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Padres superfan Professor Roberta K. Thyfault enjoys the ballpark with her children and grandchildren.

California Western School of Law

Winter 2014/2015

# THE COMMENTARY



## CIP Puts End To Longest Wrongful Incarceration In California History

BY JUSTIN BROOKS  
CALIFORNIA INNOCENCE PROJECT

Above: Director Justin Brooks and Associate Director Alex Simpson stand with Michael Hanline, as he gives a statement to the press after 36 years behind bars. Photo by Alissa Bjerkhoel.

On November 24, in a Ventura courtroom, Michael Hanline was released from prison after serving 36 years for a crime he did not commit--the longest wrongful incarceration in California history.

The California Innocence Project has been representing Mike since we opened our doors in 1999. We spent years fighting to unseal court records, then several years fighting in federal court to get his conviction reversed. A federal magistrate recommended the reversal 5 years ago, but that recommendation was rejected by the district court. For the past 5 years we've fought for DNA testing on crime scene evidence--testing we didn't have the technology to do when we began the case. The results exculpated Mike and the District Attorney finally agreed to the reversal of his conviction.

My greatest thanks go to Kim Hernandez in CIP who has worked on this case for 15 years and was critical in discovering key evidence. Equally important has been the amazing legal work of Alex Simpson who has lead the charge for the past decade. Professor Mario Conte did incredible legal work co-counseling Mike's case throughout the federal proceedings. And of course, my partner Jan Stiglitz has guided the litigation.

Each year, a new CIP student has been assigned Mike's case and worked hard to achieve this victory. These great students (now mostly alums) are: Alexandra Valentine (2014-2015); Jamie Sprenger (2013-2014); Brienne McLaughlin (2012-2013); Kiley Schaumleffel (2011-2012); Sarah Jordan (2010-2011); Aleksander J. Yarmolinets (2009-2010); Morgan Teague (2008-2009); Michael Ferrara (2007-2008); Jason Makris (2006-2007); Colin Walshok (2005-2006); Ryan Bright (2004-2005); Udoka Nwanna, (2001-2002).

This is an incredible victory for everyone, especially Mike and his family. Please go to our brand new website to read more about the case: <http://californiainnocenceproject.org>

## A CONVICT WALKS AMONG US

BY CLINTON PIERCE  
CO-EDITOR-IN-CHIEF

At Cal Western, we take great pride in our diverse student body. We are wealthy and poor, seasoned and green, home-grown and far from home. Some of us are on the path to second or third careers and some are seeking our first experiences in the working world.

I recently had the chance to get to know one of our own whose path to law school was far from conventional. Prior to sitting for the LSAT, this man sat behind the bars of the state penitentiary as a convicted felon. His story is not only an heroic tale of overcoming adversity to pursue a career in law, but it is a lens through which very few attorneys will ever view the justice system. He has asked to remain anonymous, and this writer asks that if you should recognize his story, you do not disclose his identity. He agreed to share his account with our readers in the hopes that he may offer a unique perspective on what it is like to be tried, convicted, sentenced to prison,



Photo by Marco Mackliss

and labeled a convicted felon. This is the first in a three-part interview.

*So I understand that you are a felon. Does it bother you to be called a felon?*

No, what bothers me is what comes along with being a felon and how I have to carry it with me for the rest of my life. I do believe that I deserved

my conviction. I am a felon. And that stigma is something that in some ways I deserve, based on the mistakes I made.

*What have you learned as a felon, that you want to share with your fellow students?*

We're not a protected class, maybe we don't deserve to be, but we definitely feel a blatant bias. We're put in a group of OTHER. We're not like everybody else. It hasn't been as bad for me, but for people who don't have skills, it puts you in a position of desperation and, really, nobody has

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## Trial and Appellate Teams Rock the Competition



Photos by Ian Wright. Text reprinted from [www.CWSL.edu](http://www.CWSL.edu) with permission from CWSL Marketing and Communications, edited by *The Commentary* staff.

A California Western Moot Court Honors Board trial team has won the first-ever head-to-head mock trial competition between San Diego's three law schools.

The team of Jordan B. Du Bois, Melissa M. Mack, Sarah E. Reeb, and Madelynn F. Woodhall won the trophy and a \$5,000 prize competing against teams from Thomas Jefferson and the University of San Diego schools of law. Du Bois and Mack are third-year students and veteran competitors. Second-year students Reeb and Woodhall are competition rookies. In the finals, held November 10, they took on a team from Thomas Jefferson, which finished second in a very spirited competition.

The event was sponsored by the Association of Business Trial Lawyers (ABTL) and held at California Western, with the final round at the Edward Schwartz Federal Courthouse downtown.

The competitors all had high praise for their coaches, Jim Mangione and Clayton Carr '13.

The competition was judged by a panel of San



Diego attorneys, but U.S. District Court Judge Anthony J. Battaglia '74 presided over the session in the ceremonial courtroom--not knowing until later which team represented which school in the blind competition.

A California Western appellate trial team has won the Seventeenth Annual National Entertainment Law Moot Court Competition held at Pepperdine University School of Law the weekend of November 15-16.

Third-year students Jennifer N. Monterroso and Joanne L. Heilbrun prevailed over St. Mary's Law School of San Antonio in the final round, after defeating law school teams from Arizona State University, Villanova, Baylor, and Texas A&M.

The trial team was coached by Adjunct Professor Kate Clark '10, who says Monterroso and Heilbrun have worked very hard since September to succeed at this competition.

In addition to serving on the appellate team, both Heilbrun and Monterroso are highly involved in student government. Heilbrun is the Student Bar Association president and Monterroso is one of their Chairs of the SBA Community Outreach Committee.

# FROM THE STAFF

## From Your Editors: Where Is My Hover Board?



If you're reading this right now, you're in the future... unless you are Seve or Lorenzo, reading it over my shoulder as I write. I'm sitting here reflecting on the past year and anticipating the next as 2015 rapidly approaches, and I am extremely disappointed. I was promised flying cars and hoverboards. Where are my self-drying hightops and retro 80s cafes? I plugged in my old Nintendo the other day only to discover that the Duck Hunt gun doesn't work on a plasma TV. If 80s movies taught us anything, it is that society regularly overestimates the amount

of progress that will be made over the course of a generation, or at least Stephen Spielberg does. Did he direct Back to the Future? I'm not going to fact check because I'm tired of doing that. At the very least we regularly inaccurately predict which direction society, technology, the world will move. Priorities change. Interests change. We can't predict the future, and in all reality, Doc Brown was probably just suffering from some mental disorder. He was probably a pedophile too. What was some strange old crazy scientist doing hanging out with the coolest kid to ever drink a Pepsi? Seriously, though, in 1985, I had no idea that I would be in law school 30 years later. I probably had no idea what apple sauce tasted like either. It turns out apple sauce is awesome. Five years ago I had no idea how much I would enjoy the opportunity to catch up on laundry and pay bills in 2015. If I had a time machine in 1985 I probably would have screwed a lot of things up. The things I wanted as a toddler are not the things that I want now. I still like apple sauce though.

Anyway, you may think you know what you want for your future, you may think that your future has already been written. You may think that you're stuck in some alternate 2015 where everything sucks and all you do is read all day long. Or maybe you're in heaven in law school, maybe this is your thing and you're afraid about about having to move on.

The future isn't always as awesome as we imagine it will be, but Google Glass and 3D TV are pretty cool. Just remember, where we're going, we don't need roads.

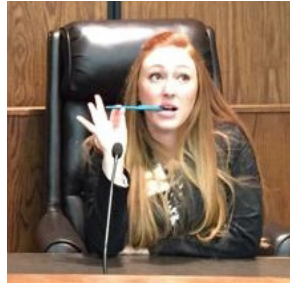
That makes no sense. Happy New Year. Love, Clint

## From Your SBA President: The Perfect Time For Reflection

BY JOANNE HEILBRUN  
SBA PRESIDENT

It is that all too familiar time again. We are entering the abyss of finals preparation and will soon persevere to enjoy the holidays and New Year with our families and loved ones. As we approach the end of the Fall 2014 trimester, I think it is important to reflect on the past few months and the wonderful work of our colleagues. I want to personally thank all members of the Student Bar Association for their hard work over the last several months. This is a phenomenal group of motivated leaders that aim every day to improve the California Western experience for each student. As a group, we have tackled many of the goals we set out to accomplish this year. Below are a few highlights.

The Board of Representatives, led by Chairman of the Board Allan Acevedo, has worked diligently to allocate funds to the student organizations, and acts as an impor-



tant liaison between the Student Bar Association and the student body. In conjunction with the hard work of our Treasurer, Brittany Casola, the budgeting and reimbursement processes were expedited and organized.

The Commentary team, led by Co Editors-In-Chief Clinton Pierce and Seve Gonzales, has worked tirelessly to breathe new life into our student newspaper and provide fantastic content in FOUR issues this trimester. This team is innovative, hard working, and always seeking to keep students connected to the California Western pulse. In addition, thanks to the hard work of Co-Editor-In-Chief Clinton Pierce, we have signed on eleven "SBA Partners."

Our Community Outreach Committee planned and executed the ex-

## Student Bar Association Presents "A Night in Black and White"

Mark your calendars and bust out those ball gowns and tuxedos! The California Western Student Bar Association cordially invites you to spend "A Night in Black and White" at Barristers' Ball 2015. Join together with your friends and colleagues along the still waters of Mission Bay at the Bahia Resort Hotel to toast the end of another successful year of studies. This annual event is consistently recognized as the "must attend" event of the school year, and this year's Ball will be nothing short of memorable.

On Saturday, February 28, California Western students, staff, and members of the administration will take over the largest event space at the Bahia Resort Hotel. As the biggest show in town, all eyes will be on Ball attendees as they dine on a specially selected 3-course menu, enjoy hosted cocktails including a delicious signature drink, and dance the night away to their favorite tunes. SBA is selling tickets for \$50 next trimester, and anyone will tell you that this night is well worth the expense. We would encourage everyone to buy their tickets soon because we are expecting a complete sellout this year.

We have concluded our presale ticket offering and are excited to announce that NATE JENKINS is the winner of our presale raffle. He will enjoy a one-night stay in a beautiful suite at the Bahia for the night of the Ball. Congratulations! We are also pleased to announce that all attendees can enjoy a 15% discount on rooms at the resort should you decide to relax and enjoy the entire night on the bay. Simply mention that you are attending California Western Barristers' Ball and the discount will be applied to your reservation.

Ticket sales will resume next trimester. Keep an eye out for an informational email providing details about when and where we will be selling tickets. If you have any questions, please do not hesitate to contact the SBA Vice President Merrick Wadsworth at [merrick.wadsworth@gmail.com](mailto:merrick.wadsworth@gmail.com).

tremely successful Halloween Auction, raising over three thousand dollars for the Toussaint Academy. Their commitment to excellence was echoed by the impressive feedback received by students, administration, and faculty alike. In addition, they were an integral part of the Race Judicata Committee led by Kelly Haynes and Lane Torsy. Race Judicata, held just one day after the Halloween Auction, was extremely successful in raising money for the Access to Law Initiative and Community Law Projects, while providing a beautiful venue and well-organized event for participants.

Several successful Bar Reviews and events have been planned and executed by our dynamic Director of Activities, Fatima Brizuela. From the "End of Summer Bonfire," to the bi-monthly Bar Reviews and Legal Yogis Yoga, these events have provided students with a plethora of diverse opportunities to network with their colleagues.

Our suggestion boxes were implemented at the start of the trimester, and your comments, concerns, and answers to "Questions of the Week," have been read, documented, and shared with the administration. This is thanks to the diligent work of Ombudsman J.R. Canlolo.

These are just a handful of the many important accomplishments of our Student Bar Association members. With these accomplish-

ments in mind, there are many wonderful things to look forward to over the next few months, and still a great deal of work to be done. We look forward to further improving upon our processes and continuing to provide a wide array of enjoyable events.

Through the hard work and innovative approach of our motivated SDCBA Representative, T.J. Hopkinson, we hope to stream Continuing Legal Education opportunities at California Western and improve student awareness of SDCBA events.

The Barristers' Ball Committee, led by our visionary Vice President Merrick Wadsworth, has planned a wonderful event. Barristers' Ball 2015 "A Night in Black and White," will be held on February 28, 2015 at the Bahia Resort Hotel. Pre-sale tickets were offered in November for a chance to win a free hotel room. Ticket sales will resume in January, and we recommend you get them early!

Thank you for the incredible support we have received over the last several months. We are privileged to represent such an amazing student body!

Wishing you all good luck in 2015!

To stay informed on all upcoming events, please "like" our Student Bar Association facebook page at <https://www.facebook.com/cwslsba>.

## The Commentary is:

Co-Editors in Chief - Clinton Michael Pierce & Seve Gonzales;

Design Editor - Sarah Donaldson; Copy Editor - Lorenzo Morales;

Associate Editor - Artichoke, Alex Perez; Associate Editor - Advice/Opinion, Chris Goodrich;

Associate Editor - Features, Nichole Schirm; Associate Editor - Campus News, Allan Acevedo;

Associate Editor - Professor's Page, Turner Hopkinson; Associate Editor - Sports, Leonid Vaisburg

Associate Editor - Legal News, Joshua Souk; Staff Writer - Thomas Ferrick; Staff Writer - Roger Hinojosa

CONTRIBUTE AN ARTICLE OR JOIN THE STAFF! EMAIL COMMENTARY@LAW.CWSL.EDU



# STUDENT LIFE

INTERVIEW, CONTINUED FROM PAGE ONE any humanitarian sympathy for us. It's definitely so much more difficult to succeed as a felon, and you couple that with most of these people being from poverty... when you get out, you go back to the same neighborhood, the same people that influenced you negatively. It's not like you get out of prison and you get to go to a cool, crime-free, legitimate community. You don't go to the suburbs. You're stuck in the same cycle that put you into prison, and now you have a felony on your record. I don't want to take accountability away from people, but if you're on a race track, and this is the starting point, everybody who has privilege is here; everybody who is born without privilege is way up there. So you can work the same amount, be just as smart, do the exact same things in life, but you start way back here. Unless you work way harder, get lucky, get help, you can't catch up.

Desperation is the cause of a lot of people's crimes. The problem is that most law students (the ones who will be representing and prosecuting those people)

haven't experienced desperation. It's not that everybody here is smarter than the people who didn't make it to law school; it's that they started that much further down the race track. Having money doesn't make you more intelligent; it makes you more educated, and not everybody gets the same education. When you have to deal with Dad not being around, Mom trying to scrape by, drug abuse, family issues... on top of poverty, it's going to be far more likely for you to commit a crime than the person who doesn't have to worry about money, and it's going to be far easier for you to get to law school when you have the time and money to focus on your education. That's what separates a lot of people from being in prison and being in law school - privilege. It's not hard work or drive or skill or intelligence. Privilege is one of the main differences between being in prison and being in law school.

*Well, how did you do it?*

I'm the exception to the rule, and it's not because I'm more hardworking than my peers, it's not because I'm a better person than them. Some of it is luck, some of it is skill, but the bottom line is that it is monumentally difficult to succeed coming out of prison. When you have that felony on your record, and you can't find employment, and you can't find housing, you have very, very few options.

