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# THE DOCKET

## UCLA SCHOOL OF LAW

VOLUME 42, #3

THE DOCKET

NOVEMBER 1993

### Criminal Law Decisions

Part II of a Continuing Series...

PROFESSOR PETER ARENELLA  
1993 UCLA FIRST ANNUAL  
SUPREME COURT REVIEW  
CRIMINAL LAW DECISIONS

by Anne Garrett, 3L

(Note: many of the case summaries are paraphrased from Professor Arenella's outline of recent criminal cases, as printed in the *UCLA Supreme Court Review Symposium* volume.)

Professor Peter Arenella discussed recent developments in criminal law decisions handed down by the United States Supreme Court. At the beginning of his presentation, he noted the existence of four trends in recent Court

decisions: the facilitation of capital punishment, the weakening of habeas corpus, hostility to exclusionary penalties, and hostility to the Fourth Amendment. Overarching these recent trends is tension between two notions of criminal guilt: a social-harm based notion versus a culpability notion of guilt.

In general, the current Court focuses on crime-control, although Professor Arenella called attention to *Buckley v. Fitzsimmons* as a counter-trend in the Court's general crime-control orientation. In the *Buckley* decision, the Court held that prosecutors' absolute immunity from suit based on their advocacy conduct intimately associated with the judicial phase of criminal process does not apply to investigatory conduct.

*Johnson v. Texas* exemplifies the Court's recent emphasis on facilitating

See "Law" on p. 4

### The Public Counsel Column

by Carson Taylor

Exams are coming!! I don't need a calendar to know this. I can feel it in the air. Students, maybe even faculty, are starting to operate on a different level. It's not just a question of tension. Life seems to be a little more serious. Students in the hallways seem to be somewhere else. "THINGS" are not what they were.

The good news is that you will get through it. The bad news is that life after law school isn't much different. Exams are like hockey, basketball and baseball playoffs. They are like national soccer championships. More pertinently, they are also like life as a lawyer.

Whether by design or happenstance, the experience of getting ready for and performing an exam is a beginning at training you to try a case or argue in front of the Supreme Court. I'm sure that there are other practice analogies in transactional law, but I don't know what they are. So I'll stick with trials. When I did a trial, I lived it day and night for a week or more prior up through the jury in-

struction by the Judge. However, every day in my "trial zone" I made myself spend at least one half an hour doing something that was both unrelated to the trial and pleasant.

I'M GIVING YOU THE SAME  
ADVICE.

But, I'm also going to take it one step further. Here's a suggestion for one day's half hour of "out of the zone thought". Think about what pro bono work you can do next semester. Public Counsel's Homeless Assistance Project will be going to welfare offices advocating on behalf of General Relief recipients. (This program wasn't available in the fall unless you went as part of Joel Handler's class.) You spend part of the morning getting trained. Then you and three or four others go off to one of five or six designated welfare offices. You spend the afternoon talking to clients and convincing welfare bureaucrats that your client is entitled to benefits. You will be amazed at what you can accomplish in one afternoon. You have no further responsibility after that day, unless, of course, you want to go again.

No one should graduate without doing homeless advocacy once. You get the satisfaction of helping someone who is really in need, you will sharpen your advocacy skills, and you'll notice how law school has actually made a difference in your life. You will experience a part of our society that you might miss once you start practicing law.

See "Public Counsel" on p. 4

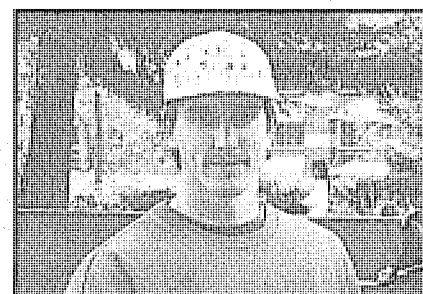
### "How Have You Been Surviving Exam Stress?"



SETH GARLAND, 2L: "FINALS, WHAT FINALS?"



JACK HALPRIN, 3L: "FINALS?! WHO CARES, I'M A THIRD YEAR."



DARLY HALL, 2L: "I'M LOOKING FORWARD TO PUMPING OUT 100 PAGES OF OUTLINES! I SHOULD REALLY INVEST IN YUBAN."



ANONYMOUS: "DON'T FORGET TO EXERCISE DURING FINALS."



CARI GARCIA, 1L: "I'M JUST GETTING THAT SICK FEELING IN THE PIT OF MY STOMACH."

DEBBIE LEE, 1L: "AT LEAST THE WEATHER'S GOOD; AND IT COULD BE WORSE... AT LEAST IT'S NOT DECEMBER 7TH."



See "Exam Stress" on p. 4

### What's Up Docket?

Critical Race Theory:

As seen from the left and the right

See Page 7

"RUSH"

A Cartoon for the 90's

See Page: 5

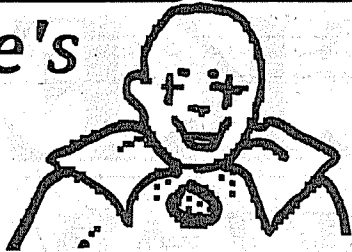
A New Gossip Column!

by Shirley Eugest

See Page 2

# The Joke's On Us

by Tom Overton, 2L



"The first thing we do, let's kill all the lawyers."

William Shakespeare, The Second Part of KING HENRY THE SIXTH act 4, sc. 2, 1.75.<sup>1</sup>

How many of you have heard that line before? Pretty much everybody, right? How many of you have actually read *II Henry VI*, and know what it means? That's what I thought.

Lawyer-bashers have been getting tremendous mileage out of those ten words since Shakespeare penned them almost 400 years ago, but for every hundred people who have repeated the line, there is perhaps one person who understands the context. Contrary to popular impression, whatever else he was trying to do here, Shakespeare did not intend this line to be taken as an attack on lawyers.

I have long wanted to do an examination of this call to mass murder, but until I started on my law review comment this fall, I have not had the opportunity. I thought I would share my results with you (and, in the great tradition of this column, take up most of my space with words written by someone else).

What I found was both gratifying and entertaining. The character who utters this imprecation, one Dick the Butcher, is a henchman of the rebel Jack Cade. Cade is secretly in league with the treacherous Duke of York, who has hired him to foment disorder, so that York can more easily overthrow King Henry. The scene in which the line is delivered is one of comic relief, sandwiched between a great deal of murder and betrayal. Cade and his men are at the gates of London, and Cade is regaling them with tales of what he intends to do when he has been installed as King of England:

Be brave, then; for your captain is brave and vows reformation. There shall be in England seven halfpenny loaves sold for a penny; [liquor shall be even cheaper], and I will make it a felony to drink [weak] beer. . . . [T]here shall be no more money: all will eat and drink [at my expense]; and I will apparel them all in one livery, that they may agree like brothers and worship me as their lord.

Dick delivers his famous line immediately thereafter, and Cade responds by ranting about the power of the written word.

Is not this a lamentable thing, that of the skin of an innocent lamb should be made parchment? that parchment, being scribbled o'er, should undo a man? Some say the bee stings; but I say, 'tis the bee's wax: for I did but seal once to a thing, and I was never mine own man since.

A moment later, Cade's men capture a local Clerk of the Court, whom they put to the question:

Cade: . . . Dost thou use to write thy name? or hast thou a mark to thyself, like an honest plain-dealing man?

Clerk: Sir, I thank God, I have been so

well brought up that I can write my name.

All: He hath confessed: away with him! He's a villain and a traitor.

Cade: Away with him, I say! Hang him with his pen and inkhorn about his neck.

Now, admittedly, there are many people who might like to visit the Clerk's punishment upon modern lawyers (perhaps with a bale of form interrogatories in place of the "pen and inkhorn"). But we can be fairly certain that Shakespeare, himself a man of letters, would not share their sentiments.

So if you are feeling pedantic, the next time you hear someone repeat this line, you can correct them and make yourself look well-read in the process. No thanks are necessary, but checks may be deposited in my box in the lounge.

<sup>1</sup> The copy I am using is the Folger Shakespeare Library edition, (Louis B. Wright & Virginia A. Lamar, eds., Washington Square Press 1966). I shall otherwise refrain from cluttering up this column with footnotes as I have in the past.

## GOSSIP

by

Shirley Eugest

Welcome boys and girls to the newest Docket diddley. Yes, what you have all been waiting for...our very own gossip column. Replete with rumors, stuffed with scandal, and heavy with hearsay. Lest you get bored from the outset, here we go.

Are you tired as I am of all those non-res 1L's asking where all the movie stars are? Children, come in from Melrose Ave. and stop hanging around the Entertainment Law Society. There's plenty 'o media types right here in our own cuddly courtyard. Don't you know about that hunky 2L who was on Studs last year? (I hear the episode is in reruns already...but he still doesn't get the date.) Then there's that ex-Research and Writing Professor who hit the midnight airwaves last October proclaiming that he was "intimidated by beautiful women". I guess the women of sections 8 and 9 did him in, cuz he ain't 'round here no more! Rumor has it he's writing a screenplay. Let's hope it's not about the U.C.C.! Several folks tried to real hard to become Jeopardy contestants this summer including Julie Smith and Mike Grizzie. They didn't make it, but Mike did show up on the Cable show, Trivial Pursuit. Hey Mike, Who shot JFK?

A recent LA Times article on River Phoenix' favorite nite spots quotes "a 23 year old UCLA law student" named Mona as saying "I've never seen drugs in a club, but then again, I wouldn't even know what they look like." Let's hope she knows what a case book looks like. It's getting awfully late in the semester to be out dancing around at night. Speaking of clubs, who's that LLM who readily

See "Gossip" on p. 5

# Just Streaming

by George B. Singer, 1L

When I was five, I asked my dad what those little, white specks on pumpnickel bread were. "Oh, those are tiny cows," he said. "Why aren't they moving?" I asked. "They are. It's just that they're so small you can barely tell," he explained. I sat and stared silently at the bread for about an hour. My dad's a smart guy.

I bought a nuke-o-matic from my friend, Jim. It's one of those with a rotating tray in the middle. Apparently, Jim grew up with this machine and nuked many-a-TV dinner. Thinking all microwaves had carousels, he never quite understood why he had to stop halfway through cooking to rotate the meal. He'd stop the thing anyway, turn the food with a '?' over his head, and start it up again. I think he figured it out in college.

I, however, was stupider (more stupid?) In elementary school, cafeteria milk came in cartons with "Sell By" printed at the top. For some reason, the date was never stamped anywhere near this, so I thought the people handing you the milk had to hold it by the "Sell By" side. That way, you could drink out of the *other* side without getting their germs. I believed this well into high school. My sister claims I thought hamster poops were raisins when I was two. That couldn't be true, but she did feed me mud once.

