ed Meese, whose name was mentioned more than mine in the indictment and at trial, was an unpopular figure in a five-to-one Democratic city.

I knew from the outset that testifying alone would make it difficult to communicate who I was and why I had done what I had done. What I understood less was that my biggest strength as a lawyer was a serious handicap as a witness. Instead of outrage and innocence, I relied on the same quiet rationality that has served me so well as an advocate. To jurors, my trial must have seemed more a debate with a trophy for the winner than a personal catastrophe for me. All that is clear to me now. What I could have done about it is not so clear. Clients can only be molded so much; they are who they are.

Perhaps my defense team and I could have done more to play up the reality of my life. Many lawyers seem to have an aversion to creating human drama in the courtroom. Plaintiffs' lawyers fumble about damages. Criminal defense lawyers eschew family members. In a famous anecdote, a mother is called to testify. The total cross-examination is "Are you the defendant's mother?" Supposedly, this destroys everything she might say. But with the experience of being both a lawyer and client, I am not so sure. Humanity can do a lot to win a case.

In wrongful death cases, an economist may testify to the value of the loss, but who would not call the family? If the injury is horrendous, no one reliessolely upon the medical economist to establish the loss. A mother's agony over her child's paralysis or lost life is plainly relevant. The loss of a business built through a lifetime of effort cries out for more than the accountant to put a number on the loss.

Here, I was the client. The government wanted to end my productive life and strip my family of its honor. When those are the stakes — and to a varying degree every case offers some analog — the lawyer must be ready to open the jurors' minds. The client has entrusted the jurors with life itself. That is the reality of the jurors' responsibility. The jurors must overcome their biases, their inclination to believe the government, their disdain for lawyers, their cynicism, to reach a truly fair result.

Of course, the system fails at times — too often. But it also can be made to work, and that is what being a lawyer is about. After the verdict, I said that there are times when even the most conscientious of jurors cannot overcome the barriers placed in their path to justice. Thus, I do not fault the jury. Given how close we came to winning under arduous conditions, though, perhaps a healthy dose of real-life drama was what we needed. It worked for William Pitt, whose jury refused to convict him because the law restricting his right to worship as a Quaker was wrong. This is the heritage of the jury.

We lawyers begin to write final argument the moment we begin interviewing the client. Strategy, introduction of evidence, selection of witnesses, emphasis in examination, selection of jurors — all anticipate final argument. For a time, as I watched the closing in my case, I wondered why final argument receives such attention. Despite the outstanding closing by my attorneys, we lost. It made me question whether, after a four-month trial, any argument is effective. Is it a myth that the jurors keep an open mind until the end? Is not every act by the advocates for both sides an effort to close the jurors' minds favorably at the earliest moment? Does argument make any difference?

As a trial lawyer and as a client, I feel — after much deliberation — that final argument can be critical if the lawyer follows two maxims. First, you must tell the jurors what they already know. Tell them the truth. The lawyer who demonstrates enough intelligence to agree with the jury — to address those things the jurors know to be so — can persuade. Second, you must make clear to the jurors the real-life consequence of their verdict.

In every case, there are hidden truths, things that are sometimes categorized as common sense. They exist on two levels: those the case produces and those the jurors bring to their service. The juror-specific hidden truths often remain hidden, especially in federal court, where judge-conducted voir dire is often perfunctory. By contrast, the case-specific hidden truths are often obvious. They were in my case. Wedtech was a scandal. Ed Meese was part of an administration branded in the media as sleazy. I was a lawyer — more precisely, a plaintiffs' personal injury lawyer. The indictment named me in both upper- and lower-case letters. In short, I was peculiar. I was a liberal who consorted with conservatives. A Jew who negotiated with Arabs. Most devastating, I was supposedly a racketeer, requiring the use of the nation's most onerous criminal law. To the jury, I must have done something. In criminal cases, the overriding hidden truth today is that the presumption of innocence is in tatters. The real presumption, at least in the minds of most jurors, is of guilt. Claims of constitutional innocence are viewed as a refuge for people who really did it.

Final argument must speak to every hidden truth of which counsel is aware. That is what telling jurors the truth means. If counsel realize their impact, they have an opening to persuade. Of course, attacking the government witnesses, confronting the evidence, rebutting the illogic of the opposition's arguments, and explaining the instructions remain integral parts of effective argument. But they do not substitute for exposing the hidden themes the prosecutor hopes will motivate a decision. For example, if the judge in your case appears to be favoring the other side, my call as client would be to stress in closing the independence of the jury and our occasional disappointment with those in authority.