*Why were you sent to prison?*

I was convicted of vehicular homicide in 2006. My friends and I were party-hopping. I was driving. I wasn't drinking until the very last party that we were at. I was planning to stay there, but a fight broke out between some people, unrelated to us, and everyone was kicked out of the house. Usually in this case we would call a popular driving service in the area, but they stopped running at 4 a.m. We

## WE DON'T NEGOTIATE WITH TERRORISTS we negotiate with lawyers

BY ALLAN ACEVEDO  
ASSOCIATE EDITOR

The Negotiations Team is just one of the school's myriad traveling teams. The members of CWSL's team are Catherine Asuncion, Amy Vaughan, Michelle Patroni, Braden Drake, and Nick Sabatella.

There are two ways to join the team: You can compete in one of the intra-school competitions hosted by the Moot Court Honors Board. This would involve a competition in negotiations, Alternative Dispute Resolution (ADR), or mediation. Impressing the judges might just earn you a Distinguished Advocate award and a shot at being picked by the judges to compete.

Alternatively, you may speak directly with the coaches about trying out for the team. Professor Dan Rawlin's summer class on ADR is a good place to start.

Team member Nick Sabatella shared his experiences in the most recent competition. Between September 19 and 21, Thomas Jefferson School of Law hosted a sports negotiation competition. The competition involved a fictional dispute between the Torrey Pines Golf Course and the City of San Diego, and another dispute between a baseball equipment store and a labor union for the umpires of Major League Baseball.

The first fact pattern pitted the interest of local golfers with those of the golf course, which hoped to renovate the course to attract more international tournaments - and hopefully higher profit margins. The latter fact pattern pitted at odds the umpires fighting for better equipment to counter a rise in in-game concussions with the equipment manufacturer that wanted to protect its decades-long relationship with Major League Baseball.

These real-life examples help underscore the practical application of negotiation skills.

I'M THE EXCEPTION TO THE RULE, AND IT'S NOT BECAUSE I'M MORE HARDWORKING THAN MY PEERS, IT'S NOT BECAUSE I'M A BETTER PERSON THAN THEM. SOME OF IT IS LUCK, SOME OF IT IS SKILL, BUT THE BOTTOM LINE IS THAT IT IS MONUMENTALLY DIFFICULT TO SUCCEED COMING OUT OF PRISON. WHEN YOU HAVE THAT FELONY ON YOUR RECORD, AND YOU CAN'T FIND EMPLOYMENT, AND YOU CAN'T FIND HOUSING, YOU HAVE VERY, VERY FEW OPTIONS.

walked around for a while, but couldn't find any friends to give us a ride. Typically my friends and I were big anti-drunk-driving advocates, but that night we made the mistake of driving when we were all highly intoxicated.

I was driving my Jeep Wrangler. It was raining. I came out of a rain gutter with my wheel cocked and overcorrected. There were four of us. The only one of us wearing a seat belt remained in the vehicle with little injury. The other three of us were ejected. One of my friends tucked and rolled and actually landed on his feet. I was ejected and hit a tree, with few injuries. [Name redacted] was ejected and was killed. We were good friends. It was devastating. He died on impact when his head hit the pavement.

I'm not sure what happened then. I think someone heard the wreck and called 911. All I remember was being awake and seeing the ambulance. I was kind of stumbling around and didn't see any of my friends. I was in the ambulance and I remember telling my friends not to worry, and that we were just going to get

a minor in possession charge or something - I was 19 at the time. All I was thinking about was getting in trouble. I had no idea that [name redacted] had passed away at that point.

I tried to refuse service at the hospital because I was broke. Then I saw one of the guys crying. I assumed he was just upset that we were going to be in trouble. Then I was arrested and the police asked me about [name redacted]. I asked if he was ok. They

told me he had been killed.

I knew that I was going to go to prison. Right from that moment I accepted that I was going to go to prison and that I deserved to go to prison.

They booked me. I bailed out, then dropped out of school. I wanted to go to trial as quickly as possible because I knew I couldn't go to school in the interim. My idea was to get it over with as quickly as possible. The wreck happened in April. I was convicted September 9th, four months later.

*Did you go to trial?*

No. I accepted a plea deal for six years, which was pretty standard. I did two years and some change and then got out on good behavior after participating in some prison programs.

*What was it like being convicted? What was going through your head?*

I knew, literally, from the moment the police told me about [name redacted]'s death, that I was going to prison. Some people thought that I was naive because I wasn't that worried about it, but I just knew that it was what had to happen. I owed it to his family. I knew I deserved it and I think that made it easier, accepting that I deserved it. By the time my conviction date came everyone knew what was going to happen. All my friends were there.

*Had you been in trouble before?*

I had been arrested as a juvenile for petty things. At thirteen, I was arrested for being a minor in possession of alcohol - small things like that.

*So, you were sentenced. Then what?*

They took me into custody. I remember being in my suit, lying on the floor, waiting to see what happened next.

*Talk about the booking process.*

When I first went to county jail, following my wreck, I was with a lot of people who were just like me. Now that I was convicted, this was the first time I had been introduced to serious criminals. They moved me from my holding cell into a cell with everyone else. There's a crazy dynamic - a lot of testosterone. It was loud, the first time I'd been around serious cons.

*Were you scared?*

I think I've always had this strange calmness. I was never scared when I should have been. There were a few times when I was really terrified, but I wasn't scared at that time. I spent a month in county jail. I met people who'd been to prison before. I asked questions, learned the ropes - valuable things about respect, what to say and how to treat people, and a laundry list of words that you never say in prison unless you want to fight. People were pretty cool with me and took me under their wing.

FOLLOW THE REST OF THE STORY IN NEXT MONTH'S ISSUE!

## Lawyers Club: All About Paying It Forward

BY COURTNEY STRANGE  
CONTRIBUTING WRITER

Equality is a worthy pursuit at the heart of our legal system and profession. With a mission like advancing the role of women in law and society, Lawyers Club members are consistently paying it forward. Not just among members, but specifically through our Fund for Justice.

The Fund for Justice is Lawyers Club's charitable foundation arm. Each year, grants are provided through this fund to support organizations in San Diego that facilitate education, research, and resources for at-risk women and youth. Among those served by these organizations are victims of domestic violence, victims of sexual discrimination, and the homeless.

Attending Lawyers Club events provides a huge return on investment. Besides providing a comfortable and

enjoyable environment to develop relationships in the legal community, some of the events raise money to support the Fund for Justice. Getting involved in one of the twenty-five committees not only allows for more opportunities to develop key relationships, but also enables law students to have a direct impact on the most vulnerable people in the San Diego community.

As we continue to pursue equality in our profession, we invite both male and female law students to join us in learning what role you play in advancing this mission. The Lawyers Club Student Committee will be dropping by each month to keep you in the know via The Commentary, SBA Wall and Facebook Page. We will be highlighting key aspects of Lawyers Club as well as past and upcoming events. Come see how involvement in Lawyers Club has been pivotal to career advancement for prominent members of the San Diego legal community. At a minimum, register on the website to get the weekly e-mails highlighting upcoming events at Lawyers Club and the San Diego legal community. Need more convincing? Check out the website [www.lawyerclubsandiego.com](http://www.lawyerclubsandiego.com) or contact me, Student Committee Co-Chair, [clstrange@law.cwsl.edu](mailto:clstrange@law.cwsl.edu).

# STUDENT LIFE

## Get To Know Your Garries

BY JESSICA DARLING  
STAFF WRITER



Meet Gary and Garrie. It has been said that lawyers are protectors and promoters of the law. But have you ever taken a moment to think about the people who protect us? As busy law students, most of us are so focused on school that we often don't take a few minutes to observe the people we walk past every day that make a huge difference in the quality and safety of our school. A couple of these people are Gary Hanson and Garrie Cochran, two of our school's dedicated security officers. Their job is to observe, report, and protect, not only the property on campus, but, more importantly, the faculty, students and staff.

I chose to do this month's staff spotlight on both of these guys because of personal experiences I had with them. When I started school here, Garrie offered to walk me home since it was late at night and I was new to the area. I was impressed by his sincerity that he really wanted to make sure I made it home safe, which is more than I would have expected from most security officers. I decided it was important to get to know our security officers since they contribute so much to our institution. However, just because the two share the same name (as pronounced) and job as security officers, as you will learn, just like the spelling of their names, the two couldn't be more different.

Gary Hanson is the older of the two and has been with us for about a year and half. Gary comes to us as a 20-year Navy veteran who spent time in Puerto Rico and other places, supporting the mission of the Navy as a machinist mate after completing nuclear power school (and for those who don't know, nuclear power school is not an easy program to complete). For those who know Gary, he has a weird sense of humor that only those with a quick wit can keep up with. Originally from Wisconsin, Gary is a self-proclaimed Green Bay Packers fan who LOVES sports. But what Gary really seems passionate about is fixing things with his hands and helping others. Gary says his girls call him "Mr. Fix-It" because he can fix just about any machine that is broken and he will gladly do so. He shared several stories with me about how much he enjoys working with his hands and the satisfaction he receives knowing that he helped someone by fixing their problems. However, one of the many things about Gary that make him a remarkable guy is that he raised three daughters as a single dad, since his youngest was only two years old. If that doesn't speak to the kind of guy Gary is, I don't know what does. What Gary loves most about his job is interacting with people and helping them feel safe, and he genuinely means it.

Garrie Cochran is our other "Gary" and has been with us for about 4 months now. Prior to working at CWSL, he did security at Sea Port village and has some hilarious stories about some of the interesting people he has met along the way. He is always happy to share, so be sure to ask him sometime in passing on your way to class. When asked how he describes himself, the words "tall and bald" came right out, but don't let his seriousness fool you – Garrie is super easy to get along with and is outgoing, patient, and extremely tolerable. If I had to say, he is probably one of the nicest guys I have met on campus so far (even my dog likes him, and she doesn't take to strangers easily). He is a self-proclaimed Charger fan and is proud of it! Garrie is a single guy who likes to chill with his friends every week and play cards. One of the things that is clear about Garrie is his attention to detail. He has a keen eye and is always watching things and he sincerely cares about the services he provides to all of us. When I asked Garrie what gives him pride in his work, he confidently and forcefully said "being efficient, not just sufficient." If we all applied the same motto, I think many of us would be better at everything we do. In addition to taking time to protect us on campus, Garrie also takes pride in smiling everyday and making people feel welcome, which is what I believe to be one of his strongest attributes.

At the close of each interview, I asked both what advice they had for students from a security standpoint and both said to always mind your surroundings. We are in a downtown environment and you never want to make it easier for someone to take your belongings. Also, did you know we have a lost and found on campus? Yup, we sure do, and I was shocked to see some of the stuff that was found – cell phones, watches, sunglasses, laptops, coffee mugs, sweaters, jewelry, and so on. If you might have lost something, be sure to stop by the security desk inside the 350 building to see if your item has been found. If not, stop by anyway to chat with both of these incredible guys. I, for one, feel a whole lot safer knowing these two guys have our back every day.



## A Hard Day's Night:

### The Federal Criminal Defense Trial Advocacy LL.M. Program From A Student's Perspective

BY NATHANIEL SAMUEL BROWN III  
CONTRIBUTING WRITER

11 weeks, 15 motions, 12 oral arguments, 3 quizzes, 2 trials, 2 partners, 1 internship, and 0 finals. This Legum Magister (LL.M.) program is not for the faint of heart, the heavy of foot, nor the procrastinator of stuff. I have been tested during this term. No, I do not mean that in the "end of term" law school sense, but rather personally and professionally. I have had to learn how to maintain a positive attitude in the face of intense frustration and exhaustion. The first few weeks seemed a blur of assignments and tasks, all of which I had never seen nor done before. The idea is that you approach a task, such as a motion to dismiss, having little to no idea that it is, indeed, a motion to dismiss. Your job then is to figure out from the facts that you should be filing a motion to dismiss, then figure out how to write a motion to dismiss from the document format (following local rules) to the analysis. You will have to argue this motion orally as well. As you can see, the frustration involved can build rather quickly.

We all believe that, upon completing law school, we have paid our dues. We are of the mind that many of the things we learned in law school will be unnecessary in practice, particularly the many rules of legal research and writing (LRW). But those that left LRW in their dust will soon discover whether or not they did, in fact, pay the dues they claim. Of course, raw talent and ability can help you succeed in this program, but not to the degree you may think. You have to be willing to stretch yourself past your strengths and develop skills that are lacking. If you are willing, you will find surprising growth. The development possible in the LL.M. program is not imposed from the front of the classroom but rather composed within you. If you are willing to be a true professional and lend yourself to the cause of developing your skill set, you can do that here.

In the words of President Obama, "Uh, lemme be clear," I very much believe in this program. The California Western Federal Criminal Defense Trial Advocacy program, however, does have its flaws, as would any program. The program can seem disjointed and random at times. It is designed to flow as a single unit. There could be some improvements in this regard, but, generally, the program does achieve a good level of cohesion. The program's instructors are continually improving the program year by year. Some years the intended improvements do not pan out, so the program is adjusted again. The program is small, so it is nimble in that way, but there can be rather abrupt changes in some of the courses throughout the term. Additionally, there are weeks where you will be writing a 6-14 page motion every day. You will not have your weekends to yourself. At times, you will feel stuck in the ice with your classmates and, like Homer Simpson with his family, you may find your "urge to kill rising."

You will find yourself angry with professors and frustrated with the workload. You will receive last minute changes to the syllabus that involve adding three more pages of work to a motion due in less than 24 hours. "In that place there will be weeping and gnashing of teeth," the punching of refrigerators, and the cursing of your parents for bringing you into this world. If you have relationships, those will suffer too, whether that means your boy/girlfriend, wife/husband, children, or family. You will be a raw nerve at times. And just when you think you have made a breakthrough with one skill, you will receive a 45 minute individual criticism lecture in front of your opposing mock trial team that will essentially amount to "naw bruh."

They will be bitter pills to swallow. But if you listen closely and let go of your unnecessary ego-based defensiveness, you will find gold in them there pills. You will have received feedback that will allow you to become a far better lawyer and a far stronger person. This program is arguably more work than studying for the bar exam. If you do, however, maintain your composure and are thoughtful in your approach, you will succeed. You will leave this program having gained more skills in 11 weeks than many attorneys develop in their first year or two of practice and perhaps more. Personally, you will have been stretched. The level of pressure and efficiency at which you can successfully operate will have greatly increased. So, is it worth it? Let me give you the lawyerly answer to that question. It depends! To answer that question you should balance these 5 factors: (1) the value you place on your chosen profession; (2) your future clients' liberty interests; (3) your willingness and ability to be introspective; (4) your confidence in your ability to persevere; and (5) your status as a true believer.

If you need help with this balancing test, here are the sources you should talk to. Professor Mario Conte can help you figure out just what skills you need to be dangerous in a courtroom. And if you are curious about the second and fifth factors, talk to Professor Justin Brooks in CIP. He will tell you what can happen if you don't invest time up front on your skills, and if you aren't a true believer now, five minutes talking with him about one of the cases he's working on will make you one. As for factors three and four, take a minute and go talk to Ms. Heidi Cruise, the program coordinator, on the 2nd floor next to the coffee cart. She's always willing to listen, help walk you through things, and share bits of wisdom and advice. What about my application of this test? I will tell you this, as a 36-year-old, mixed-race, first generation college student, single father transplant from Oregon, it was well worth it. And I believe it will be worth it for you too!