A woman I knew in college thought blurple was a color until she was 21. Strangely, blurple had nothing to do with blue or purple. No, instead it's a dark orange color. Sometimes it takes an awfully long time for that clue phone to start ringing.

Television is often at fault for our misconceptions (oh, really?!). My sister thought relief was spelled R-O-L-A-I-D-S and put it that way on a spelling test in second grade. Bugs Bunny once said, "Mud backwards is dum." Thus, Gina went b-less 'til age 18. Gina had a troubled life because when her mother explained sex, she accidentally said "intersection" instead of "intercourse". In the car, they would get to Wilshire, Big Santa Monica and Little Santa Monica and Gina's mom would say, "God, I hate these six-way intersections!" Imagine the picture in Gina's head.

Parents really need more help explaining sex. At least mine and Gina's do. My dad explained to me that "the man's seed leaves his penis and enters the woman's vagina." Okay, that's fairly accurate, but seed? SEED?!!! He didn't say it was micro-friggin'-scopic! I pictured something the size of an orange seed coming outta there. Ouch.

Sometimes, our supposed mentors innocently attempt to pass on bad wisdom. I had a psychology teacher who told a class of high school seniors that women "ovulate in the brain and the egg travels down to the uterus, occasionally resulting in headaches." Of course, we all thought this was some kind of experiment. After days of insisting she was wrong, we realized she actually believed it. She was later fired for running up and down a hotel hallway topless when she chaperoned a trip to Germany.

Speaking of Germany, I've been thinking about the 4th dimension lately. Some guys I know were joking with a girl while watching a 3-D movie. "Hey, wouldn't it be cool if the world were in 3-D?" they asked. "Yeah," she said, "it'd be really hard

See "Streaming" on p. 5

## THE DOCKET

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**San Diego**

**SCHEDULE OF CLASSES**

Friday, November 19, 1993  
6:30 pm to 10:30 pm  
**CIVIL PROCEDURE I**  
(Jurisdiction, Venue, Choice of Law, Pleadings, Joinder, Summary Judgment)

Saturday, Nov. 20, 1993  
1:00 pm to 5:00 pm  
**REAL PROPERTY I**  
(Concurrent Interests, Future Interests, Adverse Possession, Class Gifts, Easements, Landlord-Tenant)

Sunday, November 21, 1993  
9:00 am to 1:00 pm  
**CONTRACTS I-U.C.C.**  
(Formation, Defenses, Third Party Beneficiaries, Breach, Remedies)

Sunday, November 21, 1993  
2:30 pm to 6:30 pm  
**TORTS I**  
(Intentional Torts, Defenses, Negligence-Causation Emphasis, Defenses)

Monday, November 22, 1993  
6:30 pm to 10:30 pm  
**CRIMINAL LAW**

◆ Tuesday, November 23, 1993  
9:00 am to 1:00 pm  
**CONSTITUTIONAL LAW I**  
(Justiciability, Commerce Clause, Federal/State Conflicts, Separation of Powers, Due Process, Equal Protection)

◆ Tuesday, November 23, 1993  
6:00 pm to 10:00 pm  
**REMEDIES I**  
(Tort Remedies: Damages, Restitution, Injunction Emphasis)

Friday through Monday live courses will be held at California Western School of Law, 350 Cedar Avenue, San Diego - Auditorium  
◆ Tuesday live courses will be held at The Ramada Old Town, 2435 Jefferson Street, San Diego, The Aztec Room

**Pre-Registration Guarantees Space & Outline ◆ \$50<sup>00</sup> per Seminar ◆ \$45<sup>00</sup> Group Rate\***  
(\*Group Rate available to groups of 5 who register together at least one week before the desired seminar.)

**Registration at Door (if space available): \$55.00**

**Orange County**

Monday, Nov. 29, 1993  
6:30 pm to 10:30 pm  
**CONSTITUTIONAL LAW I**  
(Justiciability, Commerce Clause, Federal/State Conflicts, Separation of Powers, Due Process, Equal Protection)

Tuesday, Nov. 30, 1993  
6:30 pm to 10:30 pm  
**CONTRACTS II-U.C.C.**  
(Assignments/Delegations, Third Party Beneficiaries, Conditions, Breach, Remedies)

Wednesday, Dec. 1, 1993  
6:30 pm to 10:30 pm  
**CIVIL PROCEDURE I**  
(Jurisdiction, Venue, Choice of Law, Pleadings, Joinder, Class Actions)

Thursday, Dec. 2, 1993  
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)

Friday, Dec. 3, 1993  
6:30 pm to 10:30 pm  
**EVIDENCE I**  
(Relevancy, Opinion, Character, Impeachment, Best Evidence, Types of Evidence, Burdens/Presumptions, Judicial Notice)

Friday, Dec. 3, 1993  
6:30 pm to 10:30 pm  
**REAL PROPERTY II**  
(Sale of Land, Recording Act, Easements, Profits & Licenses, Covenants, Equitable Servitudes, Eminent Domain)  
Video: Room 215

Saturday, Dec. 4, 1993  
5:30 pm to 9:30 pm  
**REAL PROPERTY I**  
(Concurrent Interests, Future Interests, Adverse Possession, Class Gifts, Landlord/Tenant)

Saturday, Dec. 4, 1993  
5:30 pm to 9:30 pm  
**EVIDENCE II**  
(Hearsay, Privileges)  
Video: Room 215

Sunday, Dec. 5, 1993  
1:00 pm to 5:00 pm  
**CONTRACTS I-U.C.C.**  
(Formation, Defenses, Third Party Beneficiaries, Breach, Remedies)

Sunday, Dec. 5, 1993  
6:30 pm to 10:30 pm  
**TORTS I**  
(Intentional Torts, Defenses, Negligence-Causation Emphasis, Defenses)

Sunday, Dec. 5, 1993  
1:00 pm to 5:00 pm  
**CIVIL PROCEDURE II**  
(Class Actions, Discovery, Summary Judgment, Attacks on the Verdict, Appeal, Collateral Estoppel, Res Judicata)  
Video: Room 215

Monday, Dec. 6, 1993  
**NO CLASS**

Tuesday, Dec. 7, 1993  
6:30 pm to 10:30 pm  
**CRIMINAL PROCEDURE**

Wednesday, Dec. 8, 1993  
6:30 pm to 10:30 pm  
**REMEDIES I**  
(Tort Remedies: Damages, Restitution, Injunction Emphasis)

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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 Book, and the Third Year Essay Examination Writing Book. 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 ten years. He maintains a private practice in Orange County, California.

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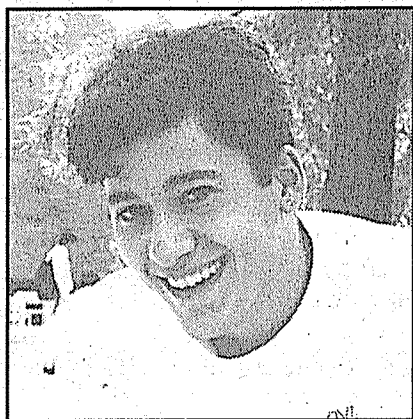
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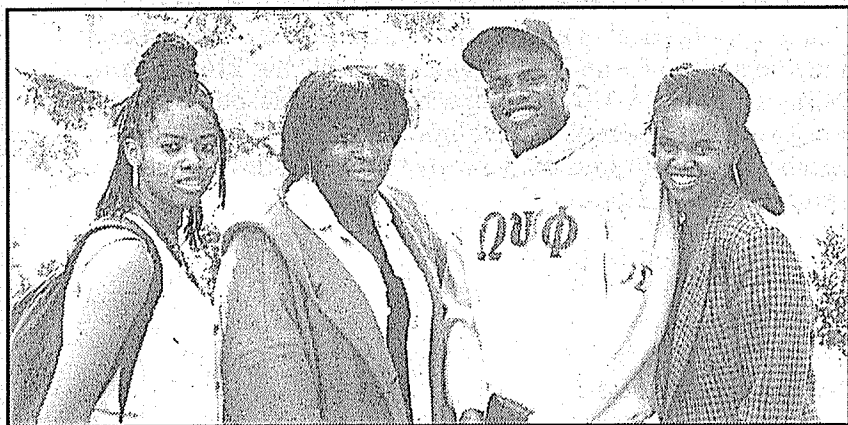
**"Exam Stress" Con't from p. 1**



TESSA SCHWARTZ, 1L: "LAW SCHOOL ISN'T AS BAD AS I THOUGHT IT WOULD BE."



ANTHONY LUNA, 2L: "IT WAS EITHER GET A JOB OR GO TO SCHOOL; NO CONTEST."



BRIDGET DANIELS, 2L: "LAW SCHOOL ISN'T EVERYTHING, THERE'S A WHOLE REAL WORLD OUT THERE."

RACHELL LONG, 1L: "I'M MAKING IT."

ROD SHELTON, 2L: "REMEMBER YOU ARE FACING WHAT OTHER PEOPLE HAVE ALREADY MET, SEE IT THROUGH."

TARA MOON, 1L: "I'M SAD."

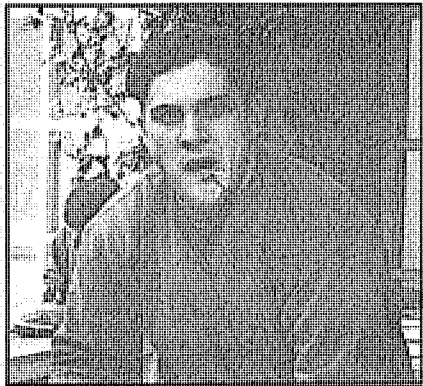


KISU SHIN, 2L

RAQUELLE DE LA ROCHA, PROFESSOR: "REMEMBER THAT YOU WERE A PERSON BEFORE YOU CAME TO LAW SCHOOL."

SUSIE SANTANA, 2L

NICOLE SMITH, 2L



STEVE TOMASULO, 2L: "I NEED A DRINK."



DAVE BOYKO, 2L: "WHY DO PEOPLE IN THE BUSINESS SCHOOL SEEM HAPPIER THAN US IN THE LAW SCHOOL?"



MATT MONFORTON, 3L: "I DON'T START TO STRESS UNTIL I START STUDYING MY COMMERCIAL OUTLINES."

**"Public Counsel" Con't from p. 1**

The Public Interest Committee has just expanded the GIVE 35 program. Class required pro bono work can now be used as part of your 35 hours. Any actual pro bono work performed in a class—interviewing tenants in substandard housing in my class; homeless assistance in Joel Handler's class; police misconduct work done in Robert Garcia's class; and legal services work done in Gary Blasi's class—can be credited to the extent of the actual hours worked. What does this last paragraph have to do with the first six paragraphs? Spend one of your other half hours trying to figure it out!!