Of course, the individual juror must deal with a private, unique set of hidden truths. That is the truth few lawyers can successfully penetrate. But if Darrow is correct — and I think he is — the lawyer who is believed has the advantage. A juror who believes you will have a more flexible mindset and willbe more readily persuaded. An honest lawyer bespeaks an honest client; if the desired result is moral and just to the respected lawyer, it is moral and just for the client. When the lawyer now speaks of human consequence for the client, the language is not only eloquent but commanding. This is why in final argument you must strive to be believable. And to be believable in closing, you must be believable from the first word uttered in the jury's presence.

As the arguments in my case were coming to a close, I reflected on the many painful aspects of being accused of a crime. One was to watch my own lawyers and the prosecutors interact out of the presence of the jury as though they were good friends participating in a summer play. One major reason the public holds our profession in such low regard is the perception that we are nothing more than hired guns — that trial is only an interlude between hearty meals, drink, and camaraderie — that it is all a paid show. If that is so, how can the jurors invest their conscience in protecting a human life? Why should they?

The prosecutors in my case could not look me in the eye, try as I might to make contact. How, then, could my counsel engage in apparently friendly banter with them? To acquire information? To gain cooperation? To maintain civility? To (and this is my client side talking) preserve relations for the next case? As a trial lawyer, I reject these games. Nothing commands respect like solid advocacy conducted professionally by an advocate who is known to be committed to the client. I asked my lawyers not to address the prosecutors by their first names. In my presence, they complied.

The lawyer who does not listen to the client from the very beginning deprives the client of full representation and reduces the possibility of success ... If you do not understand your client's life, how can you decide which aspects to emphasize at trial and which to avoid?

Then there was the verdict. Time never moves so slowly for counsel as in the moments between when word comes that the jurors have reached a verdict and when the verdict is read. But if you think time stands still for you as an attorney, try marking time as a client, with your family in attendance.

I knew an acquittal was unlikely when our lead juror was excused. I was not surprised at the verdict, though I was disappointed. As the verdicts were read, some guilty and others not guilty, neither I nor my counsel reacted. Only my daughter wept. The prosecutors sat with eyes focused on the counsel table. We often read that a defendant expressed no emotion as the verdict was read, as though that revealed insensitivity, confirming guilt. Not so. I have often marveled at photographs of those about to be executed or to enter battle. Their fear is never apparent. Make no mistake as to its presence.

What is the lawyer's role at this time? I faced a phalanx of media on the courthouse steps. My statement was later described by a leading newscaster as dignified. Friends around the country commented on my calm demeanor and quiet insistence of innocence — guilty only of being in the wrong place at the wrong time with the wrong people. Trial lawyers are trained for such moments. No one spoke during the cab ride back to my lawyer's office. Once there, we had a quiet conversation about what followed next: There was to be a visit to the probation officer, and then we could go home. Post-trial motions and appeals could be discussed later. What is the lawyer to do beyond that?

All deaths are followed by mourning. Ten years before the guilty verdict, I had listened to a jury turn away a 13-year-old quadriplegic who communicated only by moving her eyes. She lived with her devout Catholic family, who would not place her in a facility. Her mother and I sat in the courthouse silent for two hours. The bailiff never asked us to leave, though it was well after his shift. In the hotel room that night, I cried. The next day at their home, the family members and I sat together to discuss the next steps, to console one another, and to receive friends of their family.

My lawyers were grief-stricken. They were also resolved to correct the wrong; they released their outrage at the prosecution and the judge. Among us, only tentative gestures of condolence.

Should the lawyer do more? There is a reality to moving on. The lawyer must. The next case is as great a responsibility as the one just concluded. The next client is equally entitled to a committed lawyer. Still, in a moment of defeat, the lawyer must not forget that the connection with the client extends to the mourning. There is no shame in expressed emotion. My lawyers and their families suffered physically and emotionally because of their commitment to my case. They stand with me to this day. The pain of a loss must be borne by lawyer and client in different ways and so, to a degree, separately. I suggest it should be borne together as well, for the relief of both.

Until the day I was sentenced, I had wondered about my ability to accepthorror. The doctor's confirmation of terminal cancer. The police officer's rendition of the accident that killed an only child. Then I listened to the judge sentence me to six years, including 32 months of mandatory confinement. It was a 20-minute ordeal in which the judge appeared to try to confirm the sentence by vilifying the subject. My lawyers sat with me. I did not stand. At times, I audibly rebutted the judge's misstatements. My lawyers tugged at my arm, imploring quiet, not out of fear of the judge but out of recognition that each of the judge's words confirmed in the record our contention of bias.

The betting among the press was that I would get 10 years. My wife and daughter sat in the front row. My daughter wept; my wife was defiant. I had implored many of my New York and Washington lawyer friends to attend the sentencing. They initially demurred but finally agreed. Afterward we met in the hallway; each was ashen. No trial lawyer can accept the responsibility of advocate without recognizing the magnitude of a loss. True, not all cases involve life and reputation. But all cases will involve some denial of the client's legitimate expectations.

