THE DOCKET
UCLA SCHOOL OF LAW

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Damp Hankies! Promises A Hellava Performance

PILF will present two performances of **Damp Hankies!** at 7:00 and 9:30 on Saturday evening, February 22, 1986 in Dickson Auditorium on the UCLA campus. Tickets are priced at $5 each and all proceeds go to the UCLA Public Interest Law Foundation for its summer grant program. Because University regulations do not permit ticket sales at the door, tickets must be purchased in advance at the PILF table in the law school foyer.

Proceeds will be used to fund summer grants for law students in various projects which advance equal protection under the law. In past summers, these projects included a minimum wage clinic, the placement of women inmates in a mother-infant care program, a legal clinic at the Central American Refugee Center, the compilation of a Workers Compensation manual, and a project to help the homeless in Los Angeles. Sometimes projects started with PILF grants come to the attention of governmental agencies or foundations which then contnue the funding.

Damp Hankies! is based on the book and music of the classic Adler & Ross Broadway hit, **Damn Yankees**. It has one of the most musically complex scores ever attempted by the UCLAW musical group, which may explain why only two numbers from the show—"Whatever Lola Wants" and "Heart"—ever became public hits. Most Broadway musical buffs feel that the Adler & Ross combo would have come to rival Rodgers & Hammerstein had it not been ended by the death of one of the collaborators after only two hits (the other being **The Pajama Game**).

In **Damp Hankies!**, characters from the Law Library mural come to life. These figures from the 60s return to see what has happened to UCLAW students in the last 20 years. They watch as three current students sell their souls and eventually reclaim them with a little help from their friends and The Almighty. Along the way they encounter The Devil, his assistant Muffy Stavalos, his associate (played by the UCLAW faculty), and a new computerized research system—JUSTLAW (played by UCLAW staff).

Performers in lead roles include Gina Semigran and Monique Van Yzerlooy (in the 7:00 and 9:30 shows respectively) as Alma E.T., Steve Younger and David Polinsky as Lucifer P. Scratch. Muffy Stavalos is played by Nancy Oppenheim and Karen Ragland and appearing as Jerri Faust, an ambitious contemporary student, are Mona Tawatao and Janis Nelson. Her friends, Luci Petrov and Joe Hardy, are played by Alyce Raboy/David Felsenthal and Lisa Oratz/Doug Gnieser.

Appearing in The Company for both shows are: Chi Choy, Clarissa Clayton, Carolina Gonzalez-Carvajal, Paul Friend, Bill Kahn, Terri Oppelt, Neil Meyer, Bailey Nager, Elizabeth Nager, Kevin Quin, John Scrutton and Leslie Wallis.

The show is directed by Patty Mayer, assisted by Kris Knaplund and Jay Vogel. Producing for PILF is John Greg Pain.

The use of Broadway musical comedies to satirize law school life is a tradition at UCLAW that goes back at least to the early 1970s when Ralph Fertig launched **The Law Revue**, a now-defunct annual variety show. The Law Revue was essentially a talent show that over the years had everything from faculty chamber music groups to student rock ensembles, from poetry readings to male exotic dancers, and from stand up comics to gospel singers. However, in the early years of the show, a central part of each was a musical comedy-parody written by Ralph and put on by student-faculty casts. Among the more memorable were **My Fair Hearing** and **Cramalot**.

As the Law Revue became more popular, there was no longer space on the program for full blown musicals, but sketches based on the songs were still done with some regularity. Faculty old-timers will remember a fairly biting little gem based on **A Chorus Line**. The present show grew from one of these.

