

Fall 1976

Alumni Forum, Fall 1976

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ALUMNI FORUM

Vol. 2, No. 1

Fall, 1976

Arbitration program a success

The Advanced Legal Education Program (ALEP) at Golden Gate Law School concluded its second course, "Arbitration for the Lawyer," on November 13. "The response to this program has encouraged us to expand the program," said program Director Jay Grenig about the high enrollment for the seminar series.

The 10 session sequence covered the major aspects of arbitration, including Labor-Management Dispute Resolution, Uninsured Motorist Arbitration, Medical Malpractice Arbitration, and Commercial and Construction Industry Arbitration. Seminar participants also explored the legal context of arbitration and were taught how to prepare cases. Faculty for the seminars included such eminent leaders in the field as James Acret, Charles Bond, Paul A. Eisler, John G. Fall, Dawn B. Girard, Joseph R. Grodin, John Kagel, Sam Kagel, James R. Madison, James P. Molinelli, David S. Rubsamen, Conrad L. Rushing and William B. Allender, Regional Director of the American Arbitration Association.

ALEP recently received the endorsement of the San Francisco Bar Association's Continuing Education of the Bar Committee. Describing the goals of ALEP, Director Grenig said, "We don't

see ourselves as competing with CEB but hope our services are complementary to the CEB courses. We feel we are able to provide greater depth in areas like arbitration and are able to give programs which appeal to narrower segments of the Bar."

In addition to the ALEP seminars, Golden Gate Law School recently co-sponsored workshops in San Francisco and Los Angeles on Dispute Resolution and the School Administrator. Topics under consideration for future ALEP seminars include: advanced criminal procedure, appellate brief writing, corporate mergers and reorganization, tax aspects of marital dissolution, and estate planning for the general practitioner. Programs will be conducted by distinguished practitioners in their respective fields along with Golden Gate University Law School faculty members.

Law Review surveys Ninth Circuit opinions

There's something new in the *Golden Gate University Law Review* this year — the first annual Ninth Circuit Survey issue. It contains a comprehensive analysis of the decisions of the Court of Appeals for the Ninth Circuit.

This issue, written and edited entirely by students, is the largest ever published by the Review — 545 pages. According to Editor Robert B. Kaplan, "The Survey will be a highly useful tool for attorneys throughout the country, as it not only weighs the opinions of the Ninth Circuit, but points out similarities and differences of view between the Ninth and other circuits on important legal issues."

The first Survey investigates the holdings of the court in the following 14 areas of law: Administrative Law, Admiralty, Antitrust, Bankruptcy, Constitutional Law, Criminal Law & Procedure, Environmental Law, Federal Practice & Procedure, Immigration Law, Indian Law, Intellectual Property, Labor Law, Securities, and Taxation.

The second annual Survey will continue the analysis and additionally will contain a valuable Practitioner's Guide — a manual describing the proper procedures to be followed for an appeal in the Ninth Circuit, designed specifically for those attorneys who do not frequently appear before the federal appellate courts.

Alumni subscriptions are available at \$8.00 for three issues. The Survey may be purchased singly at a cost of \$5.00 per copy. Any inquiries or orders should be directed to the Golden Gate University Law Review.



John Kagel (left) and James Acret
conduct Commercial and Construction
Industry Arbitration Seminar.



Dean Judith McKelvey

Dean McKelvey is panelist for Queen's Bench conference

By Elizabeth S. Sisk

Golden Gate University hosted the Second Annual Women in the Courtroom Conference on October 16, 1976. Among the panelists for the conference was Golden Gate's own Dean, Judith McKelvey, who participated in a discussion on Alternative Law Opportunities.

The conference, sponsored jointly by Queen's Bench and the Golden Gate University Women's Association, featured panels on diverse topics including: Criminal Law Practice, Criminal Justice and Women, Alternative Law Opportunities, Handling Title VII and Title IX Cases, Sexism in the Courtroom and How to Deal with It, Contemporary Legal Issues Affecting Women, Civil Practice, The Jury Trial as Seen From the Bench, and How to Start Your Own Law Practice.

Judge Joan Dempsey Klein of the Los Angeles Superior Court addressed the conferees at lunch, speaking on "Feminism in the Courtroom." Her speech was enthusiastically received by the 310 women in attendance. Students representing most of Northern California's law schools constituted approximately 70% of the participants and the remaining 30% were practicing attorneys.