My trial lawyers did not know me before I retained them. With only three months before trial, my immediate task was to help my lawyers come to know me. I flooded them with narrative memoranda that cemented our relationship quickly. But most clients cannot do that. They are not trained advocates. It is for the lawyer to open the gate and allow the client to contribute. No matter what the case, the other side will strive to depersonalize your client. To overcome that effort, you must employ a broad brush to paint for the jury a picture of the whole client. That kind of advocacy requires energies that time, routine, and detachment tend to quash.

More than my 30 years at the bar, my life as a client helped me realize what a lawyer can do for a client. And what does a cli-

To WALLACH/END on p.22

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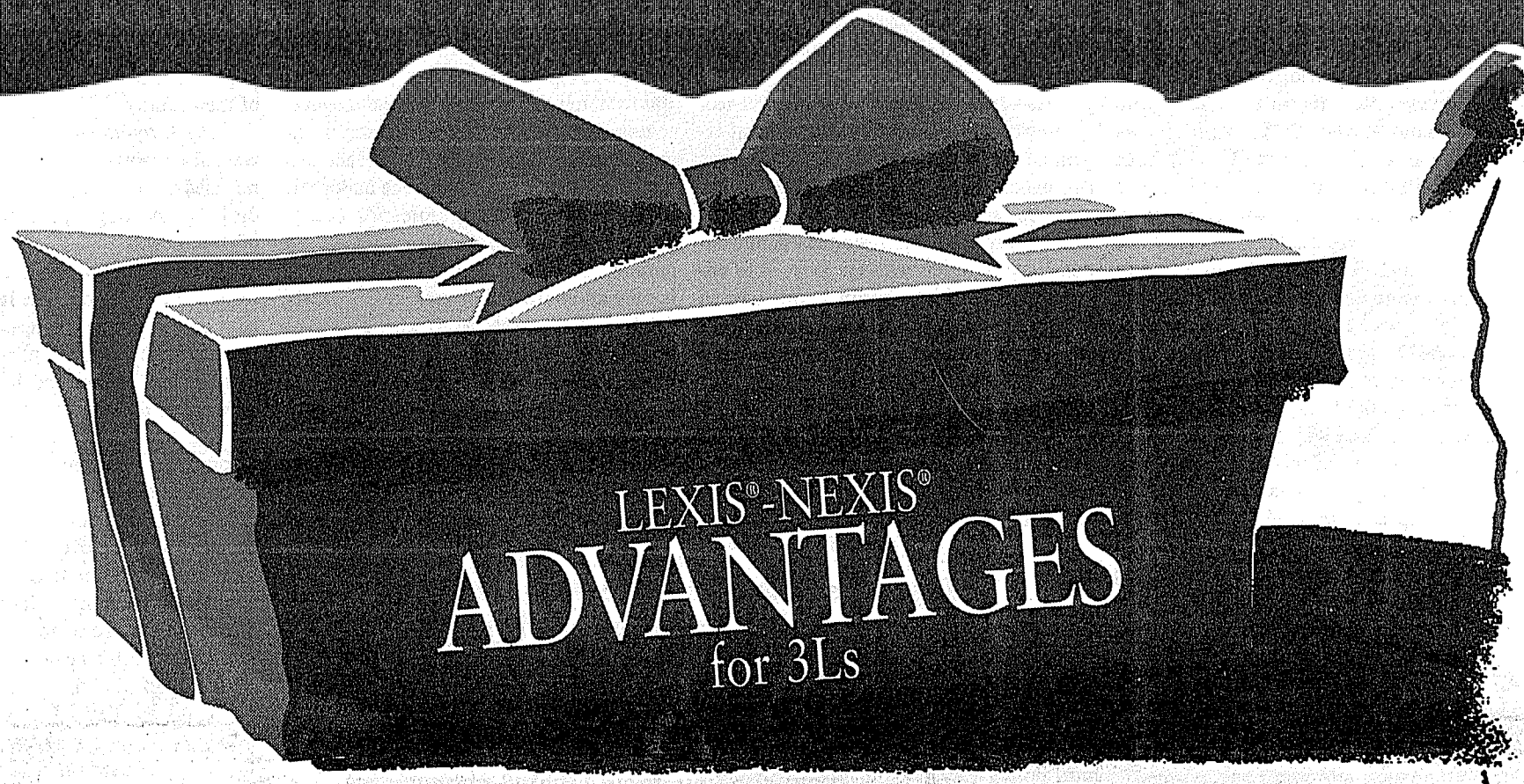

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"If WESTWare were a movie and I were Siskel and Ebert, I would give it two thumbs up."