## FLASHBACK FRIDAY ROLLER DISCO NIGHT

February 20, 2015, 7 p.m. at Skate World  
6907 Linda Vista Road

\$8/person \$4/skate rental

Proceeds benefit PILE, PAD, WLC, APALSA, SALDE, EPS, XONR8, Crim Law Association, Military/Veteran's Association, Christian Legal Society, La Raza, PRIDE and The Commentary.



# CAMPUS NEWS

## Innocent Man Walks Free Thanks To Committed Former CIP Students-Turned Staff Attorneys

BY CALIFORNIA INNOCENCE  
PROJECT STAFF

No one could have predicted how the events on the night of March 18, 1994, would forever change the course of so many lives, especially for two prominent families in Riverside. That fateful night, a fight at a high school party held in a wealthy Riverside neighborhood turned deadly over a girl.

Dominic Luna, a football player at Poly High School attacked Jason Rivera, a recent graduate of Poly High who was attending the party with his sister, Jennifer. It was Jennifer's birthday and the party was, in part, a celebration for her. The fight erupted because Dominic felt that Jason was not treating one of his female friends respectfully -- Jason had dumped her and moved on to other girls. Bouncers at the party broke up the fight and both Dominic and Jason were asked to leave. They did so.

### Pro Bono Traffic Court Clinic Offers Students One-of-a-Kind Real World Experience



BY PRESTON DUNLOP  
CONTRIBUTING WRITER

In San Diego this fall, second and third-year Cal Western students defended motorists in traffic court. Students interviewed clients, investigated the scenes of alleged traffic violations, conducted direct and cross examinations, and presented closing arguments before Commissioners of the San Diego County Superior Court. In its first trimester, the Pro Bono Traffic Court Clinic has handled more than a dozen cases. While many cases are calendared for the spring of 2015, the Clinic has already secured five acquittals and dismissals.

"Motorists are represented for no charge by law students who are certified by the State Bar, undergo extensive training, and are supervised by a licensed attorney," explained Attorney Coleen M. Cusack, director of the California Western Pro Bono Traffic Court Clinic. Participating students have an unprecedented chance to learn the practice of law in the real world.

The Clinic can represent motorists who are accused of infractions such as cell phone use while driving, texting while driving, speeding, failure to stop, or illegal U-turns. The Clinic can also represent those accused of loitering, impeding traffic, or riding the trolley without a ticket. However, the Clinic cannot represent people accused of misdemeanors.

By representing, pro bono, those accused of infractions such as loitering or impeding traffic, the Clinic is able to help the homeless and the indigent, who are often cited for these infractions. People accused of infractions are not eligible for representation by Public Defenders, and the Clinic is often their only resource. Thus, the Clinic is able to serve severely underserved communities. "The most rewarding thing was helping people who wouldn't have gotten help otherwise," said 2L Sarkis Paronyan, who is preparing for his second trial. "Talking with clients and potential clients was very fun," said 3L Sarvi Safai.

Not long afterwards, Jason made the fateful decision to take his sister back to the party and drop her off so that she could continue to celebrate her birthday. She had promised to be waiting outside when he returned to pick her up an hour later.

When he returned, Jennifer was not outside. Jason decided to go into the party and get her. Accompanied by his friends Richard and Paul, as well as Richard's friend, Manuel, Jason headed towards the party.

As they walked, Dominic pulled up in a car behind the boys, jumped out, and attacked Jason again. Jason fell in between two parked cars and Dominic got on top of him, punching him and giving him a concussion. When others tried to intervene, Dominic's brother, Albert, held them back. Jason yelled for help from his friends. Richard suddenly yelled "blast 'em" and Manuel shot Dominic and Albert. Dominic was seriously injured and Albert died almost immediately.

Police later arrested Jason, Paul, Rich-

ard, and Manuel for murder and attempted murder under the theory that the four boys had conspired to come back to the party and exact revenge on Dominic. Only Jason and Manuel were ultimately prosecuted, convicted of the crime, and sentenced to life in prison with the possibility of parole.

The case against Jason largely rested on testimony from one eyewitness who said they heard Jason yell "blast 'em" right before those fatal shots were fired. This testimony was a critical component in establishing conspiracy to commit murder. After all, the only way Jason would know to say those words is if he knew Manuel had a gun and if he knew Manuel would use it.

It was not until after his conviction that Richard admitted to uttering those words and further admitted that Jason had no knowledge Manuel had a gun -- only he and Manuel knew. Manuel confirmed this fact to the California Innocence Project. In fact, prior to that night, Jason had never met Manuel.

Because of this evidence, two law students, Alissa Bjerkhoel ('06) and Raquel Cohen ('07) of the California Innocence Project, became particularly vested in Jason's case. Year after year, they investigated his case, leaving no stone unturned. They tried to litigate his case in the courts, to no avail. Whatever helpful information Richard and Manuel had to provide was not enough to get Jason's conviction reversed. After all, disproving whether Jason had some sort of particular knowledge in the post-conviction context after a jury of twelve of his peers found him guilty is literally an impossible feat. So, they focused on the possibility of parole.

Over the years spent in prison, Jason grew and matured. Alissa and Raquel stood by his side, visiting him, encouraging him, and helping him to grow as they matured into lawyers themselves. Years passed and



Jason no longer was the cocky soccer player from Poly High who felt victimized by the justice system and who was angry because he felt he should not have been convicted. Now, he hurt deeply for the victims and their families and, although he was not the one who pulled the trigger, he felt responsible for the tragedy that befell the Luna family. Jason was grateful he still had his own life, even if it was one behind bars, and he was resigned to spending the entirety of his life there. After all, he should never have made the decision to come back to the party. Had he made the simple decision not to come back, Albert would still be alive and his family would not have suffered so greatly for all these years.

Living with that guilt, Jason did everything in his power to become a better person. And he did so, step by step and day by day. Jason has become a truly remarkable human being. So remarkable had he become that the victims' next of kin supported a parole date for him. Finally, in June of 2014, the Parole Board granted Jason a parole date and he was released on December 3, 2014.

It is amazing to think over 20 years have passed since that fateful night. And over 8 have passed since Alissa and Raquel committed themselves to his release. If one can learn any lesson from Jason, Alissa, and Raquel, she should learn that when you believe in someone, you never give up, and that things will work themselves out in the end... if you continue to believe.

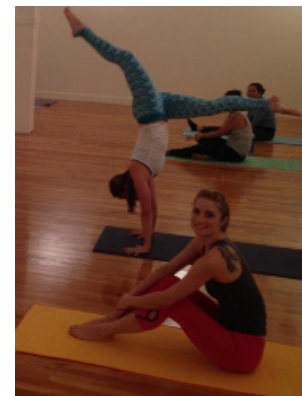
### Law Students Get Bent Out Of Shape... Or Bent Into Shape

BY NICHOLE SCHIRM  
ASSOCIATE EDITOR

On November 14th, thanks to our Director of Activities, Fatima G. Bri-zuela, and the Student Bar Association, California Western had its first ever "Legal Yogis" yoga class to help students get strong and calm for finals. Infinite Yoga, at 2400 Kettner Blvd., was kind enough to offer all CWSL students a FREE one-hour class of yoga. Twelve students showed up from all yoga practice levels and left with a feeling of reduced stress and overall peacefulness thanks to the amazing instructor, Morgan Ciani. Morgan has a master's degree in kinesiology and exercise science, which added to the experience, as she walked around the class making sure everyone's form was correct. That is the sign of a great instructor -- someone who can make the simplest of adjustments to your stance that can significantly change the depth of your pose and practice.

Yoga is all about releasing the pressures of your body, life and mind. That is exactly how the students who participated left that night. Yoga not only helps to boost brain power and concentration, but it also promotes a positive attitude and outlook on life.

Though this event was the first of its kind here at California Western, we are hoping it is not the last. Fatima is attempting to gain approval from the school to have a weekly yoga class on campus. Unfortunately, as it stands, she is running into some issues with



a proper space on campus because the student organizations room cannot be closed off at any time. With that said, she is trying to work something out with Infinite Yoga and/or another local yoga studio such that the SBA can obtain a discounted rate for our students (which the SBA will likely cover). The SBA is hoping that they will once again be able to host "free" yoga to students.

For all of those yogis out there, help the SBA out and deposit as many requests for yoga in the suggestion boxes as you can! Until then, Infinite Yoga is offering California Western students a discounted rate for drop-in classes at \$10 per class. Namaste.

# PROFESSORS' PAGE

## PROFESSOR ROBERTA K. THYFAULT: WHITE WINE

BY TURNER "TJ" HOPKINSON  
ASSOCIATE EDITOR

### What type of law did you practice, where, and for how long?

I'm a criminal defense attorney and I practiced appellate law. I started doing that in 1986, when I joined Appellate Defenders. I worked there for three years, then I went out on my own and opened my own practice in 1989, where I worked until I started teaching full-time here in 2001.

### Did you enjoy appellate work?

I enjoyed it very much. The reason I enjoyed it is because I enjoy research and writing. I enjoyed the intellectual aspect of it as well. I realized fairly quickly on in my legal career, and actually probably in law school, that I wasn't somebody who was attracted to trial work. It always seemed like you were getting up every day to fight somebody else, and that's not my personality. But I really liked the research and writing aspect of appellate work and the fact you get to help shape the law. Unfortunately, as a criminal defense attorney sometimes that isn't in a good way, but I liked that sometimes you could make a difference in the law. I also liked the oral arguments and the challenge of appearing before three judges in the court of appeal or seven judges in the California Supreme Court.



Photo from www.cwsl.edu

### How long have you been a professor at Cal Western and what attracted you to teaching at this school?

I started teaching in 1999 as an adjunct. I taught as an adjunct for two years, although the school had me actually teaching, basically, full time. Then I got hired full-time in 2001. What attracted me here is I am a graduate of this school; I love the way students are taught and prepared here, so I never even thought of teaching anywhere else. I guess for a moment I did, but quickly realized I didn't want to. I was very fortunate that a spot opened up, and I was able to come back here.

### How was your law school experience?

I loved law school. I had a great law school experience. I had great friends, and I felt that the school really prepared me to go out and practice. I felt like I got a really good foundation, and at that time we didn't have all the practical courses that exist now. We didn't have STEPPS, and we only had a few internships. I actually started working at a criminal defense firm my second year of school, so I didn't take part in student internships because I got practical experience at my job. But we have so much more now than we did when I went here. Nevertheless, I felt that we got good practical experience and I felt really comfortable leaving here ready to tackle what I needed to do.

### What was the hardest part of law school for you?

Federal income tax. It was a required class then and it was not good! Contracts too! But, they were just classes you had to do. Overall, I really enjoyed my law school experience and found the intellectual challenge of it to be hard, but rewarding work.

### Besides Legal Skills, what other classes do you teach?

I teach the Legal Scholarship Training Seminar. I'm the one professor at the school who teaches every student that comes to the school, so that's very cool. I've also taught some classes a couple of years ago that are still on the books but don't get taught too often—Advanced Legal Writing courses. I would teach this course to upper-year students and we emphasized criminal law. We would write documents and do legal research focusing on helping students who wanted to practice criminal prosecution or defense.

### What is your favorite part about teaching?

I just love working with the students. It's a privilege to work with first-year students who come in and know absolutely nothing about the law. They don't know how to find anything in the library. It's fascinating to see them grow, and at the end of the first-year, standing up and doing an appellate argument about a subject matter they knew nothing about just a few months ago. And watching them gain confidence throughout the year, and also to just see students become very successful in what they do.

When I hear back from students who tell me how they often have to show students from other schools how to research, how to properly cite something, or how to write something because they didn't learn how to do it at their school. That lets me know that we are really training our students well here. Or, out in the community I will talk to attorneys, who know where I teach, regularly compliment our students on how well they do at their internships.

### Why did you become a professor? Why the transition from practice to scholarship?

I was at a point where I was ready for a change. Appellate work is a bit isolating. I was a solo practitioner, and for many years I practiced out of my home. But even if you have an office, you're generally by yourself. It's a pretty solitary practice, and I just felt that I wanted to do something where I got out and did something different. Also, when I was in undergraduate school I went into it with the mindset that maybe I would go into teaching; I had no thought of being a lawyer. So teaching has always been something that I have enjoyed doing so it was a nice transition late in my career and the opportunity presented itself.

### Do you miss anything about practicing, and in hindsight would you have done anything differently?

I do occasionally miss being able to do some research and practicing arguments. I miss doing arguments in the court of appeal, which is why I occasionally will help the Innocence Project every once in a while; although not as much as I would like to. Would I do anything differently? I don't think so. I had a wonderful career. I got to do two federal clerkships. One at the district court and one at the 9th Circuit. I got a good solid foundation in appellate practice at Appellate Defenders and then had my own practice, which allowed me a lot of freedom to just practice when I wanted to. I worked very hard, but I don't think I would have done anything differently.

### Do you think law school prepares students for real-world practice?

I think it does, as much as it can. There are practical courses that help prepare

students. I don't, however, think there is any class that can prepare students to walk out the door and say, "okay, you're a lawyer now." There's just so much to know, and that's one thing that's so great about, for instance, the Access to Law Program. It's there for students who want to go out, start their own practice right out of law school, and provides the mentors to help them accomplish this goal. I do think, especially at this law school, students have a lot of opportunities to get exposure to practicing law, either through our clinical internship programs, CIP, Community Law Project, New Media Rights, or STEPPS. Even our legal writing faculty, and many other professors here, we've all practiced law. That's very unusual at a law school to have so many professors who have practiced law. That experience adds to the educational experience the students receive.

### What is your most memorable moment as a practicing attorney?

I don't have one memorable moment. Any case where I got a reversal for my client was memorable. Those are far and few between, but there were some. Probably the biggest and most challenging case I worked on was a San Diego case, known as the "Butler case." There were four defendants involved in the case, and it's actually well known around San Diego as the "sex-in-the-DA's office" case because the investigator at the DA was allowing the cooperating witness, who was testifying against our client, to meet with his wife and have sex in the DA's office. And, of course, that's a benefit that must be disclosed to the defense. We didn't find out about it until afterwards when the Polaroid's became available.

In any event, the extended habeas hearing for that case took three months during the summer and was an amazing experience. Ultimately, we got a reversal. It was not only very satisfying to get a reversal for our client, but it was a rewarding professional experience because I got to work with great lawyers. Three of my very close friends were the appellate attorneys. I got to work with great trial attorneys because the court of appeal allowed us to work with trial attorneys in preparation for the habeas hearing. It just made me "up my game" so much and to learn about how to be a really good lawyer. It involved a lot of investigation, which as an appellate attorney I don't get to deal with much. It let me learn a lot of new skills, and I like to think that it resulted in some changes by the District Attorney's office in the way that information is shared and gang cases are handled.

### What do you recommend students do to excel in your classes?

It helps if they read directions! But, mostly it's that they have to have a commitment to the class. I want them to come in and approach my class as if they are working for a real client. Don't treat it like "just another class." It's not just another two credit class that should be shoved aside because they have more important three credit classes to work on.

Instead, when I give them an assignment they should approach it as if they are working for a client. Also, they could benefit greatly by meeting with me personally. I'm always amazed at the number of students who do not take the opportunity to come and sit with me one-on-one and take all the time they want. That's not just me; that's all the legal writing professors. And use the honor instructors. Those opportunities are there, and do not take advantage of them seems like a lost opportunity; one that your tuition is paying for. You aren't always going to have those kinds of opportunities while practicing law. In practice, you're going to turn something in and it's going to get scribbled on and that's it. I tell my students, it's much better that I'm the one scribbling on your papers now than the person who is paying your salary later on.