Marge Holmes, Golden Gate's Student Bar Association President, attributed much of the success of the conference to the excellent working relationship which the Women's Association has developed with Queen's Bench. Holmes, who with Bonnie Maley acted as liaison between the two organizations, commented, "The thing I was most impressed with was that everyone did what they said they'd do — people at the conference were constantly commenting on how smoothly everything went."

The first Women in the Courtroom Conference was held last year at Golden Gate. Holmes noted that future conferences may have to move to larger quarters because of the enormous success of this year's conference which witnessed increased enrollment by almost 100 over last year's conference. Wherever the conference may be held, the Golden Gate Women's Association will continue to play an active part in its production.

Cohen Represents S.F. Bar Association

By Elizabeth S. Sisk

Mort Cohen, Professor of Law at Golden Gate, became the first lawyer in the history of the San Francisco Bar to be hired to represent the Bar as a plaintiff in a law suit. At issue was ineffective representation by public defenders in San Francisco. The Bar complained of certain objectionable practices, including the failure to interview clients, to do necessary motions, plus the interviewing of defendants en masse. "The failings were essentially because of inadequate resources," says Cohen. The suit was resolved this spring and resulted in the addition of 10 attorneys to the public defender staff in San Francisco.

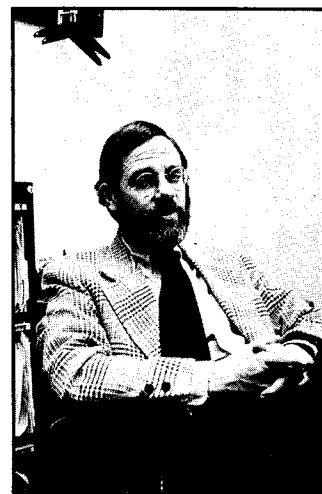
Cohen currently serves on three committees of the San Francisco Bar Association: the Legal Services Coordinating Committee, the Farella Committee on Legal Services, and the Fee Arbitration Committee. He finds the Fee Arbitration work particularly interesting. His interest is piqued by the committee's possible expansion into consideration of attorney-client fee procedures including the obligation of attorneys to disclose billing arrangements to clients.

The National Jury Project presently consumes Cohen's extracurricular hours. He is on the Board of Directors of the National Jury Project as well as a member of the California Regional Board. Cohen states the purpose of the Project very simply, "We try to promote education and retention of the right to trial by jury." Cohen points to a bill pending in Congress which would reduce the number of peremptory challenges from 10 to five in federal criminal trials as one sign that this right may be endangered. The Project tries to educate people about the ramifications of such a bill or any other move to limit jury selection procedures. Cohen recognizes objections to the time consumption inherent in the current system but says of the system, "It's a bulwark — a jury must be impartial and we want to insure that impartiality."

The Project has most recently been involved in the selection of the jury for the Alioto-Look Magazine case in San Francisco. "Most of the work we do is without fee," explains Cohen, "so we do cases like Alioto-Look to pay for expenses." Cohen estimates that 60% of the Jury Project's work is adversarial whether for fee or as pro bono work. Its remaining work focuses on the study of juries in general including Grand Jury and petit jury composition. In the Attica Prison trials, participants in the Project sustained a successful compositional challenge of the jury roll selection procedure.

When wearing his professorial hat, Cohen teaches criminal procedure, litigation and Golden Gate's clinic program. He prefers teaching procedural subjects. "Substantive law changes all the time — the procedural aspects will always be valuable to students," says Cohen of his preference.

Cohen received his L.L.B. from Brooklyn Law School in 1960 and his L.L.M. from Harvard Law School in 1971. He has taught at Golden Gate since 1974.



Cohen

Alumni news

Gorfinkel addresses Alumni Luncheon

By Robert Shubow

Golden Gate Law School's annual Alumni Luncheon, held in conjunction with the State Bar convention, was addressed this year by our first full-time dean, John A. Gorfinkel. The gathering, held in Fresno, attracted a number of our more "judicious" alumni, including Judges Norman Spellberg, and Bessie Dreibelbis, and Administrative Judges Leonard M. Levy, Doris Baker, Henry O'Connell, and Frederick A. Ferguson. The subject of Gorfinkel's speech was one that has been in the minds of many other lawyers: "the general practitioner as an endangered species."

More group legal services are in order, predicts Gorfinkel. "Large legal clinics, staffed with specialists and para-professionals, may be the trend of the future. The high costs of adequate legal service seem to make this inevitable."

Gorfinkel's thorough knowledge of the law, gained from over 34 years of teaching, and his awareness of the practical needs of the lawyer in the field, uniquely qualify him to speak on the direction of the evolving profession.