– THE LOYOLA REPORTER Volume 19, Number 6 ; February 29, 1996 – 07

SOFTWARE REVIEW:

WESTWare MBE Preparation Software

By Rod Rummelsburg, Class of '98

West Los Angeles, CA.

West Bar Review has come out with an "intelligent" set of interactive flash cards for studying for the Multistate Bar Exam (MBE). What makes a flash card intelligent? Several things. You can choose the category of subject that you will be questioned on. For example, within the category of Constitutional Law, you can choose to only be quizzed in the sub- area of "Case or Controversy". You can seleot how much time you have to answer the question or how much time you require for the entire exam. The computer times the number of seconds you take to answer each question. When you click on the one of the 4 multiple choice answers, the program gives you instant feedback. You can continue with the exam or click on a button to explain the answer. The computer keeps a running total of the percentage of questions you answer correctly. And the computer will print a copy of your test results with a breakdown of how many seconds it took you to answer each question. Additionally, you can print out a copy of your test results as a reminder of how unprepared for the MBE you actually are.

If WESTWare were a movie and I were Siskel and Ebert, I would give it two thumbs up. I tried to find fault with the software, but I could find nothing substantively wrong. I answered a lot of questions incorrectly, but I can't blame that on the software. The software self- installs. It is self- explanatory to run. There are no instruction manuals and no interactive help screens; they are not needed. For you hackers, the man-machine interface is ergonomically designed with respect to the iconic arrangements. For you non-hackers, the software is easy to use. You click on the pictures. No typing is necessary.

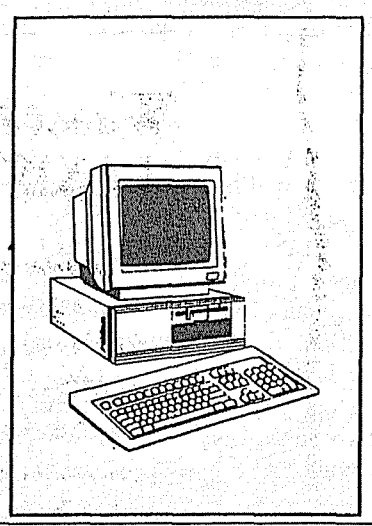
WESTWare tests in the subjects of Crim Law, Con Law, Evidence, Contracts, Torts, and Property. You can choose to take tests in each of the subjects separately or in combination. You can select the level of difficulty for each test: Beginning, Intermediate, or Advanced. I could not tell that this option does anything, because a Beginning question looked no different than an Advanced question. You still have a one in four chance of guessing correctly.

The software has a sound button, which asks if you have a sound- blaster card. My computer does not have one, so the program ran silently. It is just as well. I would not want to alert the whole neighborhood if I select an incorrect answer. The software also comes with a glossary of basic law concepts. You do not have to scroll down a list to get to the topic you want; start typing the topic name and software automatically positions you on the topic. This is a sign of well- designed software.

The only irritant was answering test questions which were too long to fit on one screen. When optimizing my test- taking for speed, I prefer to read the call of the question first. For a long question, this meant wasting time scrolling or clicking to the next page. A mouse click wastes a couple of milliseconds. OK, it's not a substantive time penalty, but it would still be nicer to see an entire question on one page.

As for the technical requirements, WESTWare runs on Windows 3.1 or better, Windows 95, and Macintosh System 7.0 or better. It requires 4MB of RAM and takes up 15MB of hard disk space. It takes about 30 seconds to read in each new test from disk. But when taking a test, the response is instantaneous.

And finally, WESTWare has one major advantage over the commercial flash cards. There are NO cutesy questions. You will NOT see: "Barny D. Dinosaur, a police officer, stops Mr. Flint Stone and sees Mr. Stone stuff a packet of crack into Pebbles mouth. Is the seizure element of the Fourth Amendment implicated? Are any other seizures imminent?" The questions in WESTWare are the actual kind of questions you would expect to see on the MBE. WESTWare is a useful tool for MBE preparation. Two thumbs up for this package.



LIBE

from p.2

the law school community in locating materials available on the Internet. A number of cd-rom research tools have been mounted on the LawNet. These sources include WilsonDisc's Index to Legal Periodicals, Legaltrac (the cd-rom version of the Current Law Index), the Congressional Information Service's index to congressional documents, Shepard's citators, BNA's Environment Library, and some Bancroft Whitney and Matthew-Bender publications.

After the library addition is complete, the library will finally have a physical plant as exceptional as its collection and services. In the new library collection storage space will nearly double, seating will exceed both American Bar Association and Association of American Law School standards, and the facility will support all aspects of library services. Perhaps most important, the new library will fully integrate the use of computer and print resources in an atmosphere that is both beautiful and conducive to study.