### What do you think about Bar recommended courses? Do you recommend students take all of them, some of them, or none of them?

I advise a lot of students, and I always advise them to take all the Bar recommended courses. The reason that I do is because my theory is you only want to take the Bar once. I could not imagine trying to learn a Bar course in two or three days. I understand that there are certain courses that students have heard through the grapevine that they maybe don't need to take. I don't sit in on those courses, so I don't know. But my recommendation is that students should take all of the courses. The Bar is difficult! You should do everything you can to give yourself an advantage and that should include taking the Bar recommended courses.

I understand that it may mean you can't take another class that you want to take. I understand those trade-offs, and it's a difficult choice to make. But, life is full of difficult choices. As a lawyer you will have an opportunity to take many continuing education courses. That's a way to fill in some of those gaps that you might feel you're missing from your education. Again, it won't be ideal, but you just don't want to take the Bar exam twice. Particularly, if you're finding yourself a student who is not near the top of the class. And most students are not at the top of their class because only so many people are at the top of the class. So the further down the chain you are, then the more you should be taking all the Bar recommended classes, in my opinion at least.

### Do you feel that a student should attempt to develop a very specialized or more generalized resume? In other words, should someone who wants to practice, say criminal law, focus solely on criminal classes and internships? Or, for the sake of just getting a job upon graduation should the student strive for a more generalized resume that may open more doors for job opportunities?

This should be an individualized decision. I know for myself, I wanted to be a criminal defense attorney. I think it was the first couple weeks of my second year I got a job at a criminal defense firm and worked there my entire time at law school. I know for a lot of students who want to go either into the PD or DA's office, if they want a realistic shot at getting those jobs, the conventional wisdom is you go in there and stay. On the other hand, for students who are more inclined to civil law—whether it's transactional work or litigation work—it's probably better to build a generalized resume. Ultimately, it's an individualized decision though.

### Besides classes, what do you think a student can do to prepare for the "real-world" after graduation while they are in law school?

I think it's valuable for a student to belong to some of the outside Bar organizations. For example, I am a huge fan of students joining the San Diego Lawyers Club or the various committees at the San Diego Bar Association. Because those are the ways you can meet people who are in the community; and that's how you find jobs, much more so than you will find posting resumes on Craigslist. The Lawyers Club offers a monthly luncheon where you get to sit down with practicing lawyers, meet them, learn about them, and it's a great opportunity to meet people—including graduates from this school—who have practiced even longer than me.

### What would be the biggest piece of advice you could give a 1L?

Enjoy law school. I think most students come to law school with a lot of enthusiasm. Somehow, they see very quickly the amount of work that first-year requires and that enthusiasm just gets buried under the amount of work. I am constantly reminding my students to go out once in a while, see a movie, take a walk, but to really enjoy this experience because you're never going to have an opportunity like this in your life again.



# PROFESSORS' PAGE

Law school is three years where you're going to learn so much and be so intellectually challenged every single day. Sure, law practice is intellectually challenging, but not to the degree that law school is because you are learning so many subjects in law school. The other thing that I tell first-year students is to get involved in law school. Not your first semester, and not a whole lot your second semester; but start getting involved slowly. The students I see who do enjoy law school are those that get involved in some activities. And we are lucky at Cal Western because we have so many different student organizations that there is something here for everyone. And if there's not, another wonderful thing about this school is that you can always start your own organization.

The flipside of that is I talk to students who come to me because they are unhappy. When I explore why they're unhappy, it's oftentimes because they're not involved. They're coming to school, going to class, going home, and not getting involved in any activities. If you just get involved it makes the whole experience a lot more fun.

## And how about the biggest piece of advice for 3Ls?

For 3Ls I would say, "relax a little bit." I think for 3Ls, the last five years the economy has been bad and they've been under an incredible amount of stress. There's always the stress of the Bar, but on top of that has been the added stress of the economy being the way it is. When I graduated in 1984, it was one of the worst times for students to get a job. I didn't have a job lined up after law school. I was not at the top of my class, but near it, and I didn't have a job. I had my job I knew I could go back to, working as a clerk, but I didn't have a full-time, paid job lined up.

But, I think that everyone will eventually find their place. I think 3Ls need to step back and realize that. Take things one step at a time, realize that your mission as a 3L is to do an internship, prepare for the Bar, and pass the Bar. Many employers won't even look at you until you pass the Bar. So, just pass the Bar!

Often, I think there also is a focus on finding the "ideal job." Well, in this day and age very few attorneys stay at their first jobs for their entire careers. So, find something, but, do work that makes you happy. I know sometimes people lose sight of this during law school. But don't lose sight, even if you have to take a job that isn't necessarily your ideal job after graduation. But keep that dream in mind. The difference between doing what is in your heart, or what's going to make you a lot of money; do what you want to do in your heart. I was a public defender all my life, I certainly didn't make a lot of money doing this work. But, I certainly was much happier doing that because I liked the work. The 3Ls put so much pressure on themselves and it's not just them personally, I think it comes from a lot of different sources. It's important sometimes to just take a step back and tell yourself "one step at a time, and eventually I will get where I want to be."

## Where do you see the legal profession heading in the next ten years?

I think there will certainly be changes in automation. It's changed the practice a lot and already has had a profound change. But, I think there will be a tremendous need—and there currently is—for legal services in communities that don't currently have lawyers. It seems that oftentimes when we come into law school we often hear about, "okay, are you going to the PD or DA's office, or what firm are you going to?" And in doing so, we overlook these communities that need lawyers.

Fortunately, I think Cal Western is a little bit better about that; about reaching out to the communities in San Diego that need lawyers. But there's still work to be done, there's a whole lot of people out there who need lawyers. It's hard to hang your shingle and start your own practice, but for the people who do that, I think that's where practice is going. There will be efforts made to somehow meet the needs of these communities. Whether it's in family law, immigration law, or helping small businesses, I think we will see more people getting the lawyers that they need at affordable prices.

## What areas of law do you see expanding most rapidly?

Health care law, definitely. Health care law I see growing rapidly and I don't see that changing. Immigration law will probably be another one. Particularly here in San Diego, being so close to the border. Family law, as well, there's always a need for lawyers because so many people go into family court without lawyers. For the attorneys who can figure out how to deliver affordable services to litigants and do so in a way that is not so adversarial, they will do really well for themselves. Anytime attorneys can look around and find some little niche area of practice that no one else has gone into, that's good.

## Where do you see yourself in five years?

I don't know. I'm creeping up to retirement. I'll either be getting close to retiring or perhaps already retired. But, I'm not sure yet, that whole idea of retirement kind of scares me.

## Do you see law school tuition and the large influx of new lawyers as a problem? Do you see it as a sustainable model? If not, what do you see changing?

Well, yes, tuition is expensive. But, it's one of those, "yeah, it's expensive, but what do we do about it?" And I don't know that I have the answer to that. I certainly know that it's a question the faculty talks about all the time, that our Dean talks about all the time, and that we as faculty and entire school work very hard to keep the tuition as low as we can here. We all work very hard to do this but it's difficult because it's not cheap to run a good, quality law school. On the other hand, we want to make it affordable to students as well, especially when you want to reach students who are coming from communities that are underserved with legal services.

## If there's one thing you could change about law school, what would it be?

Law school needs to figure out a way to have a good balance of teaching the doctrine of law and providing practical experience. We are actually better at this than most schools, and I think we are ahead of many schools in this area. Still though, it's an evolving process here.

I would like to be able to see, maybe, another small-section first-year class. When I went here, we had one class as a "small-section," for me it was Property. This would be a great opportunity for first-year students. A small section would provide opportunities to get even more practical experiences into first-year courses. I know that many of our first-year professors already incorporate practical experiences. In Civ Pro, several of the professors require the students to do pleadings so I know it does happen here. But to some extent, I think we can do more.

## Do you think it hurts students that we have moved toward having so many practical courses, but not necessarily as many "letter of the law" classes?

That's why I was saying that we need to figure out a way to give a balance between classes and practical. For example, a lot of students say they won't take classes such as California Civil Procedure. Students need to take those classes. For any student, especially those that want to practice in California, to not take California Civil Procedure and California Evidence, I sit there and say "why not?" Besides the fact that it's a Bar class, it's also your bread and butter courses if you're going to go into a law office. Why you wouldn't take those classes is beyond me.

But it really is a balance of taking the classes that give you the basic law, mixed with the classes that lead-in to the more practical courses. And that's where I do think that our professors do a good job. I was mentioning earlier, I know Professors Cox, Klein, and

Weinstein, for example teach the doctrine of civil procedure but also have the students draft complaints and motions. That way the students are getting the best of both worlds. And that's completely different than how I learned those courses. It would have been so helpful when I first started practicing.

## What's the biggest change you've seen in the past ten years at school?

The biggest change has been the introduction of the STEPPS course. I have been a member of the STEPPS committee from the very beginning, when that class was conceived, so I have seen the various versions of the class and the hundreds of hours that have gone into developing the curriculum. The STEPPS course is a wonderful opportunity for our students. I know that as students are going through the class they may not appreciate the value of the class. But I often here third year students say how valuable the course has been to them in their internships. And I have had internship supervising attorneys remark on the value of the course.

STEPPS has been a great addition to the school. It has given the opportunity to our students to learn from attorneys who have either practiced or attorneys who are currently practicing in the legal field. And, it gives our students the opportunity to shine in the community. We have all these attorneys come in, see our students, and see how wonderful they are. Then the attorneys go out into the community and talk about our students. It's just been a great addition to our curriculum.

## Favorite drink?

White wine.

## Favorite place to go in San Diego?

Petco Park. I love baseball!

## Perfect Friday night?

My yoga class! I don't know how exciting it is, but I definitely look forward to it!

## Where does your passion for legal skills come from?

I think it comes from a couple of different places. It comes from having clerked for two judges and seeing how important written documents are to judges. That, coupled with being an appellate lawyer, and realizing that your written argument really is what influences the judge's decision. You can get up there and be a great oral advocate; but 99% of the time the judge's mind is made up before you even stand up. And that's because you've written a persuasive brief.

I remember how this really hit home for me when I was clerking in the federal district court. We had a case that was a patent case. I knew nothing—absolutely nothing—about patent law. We had a mining case and, later in the Ninth Circuit an admiralty case, both areas of law I knew nothing about. But, in particular, the patent case stuck out because it involved science and a complex area of the law. The lawyers wrote such clear and simple briefs that I understood their arguments. I was then able to write a bench brief for the judge so he could issue a ruling in the case. And it hit home for me how much a well-written brief can make a judge's job, and the judge's law clerk's job, so much easier.

Because, initially you're not writing for the judge, you're writing for their clerk. I just know that when you write something for a court, or for a client, and your name is on it, then if it's riddled with typos it says something about you professionally. For me, I want students to realize that being a lawyer is more than just the flash and drama we see on TV, that being a lawyer requires the ability to write well. And we don't see that on TV, but that's really what lawyers do. It doesn't matter if they're writing a contract, writing a will, drafting a business agreement, writing an appellate brief, or petitioning a court to get a stay to prevent their client from getting executed. Whatever they're doing, it's all by the written word. And that's what lawyers do, and that's where my passion comes from.

## Where are you originally from?

Denver.

## What brought you out to San Diego?

Law school. When I went to law school we couldn't go online and find your law school. We wrote to them and they sent you catalogues. And the catalogue I received from Cal Western had a beautiful picture of a sailboat and the bay, and I said "sold."

## What advice would you give to a 1L about dealing with criticism?

First, it may help if they changed their perception. Often what they perceive as criticism is really feedback designed to help them become better lawyers. It doesn't matter if it's my Legal Skills class, Professor Stiglitz's class, or Professor Lynch calling a student to greatness—it's not personal. All we are trying to do is make them better lawyers. And we aren't being nearly as tough on them as their clients or an employer will be. I can only speak for myself, but when I try to push my students it's because I realize how good they can be. And sometimes I don't think they realize how good they can be. I want to push a student to be as good as they can be because that's what their clients will expect. No client expects their attorney to give less than their best effort. There are too many lawyers out there. If you don't perform well, your client will find another lawyer. It's my job to make sure that my students are good lawyers, and I can't do that by saying "good job" to everything they do. Unfortunately, we now have a generation of students where everyone got a trophy. In my class, you don't get a trophy by just showing up. If you do a great job, you're going to hear about it. But, if you don't do a really great job then your client isn't going to tell you that you did a good job, and I'm not going to either. The difference between me and your client, though, is I will help you learn to do a better job.

## What would you say to a student who says that "they're never going to write like this again" in reference to their first-year assignments?

I would say, what makes you think you'll never write like this again? Because, if you think that you're never going to have to write clearly and concisely again, I think there is a misunderstanding about writing in the legal profession.

The memo teaches students to be well organized, to write clearly and concisely, and to do good legal analysis. It may very well be that students will not write a formal memo, but they will certainly write documents that will require good organization, good grammar, and good legal analysis. Students will be doing this kind of writing throughout their careers no matter what they do after law school.

## Do you have anything else you would like to add?

Only that I absolutely love teaching here!

Which professor do you want to hear from next? What would you like to know about him or her? Every month, Turner Hopkinson will interview another professor, chosen by our readers.

Send your requests to  
TJHopkinson@law.cwsl.edu

# WHERE ARE THEY NOW?

## NOOR N. KAZMI: CWSL CLASS OF 2009

BY JESSICA DARLING  
STAFF WRITER



### -What area of law do you practice?

I've owned my own solo practice since January 2013. It has been the best career decision I have ever made. When I was in San Diego, I practiced civil litigation, specializing in Landlord/Tenant disputes, personal injury, and family law. I also had a robust pro bono practice, with several low income and indigent clients. I have since moved to the East Coast, and I specialize in non-litigation dispute resolution. I connect with my clients remotely and work to resolve disputes prior to litigation.

### -Do you have any advice for current law students to help them succeed in a competitive legal field?

Seize opportunities to work in clinics or small/solo firm environments, even if the work is unpaid. The practical experience you will get from real life situations is invaluable. Seek mentors from, and develop relationships within, the alumni community. Ask if you can shadow attorneys when they go to court, if you are interested in litigation. If you are thinking about a solo or small firm practice, never shy away from asking mentors about the particulars and best practices of running an office. Don't turn down new opportunities to try something you have not done before, because there are a lot more resources to help you succeed than you think there are. Start by getting in touch with the law school.

Furthermore, don't shy away from Law Review and Moot Court. When I got out of law school, many employers asked me during interviews if I was on either one of these, or if I had even tried out. Sadly, I had not. I do recall losing a job prospect as an associate because I had not been on Moot

Court.

Keep in touch with your classmates after graduation. Classmates become colleagues, and can lead to potential business partners, leads for jobs, or excellent referral sources.

Lastly, always have a strong idea in what fields your passions lie, but remember to be flexible.

### -What do you love/hate most about what you do?

I don't hate anything about what I do. I particularly enjoy the one-on-one interactions with my clients. I love it most when I can resolve a dispute to the satisfaction of my client without ever having to file a lawsuit, because I know I have just saved them valuable time and money. I also love doing pro bono work because it can really change the local non-lawyer community's perception of lawyers.

### -We know the legal profession brings responsibilities that people often consider to be stressful in nature. How do you manage the demands and stresses of your job?