**"Law" Con't from p. 1**

the implementation of the death penalty. At the defendant's sentencing hearing, the defendant was limited to using mitigating evidence in rebuttal to evidence of aggravated circumstances. The Court upheld the limitation, holding that although the Eighth Amendment requires the admission of any mitigating evidence which tends to show reduced culpability for a capital offense, the state may control the manner in which the mitigating evidence is considered. Professor Arenella noted that recently retired Justice White was the key vote for this decision; his replacement, Justice Ginsberg, will probably affect the outcome of future death penalty decisions.

In *Herrera v. Collins*, the Court found that a claim of factual innocence does not merit federal Court habeas review as a constitutional claim unless the evidence is so compelling that it undermines the reliability of the guilty verdict by suggesting that defendant would probably have been acquitted had such evidence been admitted at the trial.

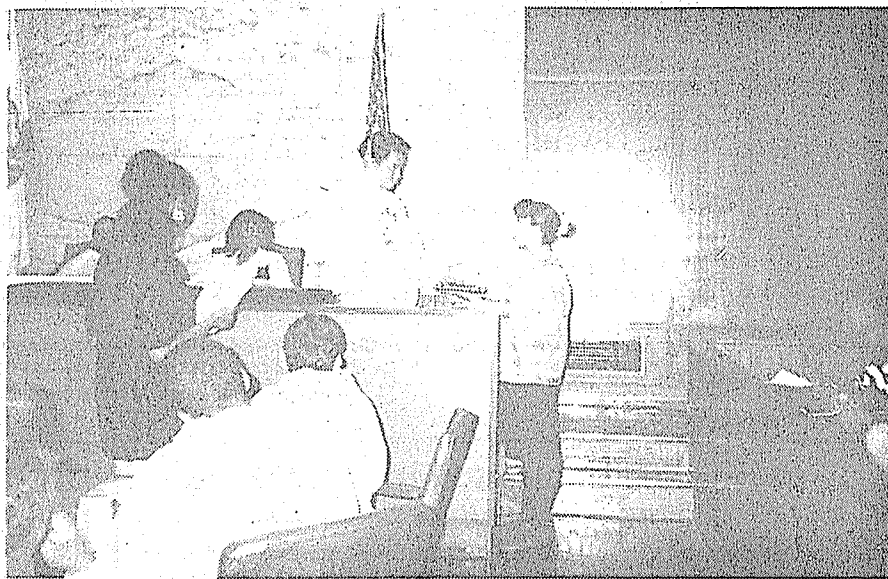
Rehnquist suggested in dicta in *Gilmore v. Taylor* that a jury instruction which erroneously leads a jury to ignore the exculpatory significance of lawfully admitted evidence supporting a complete or partial defense does not constitute a violation of defendant's due process rights. The Court has accepted a case this term which might transform this dicta into law.

As the Court moved its attention from Fourth Amendment doctrine to Fifth Amendment doctrine, it showed its hostility towards forfeiture of property. In *US v. Parcel of Land* the Court decided that the federal statute providing for civil forfeiture of drug proceeds (including property purchased with drug

profits) does not authorize forfeiture of property owned by an innocent owner.

Professor Arenella noted that the Court apparently feels that Fourth Amendment doctrine needs no more development. However, in one of the few recent Fourth Amendment cases, the Court unanimously created a "plain feel" warrantless seizure rule. In *Minnesota v. Dickerson*, the Court held that an officer may use his sense of touch as well as sight or smell to trigger the plain view warrantless seizure rule, providing that the officer is in a lawful vantage point with lawful access to the object he is touching.

Professor Arenella concluded his discussion of recent Court decisions by analyzing the Court's shift from a culpability-based model of criminal guilt, in which defendants are held responsible and punished according to their legal culpability, which may be affected by a number of mitigating factors such as youth, insanity, etc., to the Court's espousal of a social-harm based model of criminal guilt, where the focus is on the harm done by the defendant, not necessarily on the defendant's moral responsibility for that harm. This shift is exemplified by a case where the defendant was found not guilty by reason of insanity and subsequently committed to an institution. The defendant regained his sanity but still constituted a threat to society. Five justices held that the defendant could continue to be confined because of his past criminal acts and because he presented a future danger; in effect, the Court allowed preventive detention of the defendant, at least for the period of time he would have been confined for his original crime under criminal statutes.



BLSA STUDENTS PREPARE LOCAL HIGH SCHOOL STUDENTS FOR A MOCK TRIAL DURING THE FIRST ANNUAL BLSA CAREER DAY

“Streaming” Con’t from p. 2

to drive.” She can be forgiven because she’s almost right. In fact, it’s the 4th dimension that makes it so hard to drive. Like when the guy driving in front of you suddenly swerves out of the way of something, compelling you to make the same move lest you hit some hapless child. But there’s nothing there. Nothing in the 3rd dimension, anyway. In reality, the guy is from the 4th dimension and he can see 4th dimensional objects. He’s just not used to life in the 3rd dimension and gets confused now and then.

These things from the 4th dimension can’t physically hurt you, but they attach like flowing tentacles to the heads of people who’ve forgotten that what they’re doing is extremely unimportant. If you look very closely, you can see them trailing behind people all over L.A. They flap madly in the 4th-dimensional wind, hook-wormed onto sunburned heads spouting commands into cellular phones in red convertibles. The air on any movie set is so thick with them, you can hardly breathe. Some actors get so many of them on their heads, the tentacles drip over their faces, causing poor focus. This, of course, is blamed on the camera assistant, who gets fired on the spot.

Wait! Too much karma on the page. It’s not their fault. All they ever intended to do was step on as many people as possible to reach the point where they could bring a dog into the office, let him poop on the carpet, and make someone else clean it up.

“Gossip” Con’t from p. 2

admits their favorite thing about LA is BYOW night (Bring Your Own Whip) at Club Sin-O-Matic. “We don’t have too much domination in my country,” the LLM says.

While we’re talking about boasting, one of Shirley’s spies overheard a certain 2L on law review brag about first year exploits involving three different students. I know it’s the 90’s but Shirley still finds such talk a tad tawdry when coming from a woman. Speaking of role reversals is it true that a certain hyphenated hybrid is just now returning a pair of “black lotus drop earrings” he borrowed from Lida Sparrer over a year ago. Apparently he can’t navigate those heels too well cause he took a tumble and broke one of the earrings. Also, who’s that law school couple rumored to be having “difficulties” because she doesn’t want to take an AIDS test? While Shirley prefers pre-marital abstinence, I must say if you’ve taken the plunge once, you need to check the pool before you dive again. Remember the water isn’t always fine.

Under the headline “Quirky Cases Common in Court” the LA Times reports a law student appeared before Judge Judith Chirlin with a claim against his ex-girlfriend. The way the judge tells it, “he had given her a UCLA Law School sweat shirt as a token of his affection. The relationship breaks up, he wants it returned and she refuses.” The judge dismissed the case. Apparently she didn’t realize how expensive those sweat shirts really are. Well, at least the (ex)girlfriend got one! To be fair, Shirley sez this year’s sale is being handled better than last year’s.

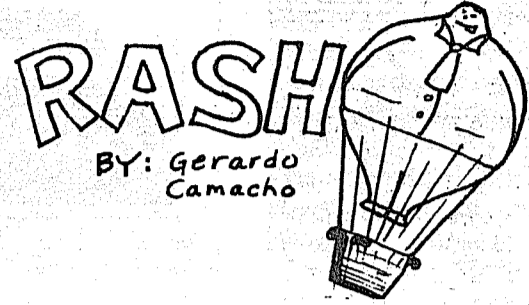
Any truth to the rumor that one of the North stairwells is going to be torn down and rebuilt? Seems that while they both go to the same place, one side takes two more steps to do so. Problem is the contractors can’t figure out which

one is correct. After they figure it out, maybe they can deal with relocating the library mural which seems to be going down to defeat the All Student Poll. Shirley suggests it be placed in the Board of Regents meeting room before they vote on the next set of fee hikes. If the Regents can find thousands of dollars for administrative salary hikes, Shirley wonders if they can find the real penis in the library mural.

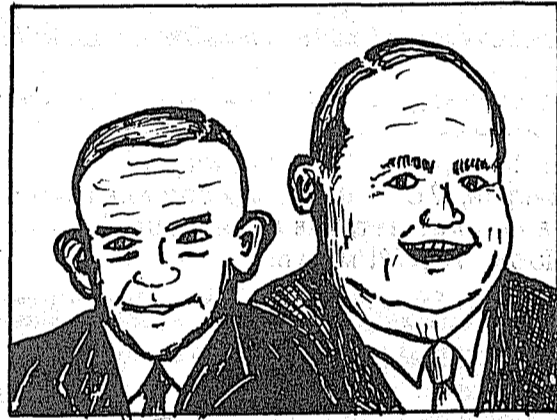
Which reminds me, why was penile implants the first example mentioned by a certain 1L in Professor Olsen’s Torts class when asked about the consumer contemplation (expectation) test? And why did Prof. Olsen, who had previously explained loss of consortium, refer to the “You know what implant” rather than use the P word? While Shirley appreciates finesse, we all know what “you know what” is. If the subject must come up, educated persons don’t hesitate to use proper anatomical labels.

Well Shirley knows you’ve got studying to do, so she’ll let you go, but first two requests. Inquiring law school minds need to know the rest of that Matthew Mackenzie/David Binder Jagermeister story. Please leave a note in my box in the student lounge. I’ve been assigned to the box right next to the editor’s, Raquel Hunter - she’s such a sweet girl- and she’ll pass it on to me. Also, what is your worst LuValle Commons food service experience? Old Jimmy is dead and Shirly hears the Libertarian Law Society has plans to privatize the place. What improvements do you want them to make?

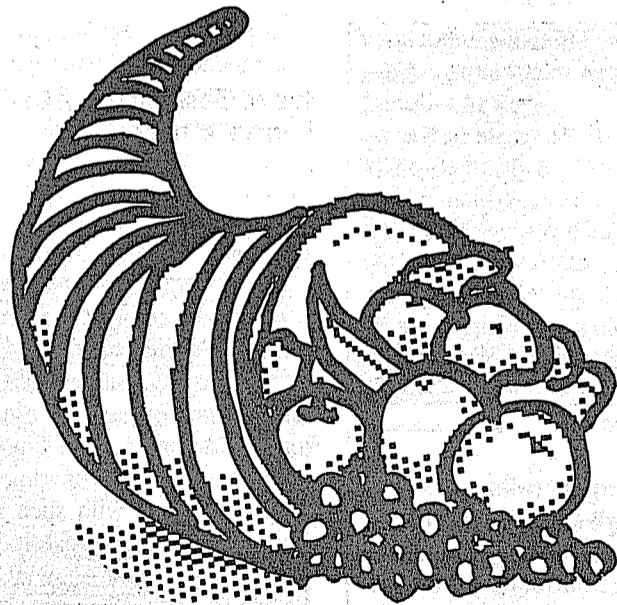
Keep those juicy tidbits coming. This column wouldn’t exist without you, even though life and the real world does. Remember, finals are coming and your Profs. will know if you’ve been studying. After that, it’s Santa and he knows where you’ve been sleeping. But then, so does Shirley!