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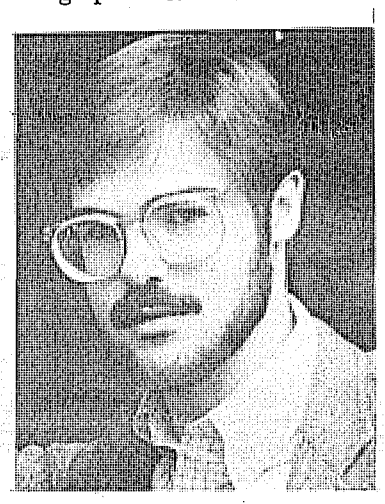
James Swanson Wins National First Amendment Competition

By Chris Castle

James Swanson, a third year student in the law school, has been awarded first prize in the Corliss Lamont First Amendment Essay Contest. The competition, sponsored by the Meiklejohn Civil Liberties Institute, attracted entries from law students across the nation. Swanson's essay, "The New Technology, National Security and the First Amendment" analyzed recent efforts by the federal government to stop the transfer of science and technology from the United States to foreign powers.



James Swanson

Swanson's essay analyzes our government's wide sweeping limitation of scientific research, including steps to limit who can write about it, study it at the universities, discuss it, and ultimately, who can purchase the products of research. "The goal of these measures is to keep sophisticated American technology out of foreign hands and minds," explains Swanson. "These efforts to preserve military and technological superiority, which may be wroth ends, collide with another vital American interest—the First Amendment. Against this right to speak, the government has pitted the most formidable doctrine at its disposal, the national security of the United States."

Swanson argues that, while several of the laws and regulations governing technology transfer are vulnerable to First Amendment criticism, we must avoid the danger of overreacting to them.

"The fear that fundamental First Amendment values are at stake may lead us too far in the opposite directon, with no controls over the dissemination of potentially dangerous technology."

Swanson argues that, just as the First Amendment has been limited to recognize the consequences of perjury, fraud, defamation and fighting words, "it must acknowledge the dangers which attend unlimited dissemination of technology. Without adequate restriction, foreign governments could capture our most precious technological resources and incorporate them into sophisticated weapons."

Swanson notes that scientific speech may be the most dangerous speech of all. "Conventional dissenting speech may arouse the citizenry and alter national policy. That is the power of ideas. Dissent may even incite violence, but violence may be contained. Scientific communication, however, conveys more than ideas; it may confer the power to build advanced weapons."

Swanson wrote the original draft of the paper last spring for Professor Nimmer's Constitutional Law II class. The essay was one of several First Amendment projects Swanson worked on during his second year. In the fall of 1984, he co-authored and filed a reply comment to Federal Communications General Docket No. 84-282 (the Fairness Doctrine) for a client represented by the UCLA Communications Law Program. In the spring, he enrolled in Professor Nimmer's Copyright Law seminar and wrote a paper on the constitutionality of California's right of publicity statutes, the laws which protect celebrities from unauthorized exploitation of their names, photographs or likenesses.

According to Swanson, "the opportunity to take three courses with Professor Nimmer was unique. While the subject matter of each course was distinct, common themes brought the courses together. In Entertainment Law, the First Amendment and the Copyright Seminar, drawing the line between the desires of the few to profit from their creativity and the rights of the many to enjoy freedom of expression was an engaging and complex problem."

Although he enjoyed all of Professor Nimmer's classes, the Copyright Seminar remains Swanson's favorite. "The seminar was collaborate and intimate. Students criticized each other's work thoroughly, and even located sources for each other. In addition, Mr. Nimmer involved the seminar in his own work. The week before he flew to Atlanta to argue the 'Gone With the Wind' case, he handed out the briefs and asked what arguments we would make before the Court of Appeals. A week later, the morning he left for Atlanta, he invited me to walk home with him so that he could give me some materials for my national security paper. It is a tribute to Mr. Nimmer that his students have won the Meiklejohn Competition for the past two years."

Swanson became interested in the First Amendment during his undergraduate days at the University of Chicago, where he studied American history and writing. One of the reasons he chose to come to UCLA was

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New Federal Rules May Impede Civil Rights Actions

By Professor Henry W. McGee, Jr.