Focusing on your physical health is huge. Exercise and eating healthy goes a long way in managing stress. Having a strong support network of colleagues, family and friends is also important, and in that order (at least for me). No one understands the stress of practicing law like your fellow lawyers. Developing and maintaining those bonds with your law school classmates will truly help you manage stress in the long run.

### -What would you say were your most significant challenges upon graduation and finding employment?

When I graduated in 2009, the legal job market was in absolute shambles. I remember hearing about classmates going back to their college bartender and server positions. I also remember seeing ads for attorneys paying \$11 per hour. It was incredible. I myself worked a temporary job in retail for a few weeks before I could find an attorney position. I was lucky in that a firm with significant Cal Western alumni presence hired me soon after I was admitted to the bar.

### -In comparison to other law schools, would you say there is anything unique about your experience from CWSL that stands apart from other schools' programs?

I can't say that I could compare CWSL to another law school, because I'm not familiar with other schools' programs. However, I can definitely say that CWSL's commitment to the community is extremely impressive. Whether you choose to volunteer for the Innocence Project, or the Community Law Project, or one of the clinics, or another community program, CWSL offers so many opportunities to get exposure to the local community and do good work. I've heard other community organizations have many positive things to say about CWSL and its commitment to making San Diego a better place.

### -What would you say is the biggest challenge facing law students today?

Employment. I feel like the legal industry is just not the same as it was even six years ago, and students have to be more flexible than ever in making themselves competitive to employers. This means, to me, that law students need to begin developing practical skills during law school, in addition to academic excellence. It's difficult, but I think law schools are getting better at preparing their students in this regard.

Students also need to manage their expectations about what to expect after law school, and this includes employment and salary expectations.

### -If given the choice again, would you do anything differently during your law school experience?

It's very difficult to say because I started law school at a time when business was booming. It was not until the second to my last semester that the recession hit and employment became

suddenly scarce.

I worked for a few solo practitioners when I was in law school. I did a lot of office administrative tasks and thought that my exposure to the practice of law was enough to prepare me for practicing law. If I could go back I would have asked to assist them more with tasks that were more substantive and challenging. I would have gotten more out of my assistant jobs.

I would have also considered competing for prestigious organizations, like Law Review and Moot Court. I was of the mistaken belief that Law Review was only for those who wanted a job in academia, and I thought Moot Court was just an added bonus on your resume. It turns out that employers focus on these organizations and attaining a position on either of these organizations can only help your employment prospects.

### -What is the one piece of advice you wish you knew as a law student?

I wish I knew a lot of things. I can't honestly say there was one thing that I wished I knew. I would say that when I was in school, I did not learn very much about practice guides, like CEB and Rutter Group. After I started working, I learned that these are the practicing lawyer's bibles. I wish I had familiarized myself with these publications a bit more while I was in school.

### -Any additional comments you would like to make?

Live like a law student while you are a law student. Rent is expensive, so get roommates. Eat Ramen six days a week. Ask about student discounts at networking events (or really, anywhere). Don't borrow more just to have that new \$2,500 laptop. Do whatever you can to keep your expenses and student loans down. I (or anyone else who has graduated in the last five years) cannot stress this enough. Your loans will add up so quickly if you aren't paying attention, and the average salaries in the job market right now do not correspond to that debt.

When you graduate, sign up for income based repayment, or any other type of income-contingent repayment plans your lender offers. These are a life saver.

## Do you have an opinion?

The Commentary is YOUR publication, owned and operated by the students for the students since 1973. All issues are archived in the CWSL library and online at [www.CWSL.edu](http://www.CWSL.edu). We provide students and faculty with an outlet for news and opinions that are of interest to law students and relevant to student life here at CWSL. We promote the SBA and student organizations, celebrating the successes of our fellow students. Above all, we provide an interactive forum for the student body in order to promote a cohesive communal atmosphere at California Western School of Law.

COMMENTARY@law.cwsl.edu

IF YOU CAN DODGE A COLD-CALL, YOU CAN DODGE A BALL!

# DODGEBALL!

The biggest event on the CWSL calendar - Support the California Innocence Project!  
Saturday, January 31, 2015, 2:00 - 7:00 p.m., Ocean Beach Rec Center, 4726 Santa Monica Avenue, San Diego

Teams are composed of 5-6 people, minimum of 2 female players must be on court to start each match. Winning team will receive a gift package comprised of items from our sponsors. 2nd place team will get their choice of a CIP t-shirt. Finally, and perhaps most importantly, there will be an award for the best costume. All awards will be given out at the afterparty at Wonderland, 5083 Santa Monica Avenue, San Diego, CA 92107 following the completion of the tournament.

Signup tables will be in the 350 Cedar Street 1st floor lobby on January 20, 22, 26-30. To sign up online, contact Mike Semanchik at [msemanchik@cwsl.edu](mailto:msemanchik@cwsl.edu)



# LEGAL NEWS & OPINION

## Supreme Court: Supreme Battle



Photo from www.supremecourt.gov

By JOSHUA SOUK  
ASSOCIATE EDITOR

The dust has not yet settled on the recent elections. Indeed, the newly elected politicians have yet to take the oath of office. But while the country is gearing up for an almost certain gridlock in Congress concerning legislation, there may be a different political fight in the not too distant future if a seat on the United States Supreme Court becomes vacant.

The nomination and confirmation of a United States Supreme Court Justice did not use to be a contentious process. There was a time when a President nominated someone, and Congress, with little debate, confirmed that nomination. That is almost certainly not the case going forward in today's highly polarized political climate.

In recent years, the most controversial appointment to the bench was Justice Clarence Thomas. His nomination had gone relatively smoothly until a leak in the FBI revealed that Anita Hill had accused him of sexual harassment. Following this revelation was one of, if not the most bitterly contested, Supreme Court nominations our country has ever seen. Justice Thomas was confirmed by a razor thin margin of 52-48. In comparison, Justice Sonia Sotomayor, an appointment by President Obama, was confirmed by a vote of 68-31 despite her controversial statements on race, gender, and their relation to judging. Women's rights groups vehemently opposed the confirmation of Justice Samuel Alito after it was discovered that in an application for promotion in the Justice Department he wrote, "The Constitution does not

protect a right to an abortion." And, during his time as a circuit judge, Alito voted to uphold a portion of Pennsylvania law that required a woman to notify her husband of an abortion. In spite of the opposition, Alito, a Bush nominee, was confirmed by a vote of 58-42. Alito was nominated after Bush's previous nominee, Harriet Miers, withdrew her nomination. Miers came under fire for her close friendship with Bush, which was seen as the reason she was given the nomination, despite never having served as a judge and having almost no experience in constitutional law.

None of this matters unless, in the next two years, a justice retires or passes away. There has been rampant speculation that Justice Ginsberg would retire, although her public statements indicate that she has no intent to do so. At 81, she is the oldest justice, although Justices Scalia and Kennedy, both age 77, as well as Justice Bryer, age 76, are not far behind. With one judge in her 80's and three more approaching 80, it leaves us to wonder what might happen should a seat on the nation's highest court become available. The judges know this, of course, which could be a driving force behind their decision not to retire.

At some point in the future there will be a vacancy, whether through retirement or the loss of a justice. Until that happens, we will not know who the President will choose as a replacement or how Congress will react. However, as long as one party controls the executive branch and another party controls the legislative branch, it will likely be a long, nasty fight based more on partisan politics than actual qualifications. Let's just hope it does not lead to another government shutdown.

## PUFF PIECE

By CHRIS GOODRICH  
ASSOCIATE EDITOR

The legal world of marijuana has been abuzz lately. There was an evidentiary hearing in a federal district court regarding marijuana being a schedule one substance. Additionally, marijuana related legislation was on several ballots across the country this past midterm election.

While most states and even one territory said yes to marijuana, one state did say no, but just barely. Here are the results from the recent midterm election that effect the use, sale, possession and growing of marijuana, including Proposition 47, which voters passed in California.

Oregon and Alaska became the third and fourth states in the country to allow recreational marijuana. In Oregon, Measure 91 passed by fifty-five percent, which allows adults to grow up to four plants and possess up to eight ounces of marijuana without being subject to taxation or commercial regulations. Alaska now allows adults to possess up to one ounce of marijuana or to cultivate up to six plants.

Voters in D.C. have made things interesting for Congress by passing Initiative 71 with a whopping seventy percent of voters approving the Initiative. Initiative 71 removes all criminal and civil penalties related to the use or possession of marijuana but it does not set up a regulatory scheme to control the production or sale of marijuana. However, city council members in D.C. are considering separate legislation to regulate the commercial production and sale of marijuana. It will be interesting to see what Congress does about this since D.C. does not possess statehood, and all law created by the district is subject to congressional approval.

In the U.S. territory Guam, voters passed the Compassionate Use Act, which requires the Department of Health and Social Services to regulate the use of marijuana to treat a variety of medical conditions.

In Florida, the sixty-five and older age group came out in force to beat medical marijuana at the polls. The sixty-five and older age group was the only demo-

## Hide Your Kids, Hide Your Wife, California's Lettin' All The Criminals Out Up In Here!

By ALISSA BJERKHOEL  
CIP STAFF ATTORNEY

"It is said that no one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones."

- Nelson Mandela

If this were how the states actually measured the caliber of their societies, California would be leading the race to the bottom, faster than any other state. With 216,000 inmates in our prisons and county jails, we boast the largest prison population per capita of all the states. If California were its own country, it would be on the list of top ten countries who incarcerate the most citizens. Indeed, 7% of California's 2013-2014 fiscal budget was spent on corrections. As the New York Times aptly put, "California has long been held up as the land of innovation and fresh starts, but on criminal justice and incarceration, the Golden State remains stubbornly behind the curve." Proposition (Prop.) 47 will hopefully change some of that.

Over the past 30 years, California has seen an over 700% increase in its prison populations, despite a population increase of only 60%. But California's inmate population problem is not the reflection of extreme increases in crime, but rather, it is the result of extreme increases in punishment. For decades, California has repeatedly passed tough-on-crime laws driven by public fear, ignorance, or a desire for vengeance. Californians have kept the state from making meaningful changes to these harsh laws because of that same ignorance and fear.

I remember in 2004 when Prop. 66 was put on the ballot. Had it passed, it would have changed the Three Strikes Law so that people could not get life sentences for nonviolent property and drug offenses. Initially, the proposition had overwhelming public favor. Then Governor Schwarzenegger starred in a series of advertisements which warned that Prop. 66 "would release 26,000 dangerous criminals and rapists." Although this advertisement was a blatant lie, it instilled enough fear into the public that the proposition failed. I thought the same would happen with Prop. 47 when it made its debut on the ballot.

Prop. 47 allows people who have been convicted of specified felonies (shoplifting, grand theft, receipt of stolen property, forgery, and fraud where the amount does not exceed \$950.00, as well as possession of illegal drugs for personal use) to petition the court for resentencing of their felony to a misde-

meanor. The court is required to resentence the person unless the court finds the person poses an unreasonable risk to public safety. Whatever "unreasonable risk" means will be up to you litigators in the coming years.

Those who fear the law claim, just as Schwarzenegger did in 2004, that we are going to let violent murderers and rapists out into society. But such is not the case. First, the majority of people affected by the new law are already out in society. Roughly 4,700 inmates will be eligible for resentencing under Prop. 47, a tiny fraction of our enormous prison population. However, there are tens of thousands of Californians who have been living their lives marked as felons who can now take advantage of this law. San Diego County claims that it convicts 20,000 to 25,000 felons a year -- most are eligible for sentence reduction, and most are not in prison. I personally have represented several of these clients, one who got a felony burglary conviction for stealing a 36 pack of beer from Rite Aid. Second, Prop. 47 specifically precludes anyone who has a prior conviction for a sex offense, murder, some types of assault, possession of a weapon of mass destruction, or other serious or violent offenses from even petitioning the court for resentencing, even if their current felony is one listed in Prop. 47. Third, not all of those affected will take advantage of this new law. Prop. 47 puts a three-year time limitation on anyone seeking to reduce their conviction and, if I was a gambling person, I would bet that the vast majority of felons will not actually file petitions in the court.

There is no doubt the public defender's offices, prosecutor's offices, and the courts will be swamped for the foreseeable future with these petitions. I imagine the initial legal cost of dealing with these petitions will spike tremendously. However, in the long run, the state and counties are estimated to save hundreds of millions of dollars annually based on fewer prisoners eligible for prison sentences, fewer people on community supervision, fewer arrests and processing for these minor offenses, and the release of current inmates through resentencing. These millions of dollars in savings are to be redistributed to K-12 school programs, assistance for victims of crime, mental health programs, and drug treatment.

All in all, with the passing of Prop. 47, it appears the public is finally sending a message that we are no longer okay with being the leader of the race to justice's bottom. We are no longer okay with having one of the worst reputations in the American justice system, if not the world. And we are finally ready to favor education and rehabilitation over incarceration.

graphic without a supermajority approval of Amendment 2. The vote to pass Amendment 2 failed to reach the sixty percent approval necessary to amend the state's constitution by only two percent.

Voters across Michigan in Saginaw, Port Huron, and Berkley approved ballot measures to reduce penalties for adult possession of up to one ounce of marijuana. Voters in South Portland, Maine, passed similar ballot measures, while voters in Lewis, Maine, rejected a pro-marijuana ballot.

In New Mexico and Massachusetts, voters approved similar measures, which were in favor of advisory questions and public policy questions in support of decriminalization or the regulation of adult marijuana use.

In California, close to sixty percent of voters approved Proposition 47, which makes a long list of mostly non-violent felony crimes into misdemeanor crimes. Now, Californians with felony records for some marijuana possession offenses will be eligible to have their records expunged. Additionally, those serving time for felony drug offenses can file a petition for resentencing under the new guidelines.

Finally, and perhaps the most significant piece of news in the legal world of marijuana, United States District Judge Kimberly Mueller recently heard testimony over a five-day period regarding the constitutionality of marijuana's federal designation as a Schedule I Controlled Substance. At issue in the evidentiary hearing was whether the scientific literature provides a rational basis for the federal classification of the plant as a substance with "a high potential for abuse," "no currently accepted medical use," and a "lack of accepted safety" for use under medical supervision. The Judge is expected to issue a decision shortly after the New Year.

# SPORTS

## Food For Thought

BY LEONID VAISBURG  
STAFF WRITER

In last month's issue, I reviewed some of the domestic violence issues that have plagued the NFL this season. Much time has passed since then, and now might be a good time to look at the recent developments in those cases.