TWO VERY GREAT MEN, WHO CONSIDERED THEMSELVES FUNNY.



TWO VERY FUNNY MEN, WHO CONSIDER THEMSELVES GREAT.



The Staff at The Docket Wishes Everyone A Happy Thanksgiving!



Exam Stress Getting To You? Take a Jog.

## Cheap Eats

by Andrea Sloan Pink, 1L

There's a good chance that a few of you will be visiting Barbri over the next few weeks to review for finals. If you find yourself hungry after a long review, there's a popular restaurant within walking distance. Check out HU's SZECHWAN RESTAURANT, just two blocks west of Barbri on National Boulevard, (10450 National Blvd., (310)837-0252, accepts V&MC).

HU's is a funky little family-style restaurant decorated with Chinese scrolls and brown and beige floral curtains that look like they were purchased at a motel bankruptcy sale.

First, I must confess that my palate for Chinese food has been spoiled by a Szechwan chef, a demigod in my culinary pantheon, who unfortunately no longer cooks in L.A., so I found HU's to be a little disappointing. But, on the Saturday night that I was at HU's, the room was jammed, and a line of customers huddled in the cold out front. Obviously, HU's is doing something right.

HU's is not about sophisticated Szechwan cooking. It's about large platters of classical Chinese dishes at reasonable prices. HU's is back to basics: steaming mounds of shrimp in lobster sauce, fried rice, and carefully folded *mu shu*.

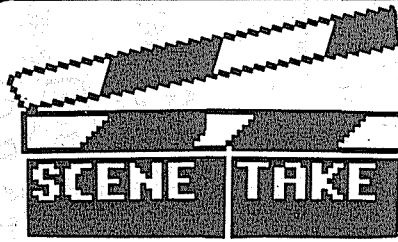
I tried *Yu Hsiang* chicken: strips of tender chicken prepared with diced fresh ginger and scallions in a flavorful garlic sauce (\$6.95). I also sampled the dried fired string beans which were sauteed with scallions and ground pork (\$5.35).

HU's has a wide selection of shrimp dishes from "toss fried" shrimp in wine sauce (\$9.89) to curried shrimp (\$9.85). HU's also offers a crispy half duck (\$8.55) and abalone (\$9.89).

HU's has a lunch special before 2:30pm, and if it's a nice day, you can dine *al fresco* at the picnic tables on the side of the restaurant.

# ENTERTAINMENT, L.A.

Cheap (Fun) Things To Do When You're Not Doing Law School



## Holiday Video Picks

by Sean Morris, 1L

I'll be the first to admit that I get a tear in my eye when that last scene of *It's A Wonderful Life* comes on and that kid shrieks "Teacher says, 'Every time a bell rings, an angel gets his wings.'" Good old George Bailey comes through again. The problem is that during the month of December he comes through again, and again, and again. Sometimes he even comes through on two different channels at once. I'm only a 1L but I'll bet there's some sort of law governing T.V. that mandates every station to show *Wonderful Life* at least 10 times during Christmas time. You can sit there and click back and forth between the stations and watch each scene just a few seconds apart. "Teacher says-" click "says, Eve-" click "Every time a be-" click "-ime a bell."

Of course, a close second in television coverage is *Miracle on 34th Street*. It warms my heart as a future lawyer to watch John Payne convince the court that there really is a Santa Claus. However, how many times can he do it? Apparently he can do it about a million times during December.

It's easy to find the staple holiday movies, but if you don't feel like any of those, yet still crave the spirit and feelings of the season those movies invoke, here are some appropriate substitutes.

**Going My Way:** Bing Crosby plays a priest looking to save a down and out parish from a well-intentioned but declining older pastor. Won the best picture academy award in 1944. Good holiday movie because it emphasizes the giving spirit.

**Father of the Bride.** EITHER VERSION. The recent Steve Martin movie is actually a remake of the film with Spencer Tracy as the father. Who can stop from crying when after all the problems with the wedding, the daughter actually gets hitched. Good holiday movie because it emphasizes the closeness of family.

**101 Dalmatians.** Actually just about any sappy Disney movie will do, but I like this one around holiday time because it takes place in winter with everyone trying to stay warm. Once again, emphasizes the importance of the family, no matter what the base unit. (i.e. dogs too!)

**Max Dugan Returns.** Matthew Broderick's first movie. Kindly old grandfather returns after years of absence and tries to make up for it with huge gifts. Good holiday movie because it shows its not the gifts, but the giver who matters.

**Planes, Trains, and Automobiles.** Another Steve Martin flick. Trying to get home for the holidays? Forget it, take a number behind everyone else. Good holiday movie because shows the length people will go to get home for the holidays.

**A Child's Christmas in Whales.** This is actually not on video, but is shown on PBS sometime during the month. Look for it between viewings of *Wonderful Life*. Good because shows Christmas from a child's perspective who appreciates the meaning of the season.

## The Stuff of Drama

### News Release

Rodney A. Smolla, a law professor at The College of William and Mary and renowned free speech expert, has brought his play, "The Trial of Oliver Wendell Holmes," to UCLA. The play was a creative change of pace and the main presentation at the UCLA School of Law's Annual Melville B. Nimmer Lecture on Tuesday, November 16th.

The annual lecture is named for Nimmer, a UCLA School of Law professor from 1962 until his death in November 1985. Nimmer dedicated his life to the shaping of law through his distinguished teaching, path breaking writing and creative work as a lawyer.

"The Trial of Oliver Wendell Holmes," a dramatic work featuring the talents of UCLA students, is a story about John Carver, a criminal defense attorney who ponders the morality of his life's work upon falling into a coma after a traffic accident. Oliver Wendell Holmes appears to the unconscious attorney in a dream and informs him that Holmes has been placed on trial, and that the prosecutor is Socrates. Carver represents Holmes, who is on trial for his philosophies.

Professor Smolla, Director of the See "Stuff" on p. 9

## After Christmas Intermission

### News Release

403 N.W.2d 143, the organization of students, staff, and faculty that produces the annual Law School Musical as a benefit for the Public Interest Law Foundation, has announced the results of auditions for lead roles in the 1994 show "The Good Lawyer Svejck." Loosely based on Jaroslav Hasek's anti-war novel "The Good Soldier Svejck" and the music of The Beatles, the show will be performed on Saturday evening, February 5, 1994.

Appearing as the fool Svejck will be James Gibbons in the 7:00 show Jason Wnglin at 9:30. Svejck's friend, Michelle, will be played by Tiffany Hedgepeth and Seema Nene and his adversary Rockford Racoun will be played by Rob Wargo and Kent Bullard. The role of the cynical Ellen Riby will be filled by Tean Meritt-Poree and Rachael Goslins.

## Two Good Ones For Fall

by Michael Luke, 2L

Summer has officially ended boys and girls, and one might expect those movie grosses to start sagging during the fall doldrums that precede the Christmas season boom. Well, think again kiddies. Hollywood has managed to continue its record breaking pace, and it seems clear that 1993 will smash the record for movie grosses set in 1989. These two movies are currently contributing to those extremely high grosses.

### Demolition Man

After a short but painful sidetrack into comedy, Sylvester Stallone has returned to his roots: the action/adventure movie. Judging from the opening weekend grosses of *Demolition Man* (the biggest ever in October) and the successful summer flick *Cliffhanger*, the Sly Guy is still very much in demand.

*Demolition Man* is the tale of a ruthless criminal (Wesley Snipes) who can only be taken down by an almost superhuman cop (Stallone). In the be-

ginning of the movie, Stallone manages to apprehend Snipes in the war zone that once was Los Angeles. However, all of Snipes' hostages end up dead and both are convicted. Instead of jail, the two are put into cryo-freeze, where they will serve out their sentences while being neurologically programmed to fit better in society. Zap to the future, where Los Angeles has become so peaceful that the police don't even have to carry guns. Needless to say, Snipes escapes after being thawed out and, to use a cliché from my last review, s\*\*t happens. The shiny, happy police department is unequipped to deal with such a violent criminal and must defrost Stallone. As for the rest of the movie, well, I'm sure you can figure it out.

Okay, *Demolition Man* definitely has its shortcomings. There is a pretty predictable plot, some bad acting (some of it surprisingly turned in by Snipes, who laughs an awful lot in this movie), and an occasional costume, set, or special effect that looks cheesy. But so

what? We aren't exactly expecting Oscar nominations, are we? What we are expecting is some good action, and on that level, *Demolition Man* delivers.

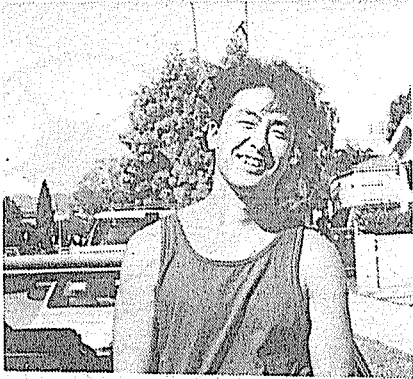
The special effects overall are pretty good. Furthermore, there is a healthy amount of mayhem, gunfire, explosions, car chases, and stunt work. Most importantly (at least to Beavis), there is plenty of fire, Fire, FIRE! Combine all this with the decent plot and performances, and you end up with a pretty entertaining action movie.

Additionally, *Demolition Man* is surprisingly funny, and has humor beyond that of your typical action film. Sure, every now and then a joke falls flat, but this isn't supposed to be *When Harry Met Sally*. Overall, the movie is a very humorous, dare I say even satirical, look at the future.

So there you go. If you like action films, *Demolition Man* is probably one you should check out. Don't get me

See "Good Ones" on p. 9

See "Christmas" on p. 9



## Critical Race

### Theory: Uppity Minorities Challenge White Hegemony

by Al Muratsuchi (3L)

Critical race theory is all the rage in the nation's top academic journals and law reviews, as well as in law school seminars across the country. As Columbia Law School dean Lance Liebman recently declared, "Critical race theory is one of the most important intellectual movements in legal scholarship right now." University of Michigan law professor Catherine MacKinnon added that critical race scholars are "among the most brilliant legal writers we have these days on any subject."

So what's all the hype about? The central message of critical race theory is that law serves to create, reinforce, and legitimize existing maldistributions of wealth and power in this country. Critical race theorists share with liberal legal analysts the position that law can be useful in challenging racism and white supremacy. However, critical theorists go beyond liberalism by exposing how law and legal discourse not only create conditions that lead to *de facto* racial hierarchies in this country, but also legitimize such hierarchies in the minds of whites as well as people of color.