Fighting back cut-backs in civil rights gains may become professionally hazardous and personally expensive for the nation's civil rights lawyers. Nearly a hundred lawyers and some twenty law professors were convened in the Washington, D.C. area by the NAACP Legal Defense Educational Fund, Inc. to analyze an aspect of the contemporary reaction against racial minorities, perhaps little noticed by them, but which could seriously curtail their access to the federal courts. Although a recent network of interlocking developments in the rules governing the practice of law in the federal courts has immensely complicated the representation of citizens who seek redress, two particular developments were regarded as particularly ominous.

First, Federal Rule Civil Procedure II requires that where a lawyer files a complaint or other legal paper with the court, he must sign the document declaring that as far as he knows it is factually true and "warranted by existing law, or a good faith argument for the extension, modification, or reversal of existing law." The lawyer also must assert that the paper is not filed to harass the other party to the lawsuit or to prolong the lawsuit. If it develops that the lawyer's declarations were not in compliance with the rule, the court hearing the case must penalize the attorney, usually by ordering him to personally pay the costs and fees of the party who is disadvantaged by the violation.

The rule was adopted in concert with others to stem a rising tide of civil lawsuits which threaten to overwhelm the courts and a concomitant rise in the costs of lawsuits to litigants.

The previous and more lenient earlier rule required that the attorney state that he had read the document file and that to the best of his knowledge there was "good ground to support it, and that it is not interposed for delay." The "good ground" standard led to widely varying rulings in the federal courts, but where material which was false was exposed, the offending party was given the opportunity to withdraw the offensive or false material. Generally speaking, the previous rule imposed a moral obligation upon lawyers to be truthful and diligent in federal court practice, but the lawyer was effectively shielded from personal sanctions.

Now, however, the "good ground to support" language has given way to a requirement that the lawyer in effect investigate everything his client tells him. Failing to do so could result in sharply diminished earnings that might very well make it economically burdensome to represent his client.

In determining whether the lawyer has behaved reasonably, the judge can take into consideration how much time the attorney had to investigate the client's assertion, whether the lawyer had to rely on the client for information, when the document filed was based on a "plausible view of the law," and whether the lawyer relied upon another attorney in preparing the paper.

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ACE Hosts Copyright Infringement Seminar for Film Students

By Frank Benton

UCLAW's Arts/Communications/Entertainment Law Program (ACE) hosted a copyright infringement seminar for MFA film students at Melnitz Auditorium on January 27. The seminar featured a panel of entertainment attorneys moderated by UCLAW Adjunct Professor Charles Firestone that critiqued a film directed by Martin Brest, "Hot Tomorrows."

The seminar focused on the frequently overlooked legal requirement of obtaining copyright clearances for material used in films, both at the student and commercial levels. Mr. Brest directed "Hot Tomorrows" while a fellow at the American Film Institute, before going on to direct "Beverly Hills Cop." The film features excerpts from Laurel and Hardy films and "42nd Street" for which Brest obtained insufficient clearances. As a result of this oversight, the film is largely unexploitable. Mr. Brest graciously allowed his film to be used as a learning tool for film students.

Attorneys Jay Doherty, of Mitchell, Silberberg & Knupp, and Ed Barton of Rudin, Richman and Appel, pointed out the various clearances that filmmakers ought to be concerned with, including public performance and synchronization rights, grand dramatic rights, union clearances, and master recording rights. They also brought up defamation issues with which filmmakers should familiarize themselves and the clearances required to obtain errors and omissions insurance to protect the film production entity should it be sued for defamation or invasion of privacy. After analyzing what clearances should have been obtained, the panel took questions from the some 100 film students present, answering more specific issues on clearances.