Let's start with Ray Rice. NFL Commissioner Roger Goodell originally suspended Rice for two games. Rice served his suspension and was prepared to return to the field, but then the video of Rice knocking his then fiancée unconscious was leaked to the public. The footage was disturbing, to say the least. It was hard to watch a professional athlete treat his fiancée in such a manner. A tremendous amount of public outrage ensued. Presumably, due to the public pressure, the Baltimore Ravens released the running back, and Commissioner Goodell suspended Rice indefinitely. The NFL, in collaboration with the Players Association, took remedial action and modified the Personal Conduct Policy to include much stiffer punishment for domestic violence abuse. This was the correct decision, although I would argue that it should have never taken such an egregious act to force the league's hand in establishing stiffer penalties. Domestic violence has been an issue in this country, and in the NFL, far before Ray Rice committed that awful act. Regardless, it's better late than never. Fast forward to November 6th. Ray Rice had a formal appeal in front of former U.S. District Judge Barbara S. Jones. Rice argued that he had been subjected to double jeopardy by being suspended first for 2 games and then indefinitely. Double Jeopardy is a criminal concept, having its roots in the Fifth Amendment. It remains to be determined whether a private entity like the NFL should legally adhere to such a standard. Rice also filed a grievance against the Baltimore Ravens for wrongful termination. Rice has been adamant that his description of events had been consistent throughout the ordeal. The league on the other hand, argued that Rice's version of the events was ambiguous at first, and only after having viewed the footage, did the league fully understand the events that occurred that night. I am skeptical that a multi-billion dollar entity such as the NFL did not have access to the footage prior to its leak on TMZ. Regardless, an independent investigation is still ongoing in regards to how the NFL handled this entire situation. Back to Rice. The appeal concluded on November 6th, and a ruling is expected to be handed down the last week of November.

Moving on to Adrian Peterson. Peterson was indicted on charges of reckless or negligent injury to a child. Peterson used a "switch" to discipline his 4 year old son. His argument was that the discipline he used was consistent with discipline he received as a child. After the indictment, the Minnesota Vikings suspended Peterson indefinitely, and Commissioner Goodell placed Peterson on the Commissioner's Exempt List. This was essentially an indefinite suspension, but with pay. On November 4th, Peterson pled no contest to misdemeanor charges of reckless assault. He was put on probation, fined \$8,000, and sentenced to 80 hours of community service. Whether the punishment justified the crime is a different issue altogether. After pleading no contest, Commissioner Goodell removed Peterson from the Exempt List and promptly suspended him for the remainder of the season. This did not sit well with Peterson, and he filed a grievance with the NFL Players Association. He was granted a formal appeal that is scheduled to take place on December 2. An independent third party arbitrator will hear his appeal. At this point, it does not appear that Peterson will see the field again this season. His future with the Vikings is also murky at best.

Finally, Mr. Winston. Famous Jameis was originally scheduled to appear at a code of conduct hearing at Florida State University on November 17th. His attorney, David Cornwell, made a formal request asking the University to delay the hearing. Winston's argument is that his accuser had almost two years to file a complaint, whereas Winston only has two weeks to review 1,000 documents, 8 discs, and countless pages of telephone records. The alleged incident of sexual assault took place in December of 2012, so it has certainly been interesting how this entire process has unfolded. From alleged misconduct by Tallahassee Police attempting to shield Winston from criminal prosecution, to the Athletic Department shielding Winston from the court of public opinion. Realistically though, it is clear why Winston's attorney wants to delay the hearing. Delaying the hearing would allow Winston to finish out the football season. Winston is scheduled to graduate early, and so any sanctions that could be imposed (assuming a finding of guilt) would be moot. After the BCS playoffs, Winston will be done with classes, and in all likelihood, will focus his attention on the NFL draft. The University honored Winston's request, and the hearing has been set for December 2. Former Florida Supreme Court Justice Major Harding will preside over the hearing. Possible sanctions include verbal/oral reprimands, probation, removal from the football team, and even expulsion. Obviously, given Winston's stature, it appears likely that he will walk away from these allegations unscathed. A future in the NFL awaits.

## Put Your Balls Back in the Sack: Soccer Season is Over



BY LEONID VAISBURG  
STAFF WRITER

After a huge turnout for last year's intramural soccer season, this year it was a struggle just to get 6 teams. The fact that law school admissions are down 40% may have something to do with that. Or maybe Thomas Jefferson's intramural budget decreased due to gross misappropriation of school funds. After all, rumors are circulating that the school hasn't been paying its bills and that creditors have taken ownership of that very new and expensive building. Who knows. Anyway, Cal West was represented by two teams: my team, Bites by Suarez, and the 1L team, Barely Legal FC.

Both teams came out of the gate playing well. Barely Legal, led by star midfielder and section 3 1L rep Jennie Krauser, started out their season with three big wins. Along with the battered, bruised, beleaguered, and highly overrated quarterback of the Chargers, Philip Rivers, Ms. Krauser played for the NC State Wolfpack in her heyday. Major credit goes out to Cal Western's "talent evaluators," who travel across the country to find the best student athletes. Admissions might be way down this year, but that hasn't stopped our Athletic Department from sticking to its motto of "no rock goes unturned" when it comes to searching the nation for the best talent. Extra credit goes out to our school's coaching staff who do a great job of preparing the 1Ls for the rigorous and grueling journey that is intramural sports. If only someone could tell me where their office is, I would personally congratulate them on a job well done. Moving on. Apparently, the 1Ls showed great chemistry and cohesion in all of their games. Unfortunately, we don't have any way of actually confirming that, since no fans ever showed up to support their team. Though, that's to be expected as all other 1Ls started studying for finals after Halloween and didn't dare leave the library for a whole hour.

Bites by Suarez, a veteran and battle tested squad made up entirely of 2Ls, also came out winning their first three games; in dominant fashion I might add. Coming off an undefeated regular season last year, only to be eliminated in the semi-finals, we were determined to come back even stronger.

Just like in Flag Football, both Cal West teams were on a collision course. This time, it was to determine the #1 overall seed for the playoffs. The game started off really close. We took a 1-0 lead very quickly, but the 1Ls came roaring back with two quick goals of their own from striker Austin "no I'm not the center fielder of the Seattle Mariners" Jackson. Unfortunately for the 1Ls, their lead was short lived as we came back to score five more goals and take a 6-2 lead going into half time. The 1Ls used half time to make adjustments and strategize for a comeback, while we used it to discuss how useless the STEPPS Core Grammar quiz was going to be. The 1Ls came out ferociously, scoring four more times. But alas, it was not meant to be. We used our superior knowledge of the law to score five times, and ultimately win the game 11-6. It was a well-deserved and hard fought victory, but it came at a price. Our highly prized (and only) Mexican born player suffered a gruesome injury, leaving his ankle so swollen that it looked like it was going to give Kim Kardashian's booty a run for its money. Having won the game, we locked up the #1 seed, while Barely Legal was locked in at #2.

Having locked up the #1 seed, we had the honor and privilege of playing the first semi-final game to kick off playoff weekend. Hordes of fans came out to support us. And when I say hordes, I mean Donna's dad. Bites by Suarez was ready to roll. We looked really good in pre-game warm-ups, and that prompted the captain from our opposing team to request a roster check. It was amazing watching Thomas Jefferson staff work relentlessly to try to match our players' student names with our ID numbers; it was like poetry; so efficient. It's really a surprise that their bar passage rates are as low as they are. It only took them 15 minutes to confirm that we were who they thought we were (bonus points to those who get the Dennis Green reference). Anyway, the game started out really competitive. We scored pretty quickly, but the other team answered. Most of the first half was dead-locked at 1-1. We took the lead going into half-time though. Instead of discussing the importance of the STEPPS Core Grammar quiz, we decided to use the break to relax. We knew we were going to win

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# CAREER CORNER



Photo from www.cwsl.edu

## A Few Comments on Texting and Social Media

BY MATTHEW A. LAB  
ASSISTANT DIRECTOR  
CAREER & PROFESSIONAL  
DEVELOPMENT

Any attorney who has been in practice for more than 10 to 15 years can remember the time when, if you needed to communicate with a client or opposing counsel, you made a telephone call and/or sent a fax or a letter; and if you needed to file something with the court, you called a courier. Things have changed. These days, most lawyers have some level of social media presence and have gladly added secure video conferencing technology and electronic document management and court filing capability to their practices. These are generally good changes. On the other hand, many attorneys like myself, have clients who insist on using texting as the primary mode of communication. This can be problematic for many reasons that are beyond the scope of this article (i.e., preservation of confidentiality, privilege, clarity of the message, preservation of the record, etc.). It is clear that social media and improving technology will remain a fixture within our legal community and shall impact our delivery of services and interaction with clients. Although positive, this change presents some professional and ethical dilemmas, a few of which stand out as potential landmines for law students and emerging lawyers:

### Inappropriate Posts

There have been numerous recent incidents across the country involving attorneys posting inappropriate things related to pending matters, judges and their own clients. A recent example involved an Assistant Public Defender ("APD") in Florida, who posted a photo of her client's leopard-print underwear on her personal Facebook page. According to *The Miami Herald*, the photo was taken while a bailiff inspected a fresh set of clothing that the defendant's family had brought for him (not a typo) to wear during his murder trial. The APD posted the photo of the briefs to Facebook along with the comment that her client's family believed that the leopard-print underwear was "proper attire for trial." The incident came to light when someone in her Facebook network reported it to the judge. (Great friend!) The judge declared a mistrial and the APD was fired.

Another example could be where you post "Colossally idiotic and inept judge" in the comments section of an article about a disfavorable court decision. Since comment sections generally require a log-in and are often linked to Facebook or LinkedIn, one should be cautious about posting anything in this type of forum. If you like to troll the comments sections of online media, and have a propensity to push the envelope of civility (not you!), it would be a good idea to use an anonymous account!

Anything that you tweet or post on the internet is potentially visible to anyone who might be watching because once posted, you lose control over where it goes and who can see it. A good rule to follow is to assume that all of your social media

posts will be reviewed by your mom, clients, employers, colleagues, adversaries, the State Bar and judges... because there is a very strong likelihood that they will.

### Venting on Social Media

Avoid it. While we hope that most law students and emerging lawyers would know better than to post a photo of their client's leopard-print underwear on Facebook or tweet inflammatory remarks about a judicial decision, some may inadvertently step on an ethical landmine by posting comments about clients or pending matters, e.g., "Working late AGAIN on an MSJ. Ugh." While this text seems innocuous, I doubt it would be well received by the employer or client for whom the motion is being prepared.

Whether it was a court appearance that didn't go well or simply a tough day at the office, it is not a good idea to vent about it on social media. While you should use and enjoy social media, if there is nothing positive to post, it would be best to not post anything.

### Disclosure of Confidential Information

Although it is safe to say that all lawyers and most law students know of their duty under California Rules of Professional Conduct ("RPC") 3-100 not to disclose confidential information relating to their clients, in my opinion, the informal nature of various social media platforms may lure some participants into believing that the rules may be different for online communication, especially if posted anonymously or without revealing the client identity. They are not. A simple tweet like "Big client filing BK instead of carrying on litigation. #no-more-late-nites!" could be very problematic even though the client is not expressly identified. If opposing counsel in that matter was monitoring your social media, it would not be difficult for them to put the pieces together, thus providing them with advanced warning in which to adjust their strategy and/or challenge the dischargeability of the litigation in the planned bankruptcy.

A thorough examination of the application of RPC 3-100 to the myriad of online communications is beyond the scope of this article. There may be some exceptions, but it is best to assume that confidential information may not be disclosed in social media (or otherwise) without your client's informed consent. The best practice is to simply avoid it.

### Texting; Textisms and Professional Correspondence

The prevalence of texting in our daily personal communications will certainly influence our professional communication. In many ways, the impact may be positive. For example, texting is quick, efficient and, given the character limitation, may improve our ability to communicate succinctly in other formats. That said, it is important to remember that texting and professional correspondence serve different purposes and should be treated as separate. As such, one should never use "textisms" of any sort in professional correspondence, even if you are operating under a word count limitation (unless you want the reader to return the correspondence with "TLDR" written across it). As to the question of when texting is an appropriate method of communication, my best advice is to reserve it for brief, informal communication, where the preservation and confidentiality of such communication is not a concern. Always use correct grammar and punctuation when you text. Follow the lead of your employer; if he or she texts you, you can text a reply... and never quit your job via text!

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this game, so we wanted to conserve as much energy as possible for the final. Expending precious breaths discussing the quiz would have been a waste of valuable legal resources. We came out guns blazing in the second half, and any doubts about the outcome were quickly erased. As the great Bill Belichick always says, it was a real team effort, with solid contributions from all phases. The final score was 9-3.

The second semi-final actually turned out to be the best and most competitive game of the afternoon. In a rather chippy affair, our 1Ls faced off against last year's winners from Thomas Jefferson. Both teams played each other in their first game of the season, and the game ended with a decisive victory for Thomas Jefferson. However, the result was overturned on a technicality. Apparently, Thomas Jefferson didn't understand that co-ed soccer actually required having girls on the pitch. Regardless, both teams wanted to prove that they deserved the honor and privilege of meeting our team in the finals. The game didn't start off too well for

our 1Ls though, as they went down 2-0 very quickly. But they didn't let the score affect their play. They were actually the better team out there, and it felt like they were about to break through. During half-time, the 1Ls huddled up to strategize. Either that, or they wanted to spend those 5 precious minutes preparing for final exams. Regardless of what they did, they erased their 2 goal deficit very quickly, and ended up taking a one goal lead with minutes left in the game. Thomas Jefferson mustered one final push, and ended up tying the game at 3-3 with mere seconds left on the clock. They were headed for overtime. The overtime period was not as competitive though, and the 1Ls scored 3 goals to win the game 5-2. There has been speculation that Barely Legal's half-time pep talk involved performance-enhancing substances. The captain from Thomas Jefferson believed that the 1Ls procured the "secret stuff" from Space Jam to give them the extra edge needed to turn the game around. In accordance with school policy, the administration has opened up a formal investigation into these allegations. I

reached out to Vice Dean Aceves for clarification on the school's policy regarding performance enhancing substances, and any additional relevant news and information regarding the ongoing investigation—a spokesperson for the Vice Dean's office has declined to comment at this time.

This set up a date with destiny – an all Cal West final. As the last of the Thomas Jefferson players were leaving the field in tears, you could tell that there was a lot of hype surrounding the final game. Unfortunately, the game did not live up to the expectations. Having had the luxury of playing first, we were well rested and ready to go. The 1Ls on the other hand, were sore and tired having just played a long and grueling game. It has been reported that some players were complaining of hunger and dehydration. That is, of course, to be expected. The 1Ls lacked the requisite expertise necessary to compete, both physically and psychologically, with the battle tested 2Ls. We came out of the gate well. Yours truly scored three goals in a matter of minutes, giving Bites by Suarez an early 3-0 lead. We

never looked back, winning the game 11-4. Give the 1Ls credit though, they never quit, and they played hard the entire game. You could tell that they left it all out on the pitch. Looking back, however, it was fate. And you can't fight fate. We lost 4-3 in last year's semi-finals. We knew we had to make some changes to get over the hump. We used the offseason to regroup and build. We made some smart picks in the annual Cal West draft, and we made some excellent signings during free agency. We were a team of destiny, and we would not be denied.

A quick shout out to the champs: Seve Gonzales, Colin Mani, Stuart Smith, Alberto Aldrete, Anthony Hughes, Savannah Smidt, Donna Kerr, Alex Valentine, Andrew Sewell, Amalee Elayyan, and yours truly, Leo Vaisburg. We'll be back next year to defend our crown. Keep an eye out for intramural basketball coming up in January. Let's get a better turnout for these events. Our school's current participation leaves something to be desired.

# ADVICE & OPINION

## Don't Worry, Be Happy

BY NICHOLE SCHIRM  
ASSOCIATE EDITOR

Whether you are thinking about finals or thinking about the upcoming bar, the stress of studying is on your mind. You try to find a quiet place to study at school, but the library is crowded, the mezzanine rooms are loud, and the reading room smells like burritos and feet. Your triple latte has left you scrambling around until you end up in one of those tiny rooms on the fourth floor; highway noise is better than the guy coughing next to you anyway.