For example, the ideal of a color-

# Opinion

blind society is a central feature of current Supreme Court civil rights doctrine. UCLA Professor Kimberle Crenshaw and others criticize the Supreme Court's Reagan-Bush 2-Live Crew for its fixation with color-blindness and equal process for all racial groups. The color-blind ideal makes no sense where racial groups have been treated differently historically, where they continue to be treated differently, and where the effects of the different treatment persist to this day. A color-blind society built upon racial subordination is a society that cannot eradicate racism, because such a society can never fully understand the nature of racial subordination.

Related to the color-blind ideal is the myth of equal opportunity. This myth justifies and reinforces prevailing notions that American society is more or less meritocratic, and leads people to accept the basic legitimacy of our free market-oriented society. They perceive the market as operating fairly and impartially, with existing racial hierarchies of socioeconomic status being the natural result of each racial group's relative abilities and shortcomings. Thus, many whites vehemently oppose affirmative action and other race-conscious remedies that interfere with the free market ideology that has disproportionately rewarded them.

Critical race theorists are often accused of promoting racial divisiveness. In particular, they are criticized for arguing that the law is subjective along racial lines. However, such criticism assumes that objectivity in law and legal discourse exists. When the viewer — judge, lawyer, professor, student — shares the dominant perspectives of legal inquiry, those perspectives seem

See "Theory" on p. 9

## Triumph of Tribalism

by Matthew Monforton, 3L

Last June Bill Clinton again displayed his greatest talent: the ability to run from a fight. The occasion was Lani Guinier's nomination before the Senate to head the Justice Department's Civil Rights Division. Guinier's supporters hoped — and Clinton feared — that her nomination would be a referendum on the ideas of Critical Race Scholars like herself. The Administration yanked her after it realized how revolted most Americans would find these ideas. Law schools however, particularly UCLA, have given Critical Race Scholars the keys to the store.

Who are these Scholars? They are a small group of minority law professors united by the belief that history and society cannot be understood outside the context of race. To them, race shapes our views on the world around us. Government and corporate America are infested with "institutional racism" (whatever the hell that is). Concepts such as federalism, privacy rights, and "established" property interests all serve as "vessels of racial subordination." Scholars view Dr. Martin Luther King and the early civil rights leaders who dreamed of being judged only on the content of their character as just that — dreamers. Their ideas are nothing new; they bear a striking similarity to the ideas propounded by certain Germans earlier this century. Like the Nazis, Scholars view history and society through racial prisms. Compare the following quotations, one written by Adolf Hitler, the other by UCLA's Professor Kimberle Crenshaw (try to guess who wrote each one without peeking at the footnotes):

"Race consciousness [is] a central ideological and political pillar upholding existing social conditions."<sup>1</sup>

"The powers which create culture and values depend fundamentally on racial elements."<sup>2</sup>

Such absurd premises about society lead to even more absurd conclusions. One example is that Social Security perpetuates racism because average life spans for whites are slightly longer than for blacks, thus whites unfairly benefit more from the system than do blacks. Another of their gems of wisdom is that black political candidates need to be elected by a majority of black voters; if they win elections in majority white districts, they are not "authentic" blacks. Black Republicans are even worse. Guinier describes them as only "descriptively" black.

Aided and abetted by accomplices in law school administrations, Scholars have carved out autonomous fiefdoms

See "Scam" on p. 10



in several schools, including UCLA. Dean Susan Prager extolled the "increasingly rich and candid literature" being produced by these Scholars, indicating that the administration will continue, as it has in the past, to pack the faculty with more of them. While Scholars tell the rest of us to confess our "subconscious racism," only a chosen few are actually allowed to debate racial issues. For the job of examining race relations, whites need not apply. That topic is now reserved for Scholars only. One Scholar, Wisconsin Law Professor Richard Delgado, openly called on "white liberal authors to redirect their efforts [away from race relations] and to encourage their colleagues to do so as well." Disguised as diversity, the agenda promoted by these Scholars and their administration allies is just another quota racket.

Not only do Scholars make the usual demands that universities hire more of them, but they also insist on immunity from the rigors of academic discourse. Criticism of these folks is simply not allowed, especially from other minorities, as Harvard Law Professor Randall Kennedy discovered a few years ago. Kennedy wrote an article in the Harvard Law Review questioning whether Scholars had produced anything of academic importance. Many Scholars regarded his article as a betrayal of his race. According to the *New York Times* some have gone so far as to attempt to exclude him from professional forums where he could express his views. A fellow professor attributed these acts to a "lynch Randy Kennedy mind-set" among the Scholars. Such tactics make these folks look less like the "oppressed Scholars of color" they claim to be and more like a Ku-Klux-Klan-with-a-tan.

In his book *Strength to Love*, Dr. King declared that God "made of one blood all nations of men to dwell on the face of the earth." Such reflections are a marked contrast from Scholars who, as Kennedy puts it, believe that "certain ideas flow ineluctably from one's racial background." Their bitter whining, rather than the eloquence of Dr. King, is framing discussions on race relations in our law schools. Dean Prager and others probably view the hiring of Scholars as another step towards "diversity" and another down payment on reparations owed by whites for "four hundred years of oppression." But for those who still believe that universities should not be a racial spoils system, the growing clout of Scholars in our schools represents a triumph of tribalism over the belief in universal truths that transcend history and race. From Mussolini to Hitler to the Bosnian Serbs, people with race-centered ideologies have written too many pages of Twentieth Century history. Sadly, increasing numbers of them are teaching history as well.

1. Kimberle Crenshaw, *Race, Reform and Retrenchment: Transformation and Legitimation in Antidiscrimination Law*, 101 Harv. L. Rev., 1331, 1335 (1988).

2. Adolf Hitler, *Mein Kampf* (translated by Ludwig Lore), New York: Stackpole Sons (1939), p.378.

## The P.C. Scam

by Paul Ruiz

When I was in grade school, I remember sitting in a bus directly in front of a student named Edgar, who was one grade ahead of me, and much bigger. During the ride, Edgar and others teased me in what one could characterize as good-natured boyish fun. That is, they called a me wimp, a nerd, a shrimp — stuff that I had long since become used to. In the spirit of the moment, I turned to Edgar and called him "Eggo" (as in Eggo waffles), which was his nickname among his other classmates. Edgar's expression turned sour, then he punched me hard on my upper left arm, leaving a bruise that lasted for days.

Whenever I read the latest op-ed diatribe regarding the alleged scourge of "political correctness," or "P.C.," on our college campuses, I can't help but think of good ol' Eggo. Frankly, I think the right-wing P.C.-mongers have the hy-

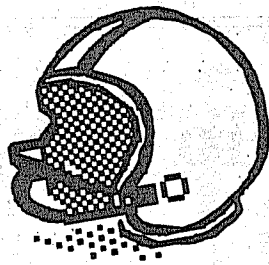
persensitivity equation backwards.

There appears to be two types of so-called political correctness. The first kind, hinted above, regards the alleged hypersensitivity of certain groups of people to the point where speakers must "walk on eggshells" so as not to offend anyone. Indeed, the hypocrisy of those who would make this kind of P.C. claim was ably described, albeit unwittingly, by a commentator not too long ago. In the article, the author accused Dave Winfield of engaging in an athletic version of political correctness when he charged a pitcher who had thrown at him because, apparently, Winfield had stolen a base against that pitcher earlier in the game. Winfield, so the article went, was "hypersensitive" because, in the good ol' e days, a batter never would have charged a pitcher for such a reason; instead, he would have accepted the brush-back pitch as a normal part of the

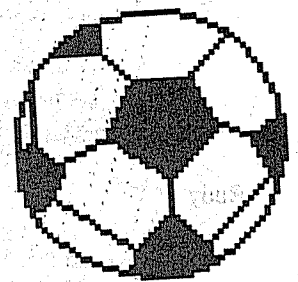




## SPORTS



## SHORTS



## Notre Dame v. Florida State: The Aftermath of a Cataclysmic Clash

by Mike Luke, 2L

Well sports fans, the two best teams in college football tangled on November 13th and played a dandy in South Bend. With then #2 Notre Dame beating #1 Florida State, 31-24, you would think that the national title picture would get clearer. Beep! Wrong answer! Would you like to try for double jeopardy? No, all you football mavens, it seems that the national picture has been thrown into an absolute tizzy. Many are calling for a ND-FSU rematch, and that's what they'll get if ND beats Boston College and FSU remains at #2 in the coalition poll. But what about the undefeated and untied Nebraska Cornhuskers and West Virginia Mountaineers. Ohio State only has a tie, and let's not forget that Miami is still lurking in the shadows. As the season draws to a close, I offer my outlook on the race for #1.

Notre Dame should be #1, no questions asked. They're undefeated and beat a team that many people thought was invincible. My surprise pick for #2...Nebraska. Now before you start waiting by my box to do the FSU war chant, hear me out. No matter what you think about the Cornhuskers, they are undefeated and do play in a major, although weak, conference. A few years

back, the polls set the precedent (we law students love precedent) that records are a VERY important factor in determining rankings when they gave the national title to a 12-0 BYU team, which played in a much weaker conference than Nebraska and beat a 6-6 Michigan team in the Holiday Bowl. Further, Nebraska beat UCLA and Colorado on the road, Kansas State at home, and will still have to beat their rival Oklahoma to go undefeated. These are all ranked teams my friends. So, in my opinion, if Nebraska goes undefeated, they will have earned the right to play ND for the championship.

At #3, I put Florida State, perhaps the best team on paper in the country. I rank them behind Big Red for two reasons. First, they had their shot, they lost, they're out. Games are not played on paper, and FSU was beaten on the playing field, fair and square. One of the greatest things about college football is that the season is so short. Every game is like a playoff, all games are big. When Notre Dame and Michigan play early in the season, it's a HUGE game because we know that one of those teams might be out of the national picture right off the bat. So, I say, quit your whining FSU. If Nebraska edges ahead of you in the

rankings, you did not lose the title in the polls, you left it on the field in South Bend. Further, in all honesty, the ND-FSU game was just not as close as the score indicated. The ND safety dropped FIVE interceptions. ND's best receiver dropped FOUR drive sustaining third-down passes, and let's not forget about the tipped fourth down pass for the final FSU touchdown. I give credit to FSU for staying in the gam, but they could have easily been run off the field by 21 points. It's time to give another team a chance.

At #4 and #5, I would put Miami and Ohio State. I'm not too picky about the order so you can decide that one. Sure, OSU has a tie to Miami's loss, but Miami did lose at FSU, and OSU could easily have lost to Wisconsin. Call this one a toss up.