The seminar is the first effort at developing a closer relationship between UCLAW and the film school. "We realized one day that there is a significant need for legal services by our own campus community," said Chris Castle, JD/MBA '87, president of Arts and Entertainment Advocates, the new incarnation of the old Advocates for the Arts and Entertainment Law Society. "Advocates has a substantial commitment from lawyers to donate their time, but we'd never developed a strong relationship with the film school. Film students have an ongoing need for legal services associated with copyright clearances, fundraising, and labor relations because they each have to make a film as part of their MFA program. We thought that we could put together a program to take care of these routinized needs, but before we allocated our own resources to the project we wanted to see if there was a market out there for our idea. Doris Davis suggested showing 'Hot Tomorrows,' and managed to convince Marty Brest to let us show the film with a legal critique. Judging by the turnout and enthusiasm of students and faculty at the film school, our hunch was right—we'll be doing more of this in the future, and hopefully we can meet the needs of film students. Without practicing law ourselves, of course!"

Castle believes that the enthusiasm of film students for the seminar is symptomatic of the realities of filmmaking in the 1980s. He believes that contemporary film directors have to "wear all the hats, even after they achieve success. They are the true Renaissance people." Film finance for the creative entrepreneur is becoming an arcane art, with such arrangements as blocked currency equity film investment taking the lead over limited partnerships as the cutting edge financing vehicle, says Castle, who was one of three law students in the country to be offered summer associate positions in the transactional entertainment department at Loeb & Loeb.

The seminar also brought out the downside exposure to libel suits and the impact that exposure may have on new directors. The participants encouraged film students to gain a working understanding of the legal implications of exposure to defamation and invasion of privacy lawsuits. Ed Barton emphasized the importance of getting the appropriate releases from anyone who might be identifiable in the picture. He told the story of one film director whose movie told the story of a Midwest chemical disaster connected with cattle feed. After taking great pains to block out the name of the feed store that agreed to be used as a set, the director found, once the film was shown on television, that he had failed to block out the checkerboard pattern painted on the store's walls—which clearly identified it as a "captive" distributor of the Ralston-Purina Company. In fact, Ralston had not been implicated in the disaster, and had even played a leading role in the private sector response to solving the problem. Needless to say, many capable people associated with the film were rather embarrassed.

Castle summed up the future of the new link between the film and law schools. "I got the impression that the film students who came to our seminar understand that in addition to their creative contribution, they have to be able to handle the legal problems, too. They're also interested in finance issues' that area may be the next seminar topic. UCLAW alumni like Michael Helfant at Loeb & Loeb are an excellent resource for both film and law students on motion picture finance. I think we'll be moving in toward film finance and tax topics in the future."

THE DOCKET

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J.D. IS A MINOR ACCOMPLISHMENT

Sixteen year old Stephen Baccus became the nation's youngest law school graduate last month, receiving his J.D. from the University of Miami School of Law. But Baccus won't be able to practice law in Florida until he reaches 18, the minimum age required to be admitted to the bar.

In the meantime, Baccus intends to start on an international lecture circuit. "I'd like to be like Einstein or Edison, but perhaps be more like Leonardo da Vinci," said Baccus.

His mother, Florence Baccus, got him transferred from fourth grade to junior high school, then high school and junior college by the age of ten. He completed law school in two and one half years by attending summer school.

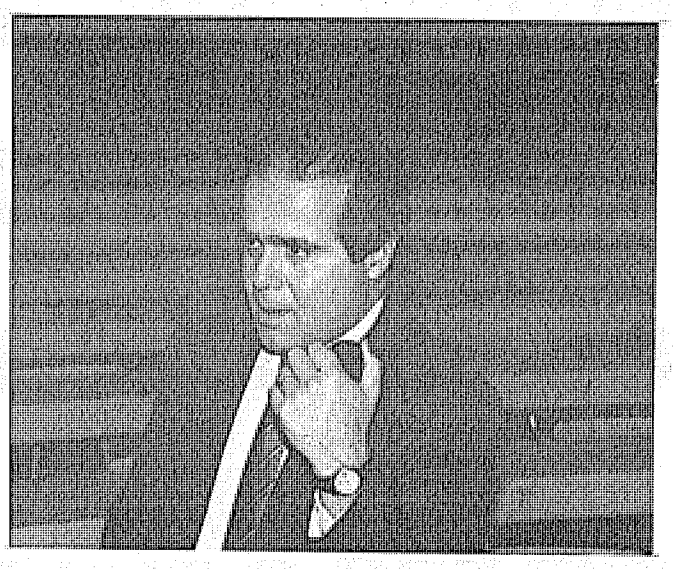
Judge Scalia Visits UCLAW; Lectures on Legislative Intent