As you get comfortable and pull out your computer and study calendar, you notice that not only are finals creeping up, but so are the holidays. Just thinking about the long holiday break, which is filled with socializing, traveling, and overeating, brings even more stress to your day.

That is where I come in. I would like to help make your finals, bar study and holiday break as stress free as possible. Below are a few tips that will not only reduce your stress, but also help you stay healthy during these stressful times:

1. Make a plan. You know how every professor and tutor tells you that the best way to prepare for finals is to make a plan? Well, there is a reason for that. Planning not only lets you know what you have ahead of you, but it also makes you visualize your strengths and weaknesses—reducing unnecessary stress. Maybe you need more time for Contracts than you do for Civil Procedure—plan for that. Then stick to your plan. Planning also helps you stay on track during the holidays. We get so excited to go home for three weeks that we forget about buying books, making sure we have appropriate clothes for our internship, and all those other obligations we committed to next term. Make sure to keep important dates on your calendar and don't forget to check it. Starting a new term with stress and anxiety is not fun.

2. Sleep. Oh, how I love sleep! Avoid all-nighters, as you are more likely to overwork your brain and hinder your ability to think critically on exams. Avoiding all-nighters goes for your winter break too, as you are more likely to make poor decisions with regards to eating and exercise. Take advantage of sleep while you can.

3. Limit caffeine and nicotine. These are both stimulants, which, if used in excess, can disrupt your sleep pattern and end up throwing you off your study game. Try avoiding these stimulants after lunchtime so your body has time to power down for the night. If you have ever spent a night before an exam tossing and turning, checking the clock every hour, waiting for a decent hour to get up, you can vouch for how valuable sleep is.

4. Stay hydrated. Water is the miracle drink. It hydrates you, cleanses you, fills you up when you think you are hungry, and most importantly, keeps your body running properly so it can fight off all of those winter and stress colds. The long-running myth of drinking eight 8-oz glasses of water per day has been put to bed. The amount of water you need depends on your size, activity level and living environment. The new rule: If you are thirsty or "think" you are hungry, drink water. Along with the benefits mentioned earlier, water helps remove toxins from your body, raise energy levels, regulate body temperature, oxygenate blood and lungs, and promote healthy skin and a healthy heart. Simple ol' H<sub>2</sub>O?? Yep!

5. Go outside. We live in beautiful San Diego; there is no excuse not to go outside for at least an hour per day. And if you go home to somewhere cooler, put on a jacket! Walk to school (if possible) or just take a walk between classes, study in the park, or even sit on the

patio during lunch. By incorporating daily sunshine intake, you will help your body increase serotonin (happy feelings), lower blood pressure, improve sleep quality, and initiate the production of vitamin D, which promotes bone growth and prevents disease.

6. Pack healthy snacks. We have all been in the library getting so caught up in the exciting world of Property that all of a sudden we hear our stomach crying out for food. Instead of taking a break and grabbing food, because it's always at least a 30-minute ordeal, you find that pack of M&Ms you got from Donna's cart and try to shut your stomach up. However, that didn't do the trick. For a little energy pick-me-up, pack your bag with fresh fruits, precut veggies, nuts, yogurt, a granola bar, or string cheese. This goes for those long days of shopping at the mall for holiday gifts too. The better you prepare, the better you eat. Hell, if you're feeling crazy, pack an entire lunch!

7. Stay clean. As some of you know, if you see me in the library during finals, you will find my cubicle stocked with hand sanitizer, Lysol spray, wet-naps, and Airborne; free for anyone to use/have. Some call this "overreacting," but when the guy behind me is hacking up a lung and making a mountain out of his snot tissues, I call it "underprepared." Personally, I think the library should be disinfected daily during finals. I digress. During stressful times, our immune system is weaker. By staying aware of your surroundings and taking precautions, you increase your chance of remaining healthy. If you are traveling, I suggest packing disinfectant wipes in your carry-on bag. If you have ever stayed on a plane during a connecting flight, you know how well they clean the seats. All you need is one wipe to cleanse the head and arm rests of most of those germs.

8. Say no to treats. I even have a difficult time with this one, but if you constantly remind yourself that, "you don't need it," then you will definitely cut back on your intake. Some people are stress eaters and the only thing they want to eat is some sugary goodness. To curb that sweet tooth and overindulgence, see No. 6, above. For those of you who are overwhelmed with sweets when you head home, think about that one dessert you have been craving all term, like grandma's delicious pumpkin pie. Hold out for that. Skip the hot cocoa with whipped cream and the candy canes hanging everywhere and just imagine how rewarding that fluffy pie will taste as you feel the warmth of the crunchy crust and creamy pumpkin on your tongue and the cold, melting ice cream on the roof of your mouth....mmm. Don't let that satisfaction be destroyed by the guilt you feel from stuffing your face with every cookie and peppermint in sight. The key here is moderation.

9. Exercise. You didn't think that I would end this article without telling you to get off your rear did you? This is usually the time of year where we get busier. We have finals to prepare for; holiday shopping to do; and some of us get pulled between family households with those lovely guilt trips. Your time is no longer "your" time. When life gets too busy, the best thing to do is stop and take a breather. One hour is only 4% of your day, so, if your friends and family don't let you take at least 4% of your day as "you" time, then you need to ask yourself who is actually running your life. Use that hour to get exercise. Whether it is taking a brisk walk, going for a bike ride, or getting all intense up in the gym, taking time to be active helps to strengthen your immune system, prevent high blood pressure, reduce stress, and improve brain function and mood.

10. Be happy. You chose to come to law school because you love the law and have a passion for helping others (or for money). Stress will come and go throughout your life, learn to let it strengthen you and help you grow. Those who succumb to stress will never know what it is like to be completely content and happy. Just think about it, if the world ends tomorrow, was it really worth spending your last days worrying about Amjuring Torts? If you can't be happy doing what you do, then do something else.

## Sexual Harrassment Is No Joke; MyStudentBody.org Is

BY CHRIS GOODRICH  
ASSOCIATE EDITOR

Sexual harassment is a very real thing; it is not a joke. "MyStudentBody.Org" is a joke of a response to that very serious concern, and an unnecessary invasion into our privacy. We must acknowledge the seriousness and impact of this issue, and we must address it adequately. "MyStudentBody.Org" is not an adequate redress to the lack of sexual harassment training implemented in places of higher learning, a problem recognized by Title Seven.

It is estimated that "for every 1,000 women attending [a college or university], there may well be 35 incidents of rape [each] academic year." Off-campus sexual victimization is much more common among college women than on-campus victimization. Of victims of completed rape, 33.7% were victimized on campus and 66.3% off campus. "Fewer than 5 percent of completed or attempted rapes [against college women] were reported to law enforcement...." However, in two-thirds of the incidents, the victim did tell another person, usually a friend, not family or school officials.

"MyStudentBody.Org" is not an adequate redress to the lack of sexual harassment training previously implemented because (1) the "training" offered on "MyStudentBody.Org" leaves students at California Western in roughly the same position they were before, and (2) "MyStudentBody.Org" is a needless invasion into the privacy of students.

(1) The "Training" Offered on

"MyStudentBody.Org" Leaves Students at California Western in Roughly the Same Position They Were Before

This is because one major piece of information is missing from the training program: the school official to whom a student would report a sexual assault or sexual harassment incident if they were victimized. This lack of knowledge is an important concern in the face of sexual assault and harassment. Without this knowledge, the school has placed an unnecessary burden on the student, who now faces the needless difficulty of trying to find out from whom to seek help if victimized. A student might even have to divulge more information than they would like, just to find out where to seek help.

There are two reasons "MyStudentBody.Org" does not alleviate this information problem and leaves students in the same position as before: (a) "MyStudentBody.Org" designed its website for undergraduate students, and (b) California Western did not provide information specific to itself in the "Resources at Your School" portion of the program.

(a) "MyStudentBody.Org" Designed its Program for Undergraduate Students The training instructs students to tell their Resident Advisor about their campus roommate's illegal drug possession, which is a good idea. Except no one at California Western lives on campus. The training speaks about frat and sorority parties, tailgating at stadium events, and many other things that are common at undergraduate institutions and not at California Western. The training re-

quires a lot of time for users to educate themselves about drugs and alcohol with information most adults already know; more time than it does on sexual assault and sexual harassment.

It would certainly appear as though "MyStudentBody.Org" designed its website for undergraduates. Therefore, it is not an adequate response to the previous lack of sexual harassment training implemented by our graduate institution, where the average age of the 2013 1L class was 26.

(b) California Western did not provide information specific to itself in the "Resources at Your School" portion of the program.

At the end of each training module, "MyStudentBody.org" provides the participating school with a blank section, entitled "Resources at Your School." Unfortunately, California Western left this area blank at the end of each module. This information would have been much more useful than the information "MyStudentBody.org" provided about, say, Resident Advisors. The school should have provided information in that space to explain whom to seek help from on campus if a student ever sought it, which would save the student from having to divulge personal details to more persons than necessary.

It is presumable that Title Seven mandated sexual harassment training at institutions of higher learning to fill an information void. In implementing "MyStudentBody.Org," California Western did not fill that void because it did not use the program to provide information about resources at our school, even though a space was

provided to the school to do just that.

(2) "MyStudentBody.Org" is a needless invasion into the privacy of students. "MyStudentBody.Org" violates students' privacy because it asks students to create a profile, divulge personally identifying information such as name and birthday, and also to divulge their entire drug and alcohol history.

"MyStudentBody.Org" assures students their information is kept separate from their survey and test answers. However, students are transmitting this information over the internet. Nothing on the internet is truly private. Regardless of the privacy protections put in place by "MyStudentBody.Org," there is no need to collect any personally identifying information from the student. Nor is there a need to collect information as private as past drug and alcohol use.

The same information the training provided could have been provided to the student without the student answering questions about drug and alcohol use. The information collected from the student could have been collected in ways similar to the way tests are collected at our school. A similar system would allow survey results to be transmitted onto the internet with only a generic number, rather than relying on the security of the internet to keep survey responses separate from other information uploaded by students.

This program was severely inadequate. Hopefully, California Western will be able to provide a different sexual harassment training program next year, a program that better addresses the seriousness of sexual harassment and sexual assault.



# ADVICE & OPINION

## What Do I Know?

BY KEN KLEIN  
PROFESSOR

Let me start with a story. After I graduated law school, I joined what was at that time a 50-lawyer law firm in Dallas. It was a “carry the bag” firm, meaning that the firm trained new lawyers by having each of them matched with and following around – carrying their bag – a senior lawyer – for a year. The lawyer I was assigned to was Rob Hartmann, who was the head of the litigation department. He was one of the best lawyers in Dallas, Texas, and had a big reputation for being a great teacher/mentor. So as we got to the end of that year and I still felt like I knew absolutely nothing, that was plainly a problem with me, not him. I figured I was running out of time for him to officially be required to answer my questions, so I pulled him aside and asked, “Rob, when did you get to the point where you felt like you knew what you were doing?” Rob seemed a little taken aback by the question; he answered, “I never did. I just got right with that.” Sigh. Apparently one never learns how to practice law (maybe that’s why it’s called “practice”).

So that was roughly thirty-five years ago. I practiced law for 25 of those years. And now that The Commentary has asked me to write this Piece for the newspaper – with the charge that literally I can write about anything I want so long as I keep it to under 1500 words – I am asking myself, do I yet know anything about practicing law? And I suppose that I still don’t know much about how to practice law – but perhaps I do know some stuff about how to be a lawyer. Here is what I think I might know, or at least have “gotten right with”:

1. Being a lawyer is a great job. You are paid to think about and solve intellectually challenging problems every day. That’s pretty cool.
2. But... Clients are a bottomless pit of need. If they weren’t, then they wouldn’t be needing a lawyer. Their need can eat you. Literally. You have to have boundaries. You have to go home at the end of the day and turn your brain off. You have to have a full and rich life outside of work. And you have to sleep. One of my mentors used to say, “this would be a great business but for clients.” Another said, “when you go home at night don’t forget it wasn’t your money on the table.” I would say it differently. I liked my clients and I liked solving their problems. But if you can’t keep straight the difference between you and your

client then you won’t last in this business, or at least won’t happily last in it, for long.

3. You are hired to solve a problem that someone could not solve on their own. That definitionally (Word doesn’t think “definitionally” is a word – Word is wrong) involves a certain amount of tension. It never hurt my client when I was the most polite and professional lawyer in the room. Clients did not always believe that, but I do.

4. Every single thing you do as a lawyer has your name on it. Make sure you keep that single thought in mind when you ask – is this good enough?

5. Be kind. To your clients. To your adversaries. To your colleagues. To yourself.

6. Don’t apologize for what you do. We are a big part of the reason that we live in a civil and safe society.

7. Admit mistakes and confess what you do not know. It is not a sign of weakness, but of strength.

8. Smile and laugh. Most things involving humans are kind of funny.

9. People are often intelligent but uneducated. You are more educated than most people you will encounter as a lawyer, but not necessarily more intelligent. Don’t confuse the two.

10. Preparation beats skill every time.

11. Your ability as a lawyer can rarely win a position that should lose, but your inability as a lawyer can lose a position that should win.

12. Don’t always eat at your desk. Eating out is fun.

13. Every dollar you make and don’t spend will make your life oh so much better later. Money can’t buy love. Money can’t buy happiness. But money can buy freedom. Money can give you the courage to make a decision that you wouldn’t make without the safety net of a savings account. It can free you to do what you want instead of what you need (hat tip to Mick Jagger).

14. At the end of the day, the most important tool you have is your integrity. No case and no client and no matter is worth sacrificing your integrity. One of my mentors used to say, “never get chalk on your shoes.” Another said, “stay in the middle of the fairway.” A third said, “if someone has to go to jail, make sure it is your client, not you.” Wise folks, those mentors of mine.

15. Never pass up free food. Especially chocolate chip cookies.

16. Assume that every single word you write, text, tweet, email, shout, or whisper will eventually be repeated to the person you would least like to hear it.

17. Walk through any graveyard. Count the

number of memorials that note what a great person, parent, or spouse the deceased was. Now count the number that note how many hours a person billed. What conclusion does this teach about work place/life balance?

18. There will be hard days. That’s why we call it work. That’s why someone has to pay you to do it. If the bad days start to outnumber the good days for a significant period of time, then it is time to do something else.

19. Decide which of these seems more right to you: Assume the best in people knowing you sometimes will get burned OR Assume the worst in people knowing you sometimes will miss opportunities.

20. Almost every decision I ever made that seemed really consequential and hard at the time, turned out to be not so much just a few years later.

21. It’s okay to fail. It comes with the territory. But try not to make a habit out of it. Learn from it. Fail forward.

22. Outwork your opponent.

23. More success comes from a love of winning than from a fear of losing.

24. It’s okay to be anxious. Anxiety sharpens the mind. Just don’t let it freeze you.

25. Lots of people in the law – including adversaries, colleagues, and clients – are anxious. You often encounter people at their worst. Do not confuse someone who is angry at you with someone who is angry with you.

26. Be yourself. Don’t play a lawyer. Don’t adopt someone else’s style. There is no magic formula or best style. But integrity comes close to being a magic formula. And if you are not true to who you are then that will be something other people pick up on with disturbing frequency.

27. Trust your gut. If a potential client matter seems off to you, then say no. There’s a saying in Texas, “Lie down with dogs; get up with fleas.”