At #6, we have the last team with a shot at the title, West Virginia. You might be saying, "Mike, I thought you said that records were really important in the rankings." Well, my extremely attentive readers, you are correct. However, record is not the only factor. Yea, West Virginia's undefeated, but I just do not think they're that great, and they still have to play Miami. Beating Miami, though, would make me a believer, and

I'd consequently move them up to third, based on the quality win and the undefeated record.

So, there you have it. One man's opinion on the college football season. The way the polls are now, it's possible that you could end up with FSU beating ND in a close Fiesta Bowl, West Virginia thrashing Miami and Nebraska, Ohio State humiliating Michigan and the Pac-10 Champ, and FSU finishing numero uno, ahead of two teams with better records. The push for a playoff system would be intense. But you know what? Every year we seem to be heading for a similar situation, and things just always seem to break right until we end up with a champion that we can all live with. With the luck of the polls, Miami will eek out a victory at West Virginia, Michigan will defeat Ohio State, Florida State will choke and lose at Florida, thereby setting up an uncontested national title game between ND and...Nebraska. Gee, did I say luck of the polls? Maybe I should have said luck of the Irish!

(NOTE: This opinion was written before the games played on November 20th. The author assumes no responsibility for things that may seem silly after those games).

## How To Retire A Millionaire

by Michael King

To retire a millionaire would likely be considered the ultimate "American Dream." With a little planning and discipline that dream can be accomplished by just about anyone, and accomplished a lot easier than you may have ever imagined.

As future attorneys, it is generally understood that we have the capability to earn above average incomes. However, through the use of a special "vehicle," a person earning as little as \$20,000 per year, and who has the discipline to save 10% of their gross income, can retire a millionaire.

The "vehicle" that will enable you to achieve your millionaire status is called an Individual Retirement Account, commonly referred to as an IRA.

IRA's offer several unique advantages when building a retirement nest egg. Contributions may be tax deductible (depending on your taxable earnings for the year, and whether you participate in any other tax-deferred retirement plan). You can make contributions to just about any type of investment including stocks, bonds, mutual funds, and certificates of deposit. And, most significantly for the realization of your "American Dream," the income and capital gains from your IRA grow tax-deferred; in other words,

you pay no taxes until funds are withdrawn from your account.

Here is how someone who is 23 years old or younger can retire a millionaire by the time they reach 65.

First, contribute \$2,000 to an IRA, the maximum amount allowed for an individual taxpayer per year. Your contribution should be placed in a fairly aggressive investment such as a growth or aggressive growth mutual fund; your goal should be to average a 12% rate of return.

Next, continue to make contributions each year for a total of only six years. In other words, if you make your first contribution at age 23, your last contribution will be at age 28, at which time you will have contributed a total of \$12,000.

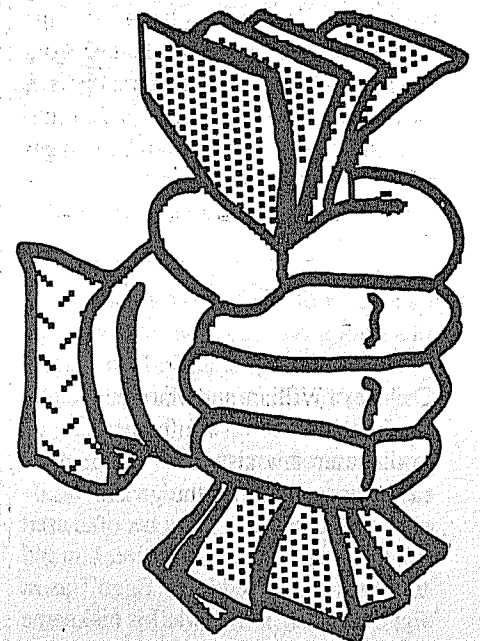
Now, sit back and relax, you have just put in place a "plan" that will make you a millionaire. In fact, by the time you reach age 65, assuming a 12% rate of return<sup>1</sup>, your \$12,000 will have grown to a total of \$1,074,967.85!

If you are already older than 23, don't despair, you'll just have to work a little harder (as long as you're not too old). If you begin making contributions by age 29 you can still achieve your

millionaire status, but it will cost you for waiting. If you make your first contribution at age 29, and continue to make contributions every year until you reach 65, again assuming a 12% rate of return, you will build a nest egg of \$1,087,197.38. By waiting just six years you are required to contribute a total of \$74,000 instead of just \$12,000.

Your "American Dream" is alive and waiting for you. Find that \$2,000 contribution anyway you can (summer job, part-time job, financial aid), and start now! It will all payoff in the end!

<sup>1</sup> According to Stocks, Bonds, Bills and Inflation: 1993 Yearbook, the total return on common stocks over the last fifty years (from 1942-1992) has been 12.7%, while the total return for small company stocks has been 16.8%.



Do something new next semester -  
Write for The Docket!

### "Good Ones" Con't from p. 6

wrong. It's no *Jurassic Park* or *The Fugitive*, but it is an entertaining movie, and isn't that what movies are all about?

Rudy

Plain and simple, *Rudy* is a wonderful film that everyone frustrated with the legal job market should see.

*Rudy* is the true story of a small, dumb kid with little athletic ability who dreams of attending the University of Notre Dame and playing football for the legendary school. For those of you who don't know, Notre Dame is almost synonymous with college football. After a tragedy at home, Rudy sets off for South Bend, Indiana to pursue his dream, ignoring those that keep telling him it's impossible. He arrives with bad grades, bad test scores, and marginal athletic talent, and he doesn't get accepted. Luckily, a friendly priest helps get him into the junior college across the street. Eventually, through nothing but hard work and raw determination, he achieves his goals.

The biggest fault with *Rudy* is probably obvious by now. We've all seen the underdog overcoming the odds story a million times. However, knowing the story is true makes the contrivance much less noticeable. Also, as I said before, there's nothing wrong with contrivance as long as the movie is entertaining, and this movie definitely is. It may not be as entertaining if you hate Notre Dame (a word of warning to Holli), but for the most part, the good far outweighs the bad.

Sean Astin turns in his best performance to date, and Charles Dutton is great as the groundskeeper who helps Rudy out. Furthermore, *Rudy* is a film that everyone can like. It's not too sappy, and rather than football, the movie is really about the human spirit, similar to the original *Rocky*. Most importantly, the film is extremely inspiring and culminates in a perfect final scene that may bring chills.

One final thought on why legal job seekers should seek out this movie. There was something about watching that little guy, for two hours, get the crap beaten out of him and keep coming back for more, long after any normal person would have quit. He stuck with it, and the stupid, unathletic kid graduated from and played for one of the best schools in the country. I left the theater just feeling good and believing that even I could get a 2L summer job in this market. Bye for now. Y'all come back now, ya hear?

### "Stuff" Con't from p. 6

Institute of Bill of Rights Law at The College of William and Mary, Marshall-Wythe School of Law, often uses plays to illustrate law at a level that can be easily understood by the general audience. "Courtroom trials are often the stuff of drama because trials present the raw conflicts of life: good and evil, guilt and innocence, truth and lies. Cases are thus often good theater." Smolla's other plays have included "Harlot's Ghost and JFK: A Fictional Conversation with Norman Mailer, Oliver Stone, Earl Warren and Hugo Black." His books include "Suing the Press: Libel, the Media and Power." He has recently completed a revision of Nimmer's classic work on Freedom of Speech: "Smolla and Nimmer on Freedom of Speech."

## Letter To The Editor

### Who Got Hostile in '93 and Why He Shouldn't Have

by Shane Hunter

I am writing this commentary in response to the column by Chuck Russell-Coons in the October edition of *The Docket*. In that column, Chuck described his disappointing experience at the jobs seminar entitled "Who Gets The Best Jobs in '94 And Why." As I understand it, Chuck went to the seminar to find out when would be a good time to tell a prospective lawfirm of one's sexual orientation. I fully agree that this is a question well worth having answered for any homosexual. However, I believe that Chuck has mistakenly placed his anger on others for his own lapse in etiquette and a potentially inappropriate, albeit understandable, jump to a conclusion.

First, let me begin by providing a recap of Chuck's article. From the article, I take it that there was a panel of ten lawfirm representatives, a moderator, and the audience at the seminar. Eight members of the panel were men, and eight were white (I will thus assume that the partner referred to later was a white male). During the question and answer period, Chuck queried about when an appropriate time would be to reveal one's sexual preference. The panel replied that it was irrelevant.

However, one partner on the panel further claimed that firms had done a good job making sure their firms looked like the makeup of the seminar audience (in his article, Chuck described this statement as a lie). Not one to be intimidated, Chuck confronted the partner, stating, "That's not true." Furthermore, Chuck cited Martindale-Hubbell as evidence that most firms do not look like the seminar audience. In response, the partner described the gender and race breakdown of the associates that his firm hired last year, of which only one was white, and an unknown number, if any, were gay.

The moderator then changed the subject, asking the panel to describe their feelings with respect to potential associates with extreme religious views. Shortly thereafter, Chuck left. After the seminar, the partner told the person that had sat next to Chuck that if his friend continued to be hostile, he would never get a job. Chuck took offense to the statements both by the partner, and by the moderator. It is this reaction that I think was unwarranted.

Chuck thought that the partner called him hostile because he asked when it is OK to be openly gay. While this is possible, I believe it is incorrect. I do not think the partner got upset because Chuck asked a question about being gay. I think he got rightfully mad at being confronted, and none to subtly being called a liar, in front of his peers. The partner never made any reference to sexual orientation. He did not say, "Tell your gay friend not to be so hostile." It

seems to me that he handled the situation calmly, and answered Chuck's question courteously (although I was not there to hear with what tones of voice the partner and Chuck spoke).

Having worked in the aerospace industry for eight years and endured many interviews along the way, I can assure you that the old cliché "Don't bite the hand that feeds you" is abundantly true. I can think of few interview tactics worse than confronting the interviewer, let alone calling them a liar (implicitly or explicitly). Anyone placed in that partner's position would have been angered no matter what the initial question was about. Therefore, shifting the attention from the fact that the retort was ill-advised to the gay issue embodied in the query, is to blame smoke for the damage from the fire that you lit.

Additionally, Chuck attacks the moderator for following the partner/Chuck battle with a question about people with extreme religious views. The problem cited is that the moderator, by implication, associated homosexuals with people having "extreme" views by asking about such people immediately after the discussion of homosexuality. While the moderator may very well believe that homosexuals are extreme, they never specifically stated so. However, as law students, we all know that reasonable inferences are allowed. But aren't there other, equally reasonable, inferences that can be made here? Maybe the discussion of sexual orientation cued the moderator to a list of individual concerns such as race, sex, sexual orientation, and religion, among others. If that were so, are we to assume that the moderator considered all minorities, or all women as extreme too? The fallacies in inferring that the moderator believed homosexuals to be extreme is obviously misguided and I think further examples are unnecessary.