IMPROVEMENTS

THAT THE LIBRARY PROJECT WILL PROVIDE ARE:

· COLLECTION STORAGE SPACE will nearly double, providing space not only for print sources and microforms, but for computerized resources as well.

· READING AND STUDY SPACE in the library will be increased by more than 300 seats, exceeding American Bar Association and Association of American Law School standards.

· The COMPUTER LAB will provide more than 100 additional work-stations, and provide a facility where students can be trained on the use of legal databases.

· The entire facility has been planned and designed to permit the library to UTILIZE CURRENT AND FUTURE TECHNOLOGICAL ADVANCES. This will allow equipment accessing on-line, multi-media, cd-rom and other electronic research and study tools to be conveniently located throughout the library. All work stations will have the capacity to access the law school network.

· A TELECONFERENCING center will be provided.

· AMERICANS WITH DISABILITIES ACT IMPROVEMENTS will include upgrades to the restrooms, signage, provision of wheelchair lifts, entry and interior ramps. In addition, designated conference rooms will be specially equipped to facilitate study and research for students with special requirements.

· CLIMATE CONTROL systems in both new and renovated areas will maintain a comfortable work place for all building occupants and will protect the library collection from fluctuations in temperature that cause damage to library materials.

· A SEPARATE AREA WILL BE SET ASIDE FOR THE USE OF UCLA LAW STUDENTS only. A 24-hour reading room also is incorporated into the plan.

· Twenty-two NEW FACULTY OFFICES will be built for a net increase of 18 new faculty offices (four faculty offices will be lost where the addition attaches to the existing building).

WALLACH/END

from p.19

ent bring to the lawyer? A synergy to provide the essential quality of great advocacy — the courage to strive for victory with the knowledge that there is no certainty. That is the reality with which our clients live in both litigation and life. The courage of the Cuban patriots. The courage of a horribly disfigured businessman who arises each day to rebuild his life. The courage of the mother of small children, husband lost, who must go on alone. The courage to refuse to succumb to bitterness when race or gender or age or sexual preference does indeed deny you opportunity. The courage that understands we are not entitled to the good life. The courage to seek a lawyer to enforce rights that should be part of the American life. The combined courage of lawyer and client — because it is dangerous to be right when your government is wrong.

If the most difficult task of the lawyer is to defend an innocent person, the most difficult task of the innocent person is to resist the immense pressure to trade a lifetime of lawful conduct for the cessation of an unjust prosecution. The client who believes in justice can revive in the fatigued defense lawyer the zest that underlies all victory. The key is not in the lawyer or in the client. It is in the bond.

Mr. Wallach's conviction was overturned on appeal. On retrial the prosecution failed to obtain a conviction. Mr. Wallach, a highly respected litigator, has resumed his practice of law in San Francisco.

SILENCE

from p.6

acknowledgement of the righteousness of their position.

But we will not be silenced. We have been well instructed by Dean Prager, the UCLAW faculty and our fellow students in both law and *justice*. What we have learned we will put into practice. We will speak — with dignity and respect worthy of the occasion — and will not let UCLAW's criers voice their politics unopposed. We will transact in the "marketplace of ideas." What better way to cherish the First Amendment, and show our love for our Constitution and our dedication to its ideals?

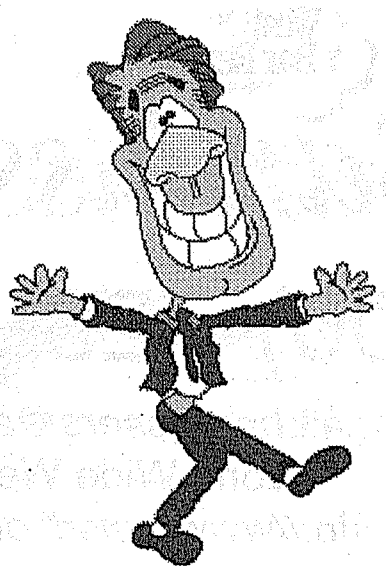
And we will not stop there. We are losing in the War on Diversity, but we have not yet lost. We dedicate our careers and our lives to justice. We will fight in the court room, on the floor of the Legislature, and in the halls of power, until opportunities exist for all people of all colors, and "merit" means something more than who your parents were.

MUSICAL

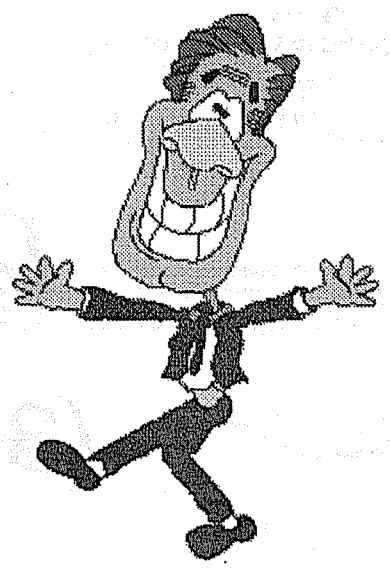
from p.8

From these beginnings, there is only one direction the plot can take — down. Shameless puns. Improbable coincidence. Vulgar sexual situations. Legal jokes. Compared to this, television comedy looks as sophisticated as Noel Coward. The only thing even faintly realistic is the depiction of the big firm culture of the time.