The Federalist Society of Law and Public Studies and the John M. Olin Foundation recently hosted a lecture at UCLA by Judge Antonin Scalia, U.S. Court of Appeals, District of Columbia Circuit. Attended by over 100 students and several faculty members, Judge Scalia's lecture focused on the pervasive use of "fictitious legislative intent" by the Nation's courts when interpreting statutes.

Judge Scalia argued that courts frequently and increasingly use evidence of legislative intent which has never been read by any members of the committee that "marked up" a particular piece of legislation, much less by the Congress. Reading from an exchange between Senators Dole and Armstrong, Judge Scalia demonstrated that it is a rare occasion indeed when any legislative committeeperson, including chairpersons, actually reads even the committee report on a bill. Thus, for a court to assert that it is somehow doing the "intent" of the legislature by referring to such evidence of intent is really only the fiction that allows a court to work its own intent in a particular case.

In fact, some legislation may contain provisions which were inserted to get the entire bill passed; in this case only part of the law reflects the intent of the majority, the remaining provision being concessions to minority interests in return for votes. Such deals are not reflected in committee reports or in floor debate, and make these records poor documentation of legislative "intent."

Following his lecture, Judge Scalia was the guest of honor at a Federalist Society reception and dinner. An early supporter of the Society, Judge Scalia was its first faculty advisor at the University of Chicago Law School, the site of the first Federalist Society chapter. Founded by Lee Lieberman while she was a student at Chicago, the Society soon spread to Harvard, Yale and Stanford during the 1981-1982 academic year. Ms. Lieberman clerked for Judge Scalia following her graduation and is now



Judge Antonin Scalia

serving as a special assistant at the Justice Department. The Federalist Society currently has chapters at over 45 law schools, as well as a lawyers' division, which is supported by many judges and law professors throughout the Nation.

The UCLA chapter was formed in 1983 and now has a membership of over 40 law students. UCLA Federalists are active in building the Los Angeles chapters of the lawyers' division, which recently hosted Assistant Attorney General Richard Willard at its inaugural luncheon. This semester the Society plans to schedule lectures at UCLA by Professors Wesley J. Liebeler, Philip Johnson, and Grover Rees, and by Judges Alex Kozinski and Richard Posner.

James Swanson from Page

the opportunity to study copy right, communications and Fir Amendment law under Profe sors Nimmer and Firestone.

"After I paged through **Nim mer on Copyright** I knew wher I wanted to go to law school."

Swanson intends to pursue hi interests this year. He hopes t publish his national securit paper in the **UCLA Law Reviev** in lieu of his student comment as did last year's winner, Bar bara Katz. In March, he wil participate in the national sym posium of the Federalist Socie ty for Law and Public Polic Studies. The theme for the tw day event, to be held at Stan ford Law School, will be th First Amendment. In April h will travel to New York to com pete in the National Entertain ment Law Moot Court Tourna ment. A distinguished advocat during his second year, Swan son is eager to participate ir another competition.

Swanson will use his $1,000 prize to purchase several scarce titles on American political assassination for his collection of rare books, and he also plans to add several titles to his First Amendment Library. If funds remain, he plans to acquire an original autographed photo of Marilyn Monroe taken by Cecil Beaton in 1956. "After all, she is much more interesting than the First Amendment," claims Swanson.

Damp Hankies!