I do not want to sound as though I am saying that people are open to homosexuals, and always treat them with the respect that everyone deserves. What I am saying is that sometimes people are so defensive that they overlook the true cause of a problem or dispute, and raise an issue that just doesn't belong.

This situation is much like the scene in "City Slickers" where all the guests of the dude ranch are introducing themselves. All the guests are white except a father and son who are black. The father introduces himself and his son, and tells everyone that they are dentists. The conversation then goes something like this:

Billy Crystal: "Oh, you're both dentists."  
Son: "Yes, that's right. We're black, and we're dentists. Let's not make an issue of it."  
Father: "They're not making an issue of it, son. You are."

### "Christmas" Con't from p. 6

Sue Bunnell and Tiffany Wagner will play the role of Svejik's client, Loretta Martin. The senior partner Earnest Psease will be played by Matt Mulford and Thaine Lyman, while Alexander Lee and Larry Galka will portray the recruiting partner Paul Phlunkie-Fare.

In parts that are far from academic, Keith Jaasma and Charlie Newton will appear as Professor Happyfella, while Lynne Bourgault and Peter McAniff will play Professor Munster. Gary Schwartz will act and sing the role of Professor Snorts (no reaction).

Faculty and staff casting will not be completed until next semester but already scheduled to appear in addition to Professor Schwartz are Ken Karst as the editor-in-chief of the law review, Kris Knaplund as Judge Patricia McGroin, and Arthur Rosett and Rhonda Lawrence from the Library staff as Svejik's parents.

Carlos Casteneda and Jeniffer Aragon will serve as the M.C., Billy Shears. Playing courtroom personnel and doubling as band vocalists will be Michael Chang, Naomi Hughes, Stacy Weinstein, Deborah Frankes, Michelle Logan Stern, and Brian Griffith.

The band, Buck Stehuda and His Czechmaytes, plays a prominent role in this year's show. It includes John Sasaki on piano and keyboard, Adam Kaufman and Miguel Muro on guitars, Dan Whitely on bass, Jason Axe on trumpet, David Rittenhour on trombone, and Julia Mass on violin. A faculty band is presently forming.

Chorus parts will not be cast until rehearsals begin in January but it appears there will be a large and talented cast of performers in the big production numbers. Tickets will go on sale in January. Early purchase is advisable to avoid disappointment as past shows have been sellouts and university regulations do not permit sales at the door.

### "Theory" Con't from p. 7

reasonable, rational and objective. The subjectivity of prevailing perspectives is rarely perceived. On the other hand, minority perspectives are usually identified as such and viewed as subjective and biased. Critical race theorists recognize that if claims to objective legal analysis are grounded in the apparent lack of perspective within the dominant discourse, then the introduction of competing perspectives can challenge exclusive claims to objectivity. This threat of undermining exclusive claims to objectivity is a major reason why critical race theory profoundly disturbs those who subscribe to dominant legal perspectives.

Heavy stuff! Obviously, I can't do justice to the brilliance of critical race theory in such a short article. Put your Lexis and Westlaw accounts to good use and check out articles written by Crenshaw, Mari Matsuda (former UCLA professor), Derrick Bell, Richard Delgado, Patricia Williams, and others. Many students of color find critical race theory to be empowering because it validates their life experiences. For white students and professors, this literature can give you a greater understanding of what it's like to be a person of color in this country.

**"Scam" Con't from p. 7**

school of hard knocks that we know as baseball.

I find this to be an interesting analogy. If we accept at face value the notion that Winfield was "hypersensitive" because he nearly had a ball lodged into his face, then why wasn't the pitcher also hypersensitive for throwing at Winfield in the first place because — Egad! — Winfield had stolen a base against him? Similarly, the con job sold to the public by the P.C.-mongers in recent years posits that harsh criticism from the Right must be accepted as part and parcel of the school of political hard knocks, while harsh criticism from the Left is weenie bad sportsmanship.

The second kind of "political correctness," ostensibly, is the alleged propensity of one side of a debate to demand that its point of view be accepted as a given, without subjecting that point of view to the rigors of scrutiny and analysis. Thus, we see today the emergence of overwhelmed "critics" who courageously battle the impatient and intolerant hordes of the status quo, if one was to believe the editors of the National Review. But this is a dishonest characterization, because what "political correctness" really means in application is, well, anything liberal.

Thus, any opinion against racism, sexism, capitalism, etc., is "political correctness," no matter how well that opinion may be supported factually and intellectually. Similarly, any opinion that controverts a liberal opinion against racism, sexism, capitalism, etc., is not politically correct, but is instead a valid exercise of "free speech" (or worse, dissent!), no matter how stupid, or how far off course from reality, that opinion may be.

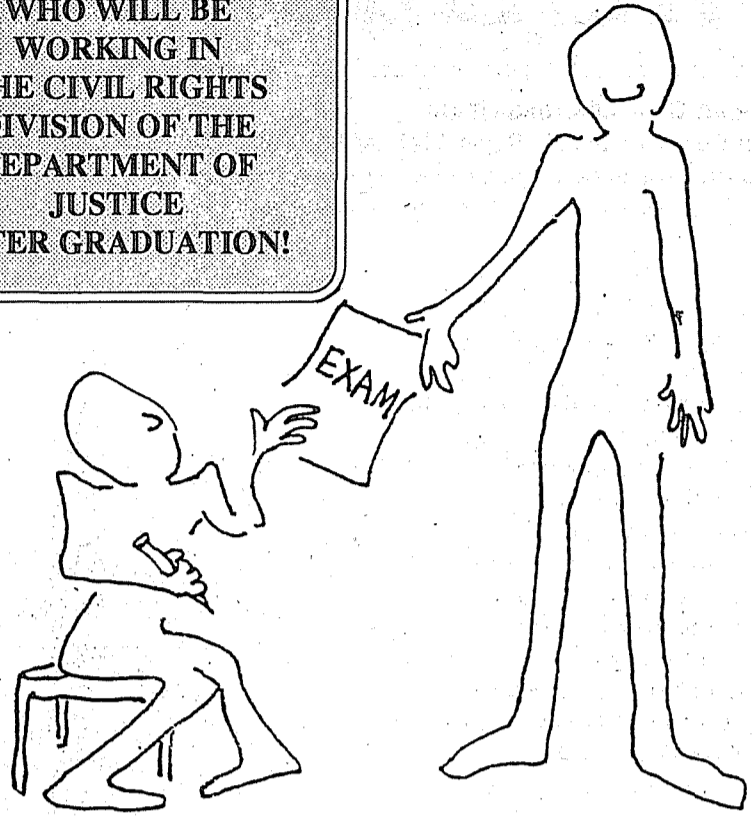
Thus, the argument against so-called political correctness is not a call, in any objective sense, for open and robust debate on the important issues of the day. If that was true, then dumb conservative opinions would be called "politically correct" alongside allegedly dumb liberal opinions. But that just doesn't happen. So what the creators of

the political correctness bogeyman really have in mind is a new way to stigmatize liberalism now that "Commie" will no longer suffice. Furthermore, this stigmatization is amply demonstrated in the selective application of the "correctness" label. For example, I doubt seriously that anyone in the mainstream media or Punditland would attach a "theologically correct" label to far right-wing fundamentalist Christians; or a "linguistically correct" label to English-only policy advocates; or, for that matter, a "patriotically correct" label to certain supporters of the Gulf War. Only liberals are fare game.

Thus, the "rage" over "political correctness" is really nothing more than an extension of the age-old struggle to determine who will prevail in defining our nation's political and social agenda. That the Right must resort to a misleading label is, indeed, a sign of weakness on its part. And while the Right rails about speech codes, these codes are, at worst, really little more than a nuisance on the landscape of constitutional freedoms. Most decent people have no use for hate speech to begin with. The only "rights" implicated here are those of bigoted jerks. And while denying such jerks their right of free speech might, in theory, endanger all free speech, I somehow don't find myself losing sleep over the fact that bigots can't call me a beaner and then legally get away with it.

Nonetheless, fighting words aside, people can (and should) be allowed to say whatever they want, even if what they say is racist or sexist. If nothing else, people must be allowed to vent their frustrations, even if what they say is not always attractive or illuminating, lest they resort to more frightful alternatives. But likewise, we liberals have a concomitant right under the First Amendment to call certain speech racist or sexist if we believe such speech is indeed racist or sexist. Like good ol' Eggo on the school bus, the P.C.-mongers' failure here is their inability to understand that free speech is a two-way thoroughfare, not a one-way dead end.

**CONGRATULATIONS TO PATTY AMADOR WHO WILL BE WORKING IN THE CIVIL RIGHTS DIVISION OF THE DEPARTMENT OF JUSTICE AFTER GRADUATION!**

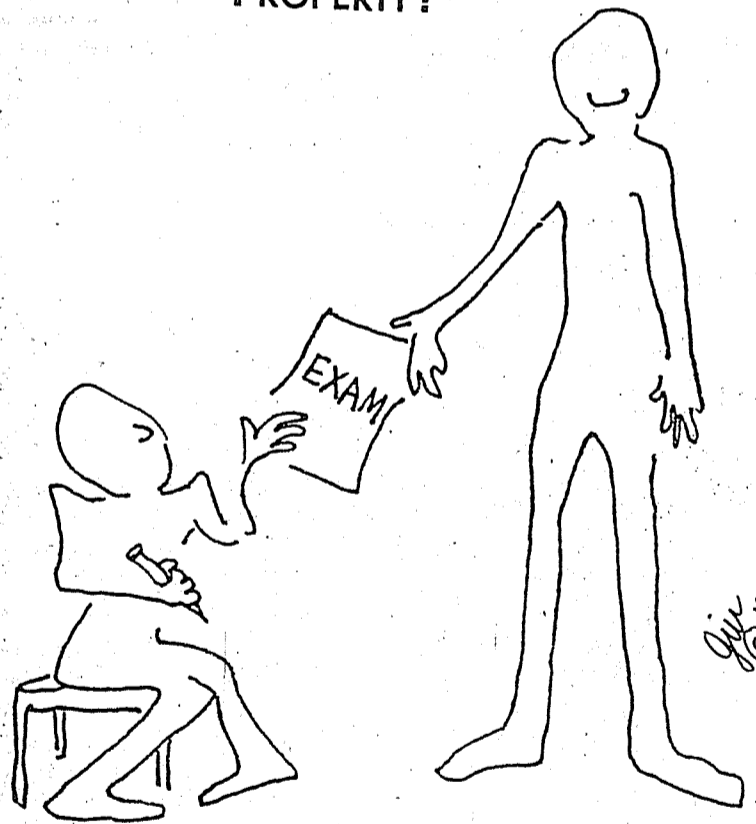


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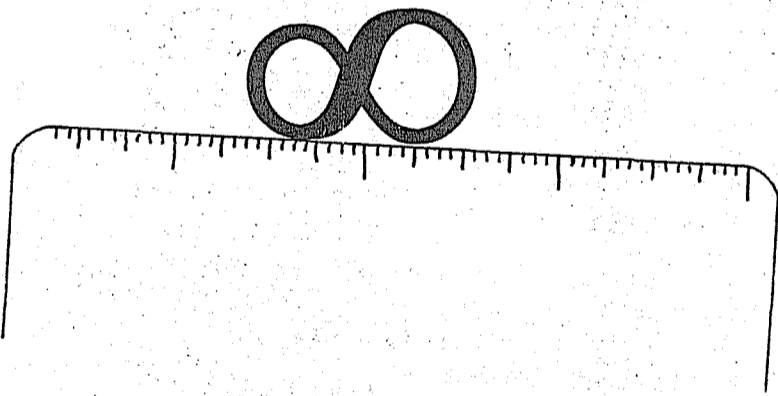
EXECUTORY  
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**PROPERTY?**