Indeed, far from exaggerating, it has been necessary to downplay some aspects of life in a large law firm of that era. Even for the sake of humor or realism, modern audiences will not tolerate the misogynistic comments or ethnic slurs that were common among the WASP elite of the time. (On the other hand, racial epithets were uncommon; even the polite terms "Negro" and "Mexican" were seldom heard because big firm lawyers seldom had occasion to discuss anyone to whom those terms could be appropriately applied.)



Similarly, it has been necessary to diminish the fear of the female reflected in the anti-fraternization policies of the time. When the firm I worked for hired the first woman as a lawyer, there were still lawyers who could remember when the first woman was hired as a secretary. When I was accused of "fraternizing" with the head of the steno pool for an exchange of comments about our children, the partner chastising me bragged that although she had worked for him for five years, he did not know whether his secretary was married, much less whether she had children.



On the other hand, though I have tried, it is almost impossible to parody the anti-communistic rhetoric. At a time when Los Angeles firms regarded it as an indicia of their tolerance that they had one or two open Democrats in their ranks, everyone recognized that when the partners debated whether Dwight Eisenhower was a "card-carrying Communist" or merely a "dupe," only a bold or reckless associate would suggest that "none of the above" was a possibility.

Needless to say, while the characters in *Anti-Kids 'n' Fun* are mostly WASP males, the cast will not be. Indeed, if the ratio between men and women among auditionees is anything like what it has been in the past, we will need to have several "trouser roles." Think it over. Then join us in the fall for our playful romp through the decade that history, or the journalistic branch thereof, has forgotten.

DIVERSITY

from p.6

feel comfortable.

Working together on projects, other classmates have described how they came to be the first in their family to graduate from high school — never mind college — and were now in law school. "What gave you that desire?" I queried. "What helped you insist on pursuing your goals when your parents' cultural experiences didn't support more education?" Their answers probed the depths and strengths of personal uniqueness and power. Students, of all ethnicities, felt able to share their personal childhood experiences of domestic abuse during a Domestic Abuse Awareness week.

In Education Law class, we debated the benefits and deficits of bilingual education. Differing views were expressed. One classmate, who spoke no English when his mother started accompanying him across the border to go to a parochial school every day, asserted that students were better off to learn English quickly and completely. Others, who learned Spanish from one parent but English from the other, propounded the benefits for their neighbors and classmates of being taught subjects in Spanish while learning English more slowly in a Bilingual educationclass. Those who had been educated in the Caribbean supported English immersion and a more classically demanding education.

These cameos only suggest the richness of this student body and the personal enrichment that is available from the opportunities to get to know one another's aspirations, fears, and struggles. Through working on a class project, an organization's goal, editing a journal, or sharing the chorus line, one gains appreciation and understanding — and has the opportunity to reduce stereotyping of those whose life experiences have been different.

But I am troubled by where we go from here. How do we build on the connections to people different from ourselves — what happens to the lowered walls of stereotypes and negative expectations? What happens two years from now, when our "best and brightest" are sent to UCLAW as representatives of their multi-named firms to recruit through the OCIP? What kind of reports will you make about candidates who look different? On the oh-so-competitive march up the firm ladder, will you go to bat for someone whose external package does not come in a pristine, white box from Neiman Marcus tied with a perfectly cloned gold bow?

As lawyers, how willing will each of us be to stand up for the employment rights of our colleagues — when comments of sexual harassment, racial and disability stereotyping, gender joking, or generational gibes are made by those in power over us? How willing will each of usbe to stand up for ourselves?

In the Employment Discrimination class we talked heatedly about this, and various views were heard. One student said she had spoken up for a co-worker who was being sexually harassed — that it jeopardized her job, that it was tough, but that she took that stand because it was right. Alternatively, we heard that it wasn't worth the cost of fighting, even for our own civil rights; we heard that people who were disabled, or short, or overweight, or the wrong gender or age would never make it in law because "what the clients want is what law firms will hire." This may well be the reality of the legal profession today.

It isn't easy to be the one who hires a hyphenated candidate when one's own job is being evaluated. It isn't easy to recommend hiring someone whose ethnic or other characteristics aren't appreciated by your boss.