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In 1981, Bryan Hull and Bill Peters put together **My Fair Lawyer** but to get the space on the program they wanted, had to agree to be the last act in the show. Although **My Fair Lawyer** did not go on until nearly one o'clock in the morning, it was so well-received that the two authors were encouraged to think about a similar operation the following year.

In the spring of 1982, Ken Graham, who had done some minor work in the previous show, broke his elbow playing basketball with a group of first year students. During a hospital visit, Hull and Peters suggested a collaboration in a somewhat more ambitious scheme—a reworking of **Oklahoma** into a full-blown musical of the sort that Fertig had done. The product of this collaboration was **Carcinoma!**, a script that had to be severely cut to meet even the generous allotment of time that Hull and Peters had been able to arm-twist from the Law Revue producers. Even so, **Carcinoma!** was very popular with the audience.

The following year, with Hull and Peters graduated, the show might have ended—but for the vision of Alan Garfield, a member of the board of the UCLA Public Interest Law Foundation. He became convinced that there was enough talent and interest to provide two entertainment events and saw that producing the show was a good vehicle for both fund-raising and publicity for PILF. Though there were some skeptics, the PILF Board agreed to sponsor the show if Alan would do most of the production work. Though there was little reason to think there would be sufficient interest, Alan planned two shows, 7:30 and 9:00, and set out to promote **Obfuscate**, based on the music of Cole Porter's **Kiss Me, Kate.**

Obfuscate was not only the first law school musical outside the Law Revue, but made several other innovations that have become regular features. The first was the double-casting of leads to permit as much student participation as possible. The second was bringing all of the faculty who wished to participate into the show. Finally, this show began the tradition of a faculty band overture. **Obfuscate** was an overwhelming success, both artistically and financially.

The 1984 show, **Soporific** (based on **South Pacific**) was another landmark. Patty Mayer took over the directorship of the show which had previously been under a sort of communal direction. Her talent and experience gave the show a professional polish it had never had before.

Songs Without Heart, the 1985 show, was the first that was not based on a musical; instead, it was taken from the songs in Ella Fitzgerald's classic recording of **The Rodgers and Hart Songbook. Songs** had the strongest student cast ever and two staff numbers that were real show-stoppers. The faculty band, now orchestrated and directed by Patrick Patterson, was joined by a faculty-student jazz group, **The Learned Band**, that did a rousing entre' act. However, the show suffered from an over-ambitious book that had to be cut during the last week of rehearsals and a decrepit sound system that made many of the songs inaudible in parts of the house. Nonetheless, there were enough outstanding performances to satisfy the first sold-out house in the show's brief history.

Civil Rights Actions

Continued from Page 1

Most of the civil rights lawyers at the NAACP conference shared the view that the new Rule II would both make the representation of civil rights more difficult and willingly make many lawyers reluctant to accept such cases. For by their very nature, civil rights claims are both controversial and difficult to prove. This reality, reinforced by a growing indifference if not hostility to claims of racial discrimination, suggests that only flagrant and obvious violations of anti-discrimination legislation might reach the courts.

Jewish Law Students Conference March 7-9

Ed Asner and Senator Howard Metzenbaum will be the keynote speakers at the first National Jewish Law Students Conference ever to be held on the West coast: The three day Conference begins March 7 at the University of Southern California Law Center.

The theme of the Conference is "Jews, Media and the Law." In a series of workshops and panel discussions, notable local and national guest speakers will address such issues as: How Does the Media Affect and React to the Jewish Community; First Amendment and Censorship; Civil Liberties in Israel; The Jewish Family in Crisis; and Hollywood's Portrayal of Jews and Lawyers.

The Conference will offer students, attorneys and community members the opportunity to hear and talk with distinguished attorneys, professors, politicians and entertainment figures.

For registration and more information call Sheri Kaufer at the Hillel Macor office at (213) 208-4427. For more information, contact Steve Plotkin (3L).

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