28. Be patient with your thinking and your expectations. Another Texas saying: “Pants first; shoes second.”

29. Keep in mind that your client may not have the same goals as you do. And when you keep this in mind, don’t forget who is paying you.

30. And if you can’t remember this long list, then just remember this. Most of the rules of dating translate equally well to rules for being a lawyer. Be a good listener. Be yourself. Be kind. Offer to pick up the bill for lunch.

## Restaurant Review: Lotus Thai

BY NICHOLE SCHIRM  
ASSOCIATE EDITOR

I have only been to Lotus Thai twice, but each time the service was good and the food was awesome. There are two locations, one downtown on Market Street and one in Hillcrest on Sixth Avenue. I am a huge sucker for curry, so that is the first thing I tried. I got the green curry with eggplant, bamboo shoots, bell peppers, and fresh basil, while my dinner companion got the red curry with everything the green curry comes with minus the eggplant (\$10.95-14.95). I was instantly impressed with the curry, as that is what I try to compare at all Thai restaurants. The one thing I was disappointed in was the spiciness of the dish. They give you the option of 1-10, 1 being not spicy at all and 10 being extremely spicy, and although I ordered my curry at level 7, I still had to ask for a side of hot sauce. I tend to like really spicy food though, so if you are like me and like it hot, do not be afraid to take a risk and go for a higher number.

The next time I went, I started with the chicken satay appetizer served with peanut sauce and cucumber relish (\$5 during happy hour). The chicken was cooked perfectly, but, for me, you really cannot go wrong with food on a stick. The peanut sauce was good, not the best I’ve had, but a strong contender. The relish, however, tasted like tiny cucumber chunks swimming in sugar water – too

sweet for me. That was not an issue though, because I love peanut butter and that’s all I needed. The main courses of the night were squid eggplant stir-fry with brown rice (\$12.95) and chicken drunken noodles (\$10.95). First, I was impressed that they actually offered brown rice as an option. You would think that more places would jump on the health food bandwagon, but sadly, no.

I again did not take the risk and order a high heat number, only asking for an 8 this time, and again I had to ask for hot sauce. However, I did not have to use as much of it this time. I advise taking a risk yet I always seem to play it safe, probably because I’d rather have to add heat than have it be inedible. I absolutely loved my squid and eggplant, though my companion only gave the drunken noodles a “B” because they were a little greasier than he has had at other places. I tried the noodles and they tasted really good, but they did leave a little residue behind on my lips, so, I would have to agree with my companion. My dish, though, was anything but greasy. The squid was cooked to perfection, not too rubbery, and my veggies and potatoes were soft, yet firm. Despite the little greasiness, we both finished every morsel on the plate. Actually, I took the rice home because I was satisfied with my dish without the extra filler. I ended up using it to make my own chicken stir-fry the next night.

At the end of our meal, our server asked us to fill out a survey, and when I asked if he received an incentive for people filling them out, he misunderstood me

and thought I was asking for incentive. I jumped on his inadvertent offer for a free scoop of ice cream. I asked for the green tea ice cream (\$4-free!), which was just okay. To me, it tasted like someone had just mixed vanilla ice cream with matcha (green tea powder). This was nothing like the green tea ice cream I am used to, which actually tastes like frozen green tea. Regardless, it was good and free and that is a win in my book.

To touch briefly on the service, there were several staff members walking around filing waters and clearing plates. If I was ever in need of something or done with my plate, it took less than two minutes before someone tended to me. I like when the wait staff look out for more than just their section; it makes the experience that much more enjoyable when you see an efficient team. That may sound corny, but as an ex-server, it is just nice to see.

As for parking, if you are headed to the downtown location, it can be difficult to find depending on what time of day you go. For the Hillcrest location, they offer free validation in the parking lot next to the closed-down Pernicano’s restaurant on Sixth and Robinson. Just make sure you get your validation from the restaurant first and do not pay at the kiosk.

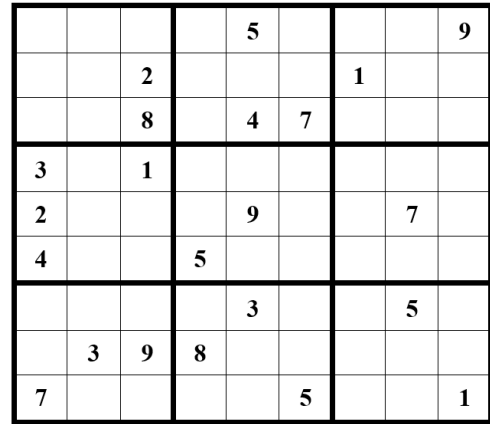
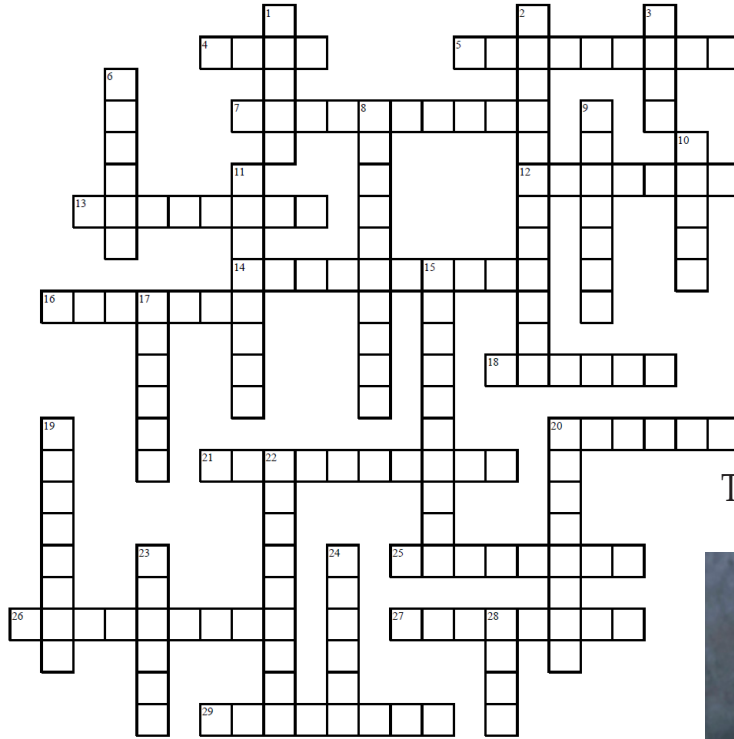
I will definitely go back. The duck salad I saw a customer order next to me is calling my name!

Recommend: Highly

# PROCRASTINATION ZONE

## I'll See You In Court!

By: Nichole Schirm



This month's CWSL doppelganger:  
Professor Casey - Owen Wilson

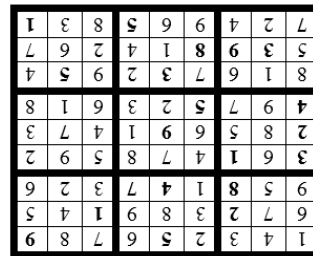


Photo from www.cwsl.edu



Photo from borndare.wordpress.com

- |          |   |        |  |
|----------|---|--------|--|
| 4 Across | Body of peers                             | 1 Down | Written argument                               |
| 5        | Location of oral argument                 | 2      | Power given to a court to rule over you        |
| 7        | Writ issued by superior to inferior court | 3      | Point no longer at issue                       |
| 12       | Monetary compensation                     | 6      | I want a second review                         |
| 13       | A penalty for violating a law             | 8      | Order to stop                                  |
| 14       | Formal accusation of a crime              | 9      | Notice informing defendant he is the defendant |
| 16       | Declaration of the conclusion of law      | 10     | Particular location to try a case              |
| 18       | Defendant's response                      | 11     | To bring a civil action in court               |
| 20       | Send back for further proceedings         | 15     | How to access court pleadings                  |
| 21       | Product from the reporter                 | 17     | Number assigned to a case                      |
| 25       | Admit allegations but dispute legal claim | 19     | Court's disposition of the case                |
| 26       | Plaintiff's initial pleading              | 20     | Talk slow or she gets irritated                |
| 27       | Court order compelling witness to testify | 22     | Not guilty criminal verdict                    |
| 29       | The Cattle Call                           | 23     | Remedy sought by complainant                   |
|          |   | 24     | Formal request made to a judge                 |
|          |   | 28     | To confess or not to confess                   |



**Death to Legalese!**

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*19TH ANNUAL PILF AUCTION AND RECEPTION*

*HOSTED BY CALIFORNIA WESTERN'S PUBLIC INTEREST LAW FOUNDATION*

# SAVE THE DATE

THURSDAY, FEBRUARY 12, 2015  
5:30 P.M. – 7:30 P.M.

SAN DIEGO COUNTY BAR  
ASSOCIATION CENTER  
401 W. A STREET STE. 120  
SAN DIEGO, CA 92101

FOR QUESTIONS, PLEASE CONTACT:  
cwslpilf@gmail.com





# THE ARTICHOKE

The Artichoke is satire. Discretion is advised. The Artichoke is satire. Discretion is advised. The Artichoke is satire. Discretion is advised.

## Breaking News

-After missing three awesome parties, two legendary bonfires, and five pub crawls, seven perpetually out of the loop students have started a FOMO support group.

-During a routine fire safety compliance inspection, school officials discovered that a LL had been living in a study room on the fourth floor of the library. The student had continuously checked out the room in two-hour increments using fake names. Librarians began to suspect the student after he ran out of real-sounding names and began listing Pokémon.

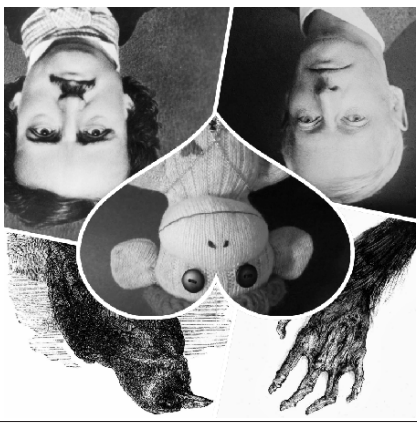
-The notorious Estate Planning Society, widely considered the rowdiest student organization on campus, is at it again. The society's annual Prohibit-a-Palooza music festival came to a raucous end after headliner band Intestate refused to do a seventh encore without their executor present.

-L Ronnie Watkins has been suspended pending the results of an investigation regarding his ties to a betting pool centered on Ruffal's Drag Race. Students wagered on who would be eliminated every week, and a \$3,000 pot was to be distributed to all students who correctly guessed the winner of the current season. School officials were alerted to the gambling ring after being petitioned with unprecedented amounts of shade by a group of students wanting sunglasses and hanging out in the library lobby.

-A sandwich, which somehow managed to escape the bi-monthly cleaning of the basement refrigerators, has gained sentience and taken control of the kitchen. Students were initially alarmed, but soon realized that the sandwich was dutifully cleaning the microwave after every use. UNLIKE SOME PEOPLE!

found out that Art never came up at all, and no one knows where he's gone. Come back next issue to find out what Jack discovered about Art Vandelay and the mysterious ghost fountain! The story goes far deeper than my of masonic legends, official cover-ups, and ghosts of our school's history before his investigation is done.

unexplained apparances in cities (and strangers' beds) along the eastern seaboard. After his wife was claimed by tuberculosis, Poe grew increasingly despondent, and with gallons of King Cole-drowned his sorrows with a rare malt liquor, known at the time as Baron Cobra because it hadn't been promoted yet. It was during this trying time that Poe decided to deviate from his usual gothic fare and began writing the script for a comedic play entitled "The Monkey's Paw." Rhode Island was written as an attempt to court the man, who Poe bears no similarity to that of W.W. Jacobs's story. The plot bears no resemblance to that of W.W. Jacobs's story, which later ably comes as a surprise that his later pieces took a much softer turn. Poe's "The Monkey's Paw" was written during his Robert Downey Jr. period, characterized by drunken ramblings and acerbic wit.



## AN INVESTIGATIVE REPORT INTO THE DARK CORNERS OF CWSL'S HYDRATION HISTORY

### Ghost Fountain: The Legend of Art Vandelay

By JACK KNOX  
BADASSER CORRESPONDENT



I had better things to do than to show up to 7 AM meetings for some third-rate rag. Then he told me it was actually 7 PM at the moment, and I took a minute of soul searching to reevaluate my priorities and thought about cutting out my self-destructive habits. But you local here after discovering the legend-building. The minute the article came out, students ran upstairs to see the fountain for themselves, and it wasn't long before student dehydration hit an all-time low. Things seemed to be looking up, but I've lived through enough forgotten birthdays to know that disappointment is usually right around the corner. Within days of the fountain's discovery, three men in suits, claiming to be campus officials, cordoned off the fountain. Before long, the fountain was nowhere to be seen. I've read every paper issued after the October 2011 edition, and there is no further mention of the fountain or the men who took it. I didn't need to be an angler to know that something was fishy, starting with Vandelay's name.

I guess Alex's predecessor was a fan of Seinfeld, since anybody who's seen the show can tell you that Art Vandelay is George Costanza's pseudonym, and the student's name was therefore probably fake. Actually, on Seinfeld it's spelled Art Vandelay, so either the whole thing is a huge coincidence, or The Artichoke was getting looser-goosey with its fact checking. We're going with the Seinfeld spelling from now on, just to keep things straight, try to keep up.

Something didn't seem right, why would someone who was getting nothing but pats on the back choose to assume a fake name? I knew I wouldn't find anything, but I checked the school records for any persons named Art Vandelay (or Vandaley) who could have attended CWSL at the time the article was written. Didn't find anybody. In any case, it seems like one famous find wasn't enough for our mystery man, as Vandelay got greedy and organized an expedition to find the Ghost Fountain. This second mystery fountain is rumored to be in a forgotten corner of the fourth floor. I grew up a long time ago, and I don't buy into fairy tales, so my first thought was that Art probably came up empty-handed. But I soon

lock the doors and close the windows tonight. You never know... Best, DA [David Austin]

## Saving Severed Simian's Story

By ALEX PEREZ  
FORMER ASSOCIATE EDITOR

Last month I wrote an article which, among other things, exhorted our readers to bone up on their literary knowledge. This call to action followed a reference to Edgar Allan Poe, who I credited with writing "The Monkey's Paw." Within hours of last issue's release, I received an email from Professor Austin regarding my attribution of this work to Poe. Kind words, professor, as well as your concern for my wellbeing vis-à-vis the threat of ghostly abduction. Fortunately, it seems like La Llorona is still wandering somewhere in the Nevada desert after attending an EDM festival. However, I must take this opportunity to clarify that my attribution was not in error. Although it is true that W.W. Jacobs is the author of the popular short story "The Monkey's Paw," I was actually referencing Poe's earlier, and un-

I just wanted to let you know that I read the new issue of The Commentary. I thought the piece on the sighting of La Llorona was very funny. PROPS!! On the other hand, I'm a big fan of The Monkey's Paw. It is NOT by Poe. The author is probably pissed that he wasn't accurately acknowledged and now to come and get you. I'd be sure to read the new issue of The Commentary. I just wanted to let you know that I read the new issue of The Commentary. I thought the piece on the sighting of La Llorona was very funny. PROPS!! On the other hand, I'm a big fan of The Monkey's Paw. It is NOT by Poe. The author is probably pissed that he wasn't accurately acknowledged and now to come and get you. I'd be sure to