It isn't easy to keep your own mind clear. When I was hiring a teacher, one of the finalists was missing part of one arm. My mind raced to how these notoriously difficult teenagers would treat her — would they be rude and make fun of her? Then I realized that applying for the job was her choice — she had already decided to take that risk. My only job was to determine which candidate had the most experience and background for the job — not whose superficial appearance would be most comfortable.

Each of us might ask, "Will I be willing to take risks when I'm recommending hiring a summer intern? a new associate?" What is my answer to the assertion that law firms can only "afford" to hire lawyers whom they are sure their clients will want to have represent them — because of their external characteristics — not because of their analytical brilliance, their writing skills, or their litigating savvy. Will I be willing to challenge the culture of the legal profession?

HIGH SCHOOL

from p.6

who looks like they might know the answers. As first semester progresses, you make new friends, but they may sit across the classroom from you, or three rows in front, or a row behind. This makes passing notes very difficult.

Then we have lunch. Like high school, we do have a lunch time. OK, so we don't have a set lunch period. Yet almost everyone has some free time between noon and 2 pm, as evidenced by the long lines at LuValle Commons, our "cafeteria." And boy, didn't we use that time well? Reading for our next class was always popular, especially on Tuesdays when some of us had spent time watching Melrose Place the night before instead of reading cases. We also used lunch time to meet in groups for whatever group projects our professors devised for us, particularly those delightful Lawyering Skills assignments — remember building assumption chains? At least, I think that's what they were called — I'm still unclear on the concept.

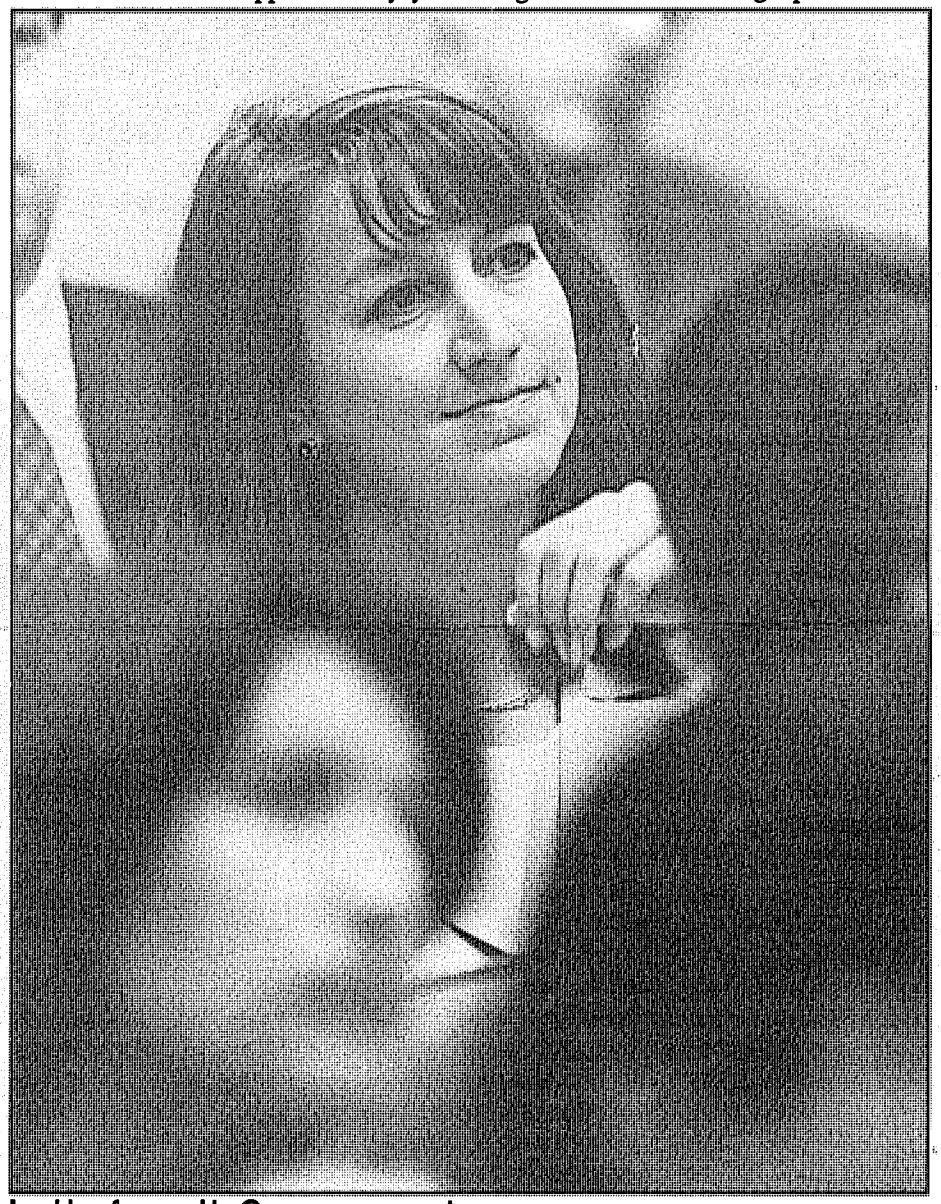
But for many of us who used time unwisely, perhaps the favorite pastime during lunch was talking, conversing, gossiping — whatever it is we want to call a bunch of overachieving, verbal, too-clever law students killing time. Most, if not all of us, have at some point found ourselves in the courtyard debating the finer points of those beer commercials —"Who would we rather date — Mary Ann or Ginger? Gilligan or the Professor?"; complaining about thelack of any type of diversion in the ghost town we call Westwood; trying to remember who was in the SuperBowl last year; discussing professor wardrobe choices; wondering about where Generation X really begins and if we have to call ourselves members of it, or if the Baby Boomers are any better; speculating on who was single, seeing somebody, taken, who was thinking about getting engaged, was about to be engaged, or had just become engaged, and who was married, among our classmates. Not that we were ourselves interested in romantic pursuits, but we all seem to have a sort of morbid curiosity about these things.