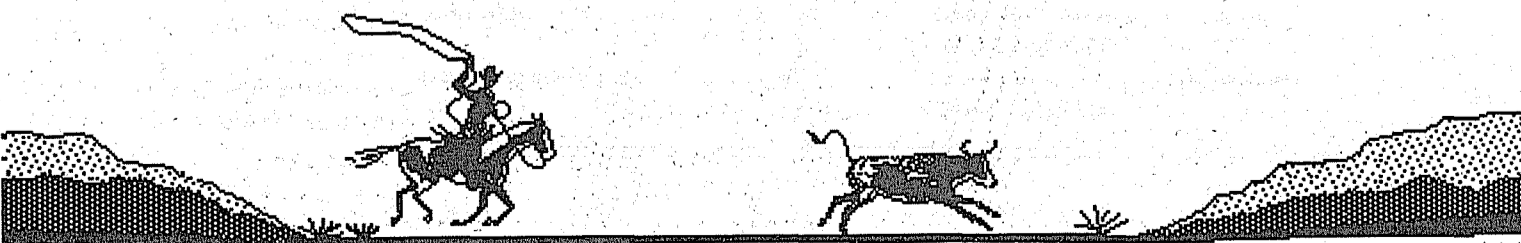
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**VOID GIFT  
(RULE AGAINST PERPETUITIES)**

*Jan © 10-5-93*

**INTENTIONAL TORT?**



**Here's hopin' ya'll catch your Thanksgiving dinner too!**

# The Back Page

...A Guide to UCLAW Organizations & Events

Announcement of future events should be submitted to Back Page Editor, Elia Gallardo, 3L

## American Civil Liberties Union

On Dec 1, 12-1pm, in Room 1447, ACLU will show a video entitled: Racist Implementation of the Death Penalty and Discussion led by Professor Peter Arenella

Contact: Heather Harris (2L).

## American Indian Law Students Association (AILS)

Contact: Moraino Patencio, 3L

## Asian/Pacific Islander Law Student Association (APILSA)

APILSA will sponsor an Attorney Panel at the law school on November 6. The panel will consist of attorneys from firms, the District Attorney's office, sole practitioners, and public interest organizations.

Contact: Angie Rho, 2L and A.J. Halagao, 2L

## Asian/Pacific Islander Law Journal

Contacts: Michael Balaoing, 3L

## Black Law Students Association (BLSA)

Preparing for finals. Preparing for BLSA Regionals. Preparing for Frederick Douglas Moot Court.

Contact: Rod Shelton, 2L

## Chicano-Latino Law Review (C-LLR)

The C-LLR is a student-run journal which provides a forum for issues that affect the Latino community and other minority, low-income, or discriminated-against communities. It is looking for new members interested in helping in the production process for upcoming volumes. Its faculty advisor is Professor Cruz Reynoso. All students are encouraged to submit articles for publication.

Contact: Maria Salas, 3L

## Christian Legal Society

The Christian Legal Society is scheduling bible studies every Wednesday at 12noon. All are invited.

Contact: Mike King, 2L

## Criminal Law Society

The Criminal Law Society will sponsor an event this month with Mark Lessem, Head Deputy of the Juvenile Division of the Public Defenders of Los Angeles County. Mr. Lessem has defended individuals in over 100 murder trials. The Criminal Law Society also hopes to sponsor speakers who are involved with the "Los Angeles 4" and the Menendez Trial.

Contact: Patrick deGravelles, 2L

## Democratic Law Students

Contact: Eric Kurtzman, 2L

## The Docket

THE DOCKET is UCLAW's monthly student newspaper. Everyone is encouraged to write.

Contact: Raquel Aviña Hunter, 2L

## El Centro Legal

El Centro Legal is a non-profit legal aid clinic run by UCLA law students in conjunction with Westside Legal Services. Student volunteers work with staff attorneys to help low income clients with a variety of problems including landlord-tenant disputes, consumer rights issues, and government aid programs such as welfare, workfare, and food stamps. El Centro teaches students practical aspects of lawyering, while helping people who cannot afford private counsel. Anyone interested in volunteering should contact Gary Faliceti at (310) 479-0123.

Contact: Gary Faliceti, 2L and Gretchen Mello, 2L

## Entertainment Law Society

The Entertainment Law Society announces its first speaker event of the year: Kenneth Ziffren, partner in Ziffren, Brittenham and Branca, a prominent entertainment law firm, will be one of the speakers in a panel discussing the impact of technological and economic changes in the practice of entertainment law.

The event will be at 4:00 to 5:00 pm on Thursday, November 4th. There will be an important meeting for all members on Tuesday, October 26th at noon, room TBA.

Contact: Andrea Sloan Pink, Pres., 1L

## Entertainment Law Review

The ELR is accepting student comment submissions for its second issue. Those interested in writing and/or submitting a comment concerning entertainment law should contact Mike Weiner, 3L, of Scott Brutocao, 3L

Contact: Scott Brutocao, 3L

## Environmental Law Society

ELS is sponsoring a Bake Sale, Tues, 11/23. SanFran Mime Troup will perform 11/19 at Shoenburg Hall. There will be a 5k/10k run/walk at UCLA 1/22/94.

Contact: Alex Helperin, 2L

## Federalist Society

The Federalist Society will sponsor the following speakers: David Brock, author of "The Real Anita Hill", November 4th; and Lillian BeVier of the University of Virginia Law School giving a presentation on Mandatory "Good Works" entitled, "My Road to Hell is Paved with your Good Intentions", November 18th.

Contact: Michael Franco, 3L

## Jewish Law Students Association

Contact: Sony Ben-Moshe, 3L

## UCLA Journal of Environmental Law and Policy (JELP)

The JELP is a student run journal that publishes articles by professors, practitioners and students concerning environmental and land use issues. It encourages all students to submit articles for publication.

Contact: Dede Mendenhall, 3L

## La Raza Law Students Association

La Raza Law Students Association promotes issues of importance to Latino law students. It sponsors tutorials, mentor programs, and social gatherings, to aid members and increase student awareness. Membership is open to anyone.

Contacts: Julie Martinez, 2L and Jeff Prieto, 2L

## Law Review

The UCLA Law Review is a student-run legal periodical published six times a year, featuring articles by law professors, judges, and legal commentators, and comments by Review members. Membership on the Law Review is earned through a writing competition during either the spring semester of the first year or the fall semester of the second year.

Contact: Kyle Arndt, 3L

## Lesbian, Gay & Bisexual Alliance

National Coming Out Day is October 11th. (Activities To Be Announced)

Contact: Julie Smith, 2L and John Niblock, 3L

## Legal Society on the Disabled

Contact: Josh Mendelsohn, 2L

## Moot Court

The Moot Court Board organizes the annual UCLA Moot Court Competition among second year students. Finalists compete in the prestigious Roscoe Pound Competition.

Contact: Craig Shelbourn, 3L and Laura Lewis, 3L

## National Association of Students Against Homelessness

Contact: Arielle Natelson, 3L

## National Black Law Journal

NBLJ is seeking articles, essays, and book reviews on issues relevant to the African American community. Please submit articles to NBLJ Room

2225-C of the law school.

Contact: Karen Pointer, 3L

## National Lawyers Guild (NLG)

The National Lawyers Guild will sponsor the following events: a panel discussion entitled "Community Empowerment Strategies: The Role of Lawyers as Activists", October 26, room 1347 at 6pm; and a progressive roundtable on law school as training for hierarchy.

Contact: Patty Amador, 3L and Elia Gallardo, 3L

## Pacific Basin Law Journal (PBLJ)

The PBLJ looks forward to another successful year! The journal will publish 3 new issues this year, one being a carry-over from last year. One issue will focus on U.S.-Japanese trade relations. The other two publications will examine general issues concerning the Pacific Rim, such human rights in China and the state of copyright law in Taiwan. The Pacific Basin Law Journal is a student-run law journal dedicated to international and comparative law concerning the Pacific Basin region and is always soliciting student comments, book reviews, casenotes, or recent developments.

Contacts: Andrew Ruff, 3L

## Phi Alpha Delta (PAD)

PAD is an international law fraternity. The McKenna Chapter at UCLAW offers various social, academic, and educational events to its members. All students are invited to join PAD.

Contact: Emily Gould, 2L

## Phi Delta Phi (PDP)

All students are encouraged to join the international law fraternity of Phi Delta Phi.

Contact: Chris Jones, 2L

## Pro Bono Society

Give 35!

Contact: Heather MacTavish

## Public Interest Law Foundation (PILF)

PILF provides support for public interest projects within the legal system. Each year it raises money to be used to allow students to work in public interest jobs. We are in the process of collecting pledges from students who pledged money for the Summer Grant Program last spring. (We know who you are) Please drop off your contribution at the PILF mailbox via the Information Desk.

Contact: Lisa Rosenthal, 2L

## Republican Law Students Association

Contact: Jack Schaedel, 2L

## Sports Law Federation

Contact: Thaine Lyman, 3L

## Student Bar Association

Contact: Stephen David Simon, 2L

## Women's Law Journal

In it's Fall issue, the Women's Law Journal is publishing an essay by Catherine MacKinnon on international law and a piece on law and economics. Cite-checking starts in late September. For information, contact: Andriana Estrada, 3L. If you would like to submit a book review or a recent development for Spring, contact: Seema Nene, 3L or Patty Amador, 3L

Contacts: Christina Bull, 3L and Megan Mayer, 3L

## Women's Law Union

Contact: Kelly Schramm, 3L

## Yearbook (The Barrister)

Contact: Thomas Treffert, 3L

## 30+ Law Students Assoc.

Contact: Michelle Logan-Stem, 2L

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