Of course, I'm exaggerating about our law school career being too similar to high school. We've had to be analytical, if sometimes confused, adults throughout our law school education. Both in and out of the classroom, we've shared more than just everyday interaction these past three years. For example, we survived the earthquake of January 1994 together, as well as our fear and apprehension in the aftermath. Talk about bad timing — an earthquake was not what many of us needed after barely surviving our first semester grades. In some cases, a rude awakening on both counts. I joke about this, but the earthquake was not fun, and the aftershocks were in some ways worse. I will always appreciate Professor Varat's empathy on our first day back in classes. During a Constitutional Law discussion, a strong aftershock rocked the classroom, scaring all of us a little, and sending some of us to the floor to get under the desks. When it was over, Varat said something like this: "OK, I recognize this is difficult for all of us. I understand if some of you want to remain under the desks for the remainder of class — it won't bother me."

However, as a law school class, we've experienced more together than natural disasters. Important social and political events have impacted our law school careers in many different ways. As UC students, we have been faced with the UC Regents decision to ban affirmative action as a decision making factor in university admissions, which has focused the debate here on campus on this issue.

Because of our location here in Los Angeles, we lived through the everyday insanity of THE trial of the century, as termed by the media. And because we are in California, we have been confronted with\controversial election initiatives — the anti-immigrant Proposition 187 in the fall of 1994, and the California Civil Rights Initiative, also known as CCRI, this year, which proposes to ban affirmative action in any state-sponsored decision making. We've been impacted by these events in a variety of ways, depending on our views and perspectives.

In discussion and debates here at school, or with our friends and families, or even in our own minds and hearts, the trial and the initiatives have forced many of us to examine, challenge, articulate, or at the very least, acknowledge that these beliefs exist. Because of the very controversial and emotional nature of these topics, the trial and the initiatives have triggered yet another round of discussions of our differences as members of the diverse Los Angeles population, as soon to be members of the Bar, discussions which affect our collective definition of who "we" are as a community.



Looking forward to Commencement

The law school environment has been conducive to this kind of inquiry. One thing I have learned in law school — the answers to legal questions are not as important as understanding WHY the answers are what they are. We've heard this so many times —"How did the court reach this result in this case?"— it's almost second nature now to ask WHY. Because we have been in a formal educational environment, because we have been surrounded by faculty and peers who have constantly challenged us to ask WHY, some of us have been more willing and able to ask tough questions of ourselves and our classmates, which we would not have asked had we not been in school.

I think it's essential that we keep asking why — that when we make decisions that impact more than ourselves and our families, we continue to ask ourselves, as corny as it may sound, "How did I reach this result?" This will become increasingly difficult as we enter whatever professional and personal lives we build for ourselves; as we take on more and more responsibilities and have less free time to think; as we become more and more "grown up." But I strongly believe we should continue to challenge ourselves and our friends to ask WHY we believe what we do, why we believe IN what we do, and be willing to challenge those foundational beliefsabout our differences, as difficult as that may be. Maybe our beliefs about people with different races, economic classes, gender, ethnicity or national origin will change, maybe they won't. But if we don't ask, we'll never know, and we'll never learn and grow to be different, even better, people.

In closing, I just want to note that I made it through this entire speech without mentioning milestones, crossroads and roads not taken, journeys or watersheds. I didn't think I could!

Finally, I say to my classmates that I hope all of us pass whatever Bar we're taking, if that's what we are doing next, starting tomorrow. But no matter where we end up, I wish you all good luck in your professional and personal careers, and hope you continue to challenge yourselves in pursuit of understanding the WHY of all you encounter.

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