Gorfinkel presently serves as the consultant on legal education to the State Bar of California. His work takes him on extended trips around the state to visit the many new law schools and guide them toward accreditation.

When he's not occupied with that assignment, he assumes one of his many other roles. He helps to write the California Bar Exam, the Baby Bar, the Multi-State Bar Exam, and the Professional Responsibility Exam. Gorfinkel's philosophy of examinations is typically progressive. "I am opposed to any question," he states, "that is not realistic and contemporary."

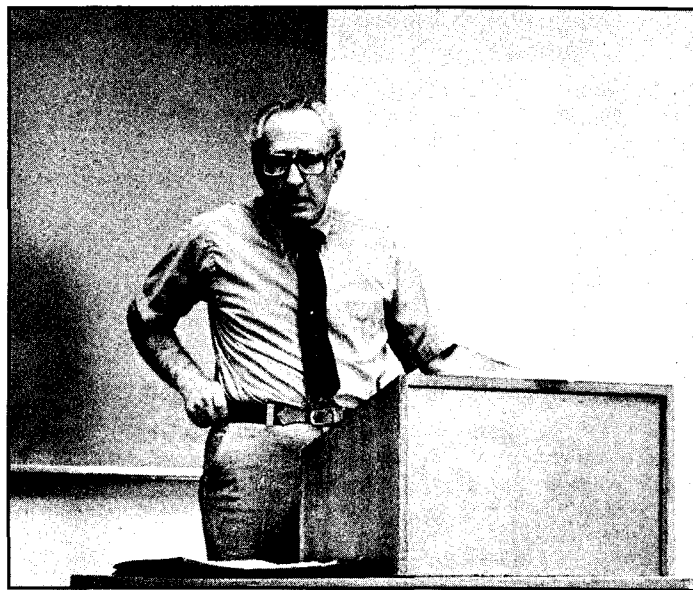
Wielding yet another gavel, Gorfinkel serves as chairman of the Standards Committee of the ABA, requiring even more extensive travelling. Gorfinkel estimates he is away from home 125-150 days a year. Through it all, he finds time to maintain a limited private law practice. And somehow he even manages to slip off to Europe with his wife for five or six weeks every year for a jaunt through the Alps.

Gorfinkel is as much a thinker as he is a traveller. Ideas which he originated years ago are now gaining acceptance, especially innovations in legal education. Five years ago, for example, he advanced an idea whose time may be approaching: that of the two-year law school. It would consist of intensive study of basic areas. The rest would be learned on the job, "as a lawyer learns it anyway." He also has proposed eliminating several courses from the curriculum and having the students literally teach themselves.

But these changes, Gorfinkel is quick to note, cannot be made by fiat. "They must arise as a result of imaginative and intelligent law programs designed by the deans and the faculties themselves."

What is the future of Golden Gate amidst all this change? "It is well situated to become a great urban legal center," thinks Gorfinkel. "The plan to develop an L.L.M. program in taxation is the first step. And we are fortunate in having one of the great deans in the nation in Judy McKelvey."

Gorfinkel began teaching in Golden Gate's evening program in '934. At that time he had been in private practice for five years following graduation from Boalt Hall, where he received a J.D. in 1929 and a J.S.D. in 1931. He continued in active practice until his appointment as associate dean, which position he held from 1952 to 1960. He was the first full-time dean of Golden Gate Law



John A. Gorfinkel, Dean Emeritus

School and served in that capacity from 1960 to 1969, when he left to assist the State Bar.

Gorfinkel is a second generation representative of the law school. His father, Jacob Gorfinkel, who practiced law in San Francisco until his death in 1933, was a member of the school's first class which started in 1901.

Alumni calendar

January 27, 1977 — East Bay Alumni Lunch at the Seawolf Restaurant. Dean Emeritus John A. Gorfinkel will be the featured speaker.

February 3, 1977 — San Francisco Alumni Lunch.

February 10, 1977 — North Peninsula Alumni Lunch.

March 4, 1977 — Sacramento Alumni Lunch.

March 17, 1977 — Marin County, Northern California Alumni Lunch.

Note: Specific information about the Alumni Lunch in your area will be mailed to you three to four weeks before the date listed above.

Bulletins

• Any Golden Gate Law School graduate who has a Bachelor of Laws degree may obtain a diploma showing a degree of Doctor of Jurisprudence by writing to: Patrick O'Brien, Dean of Students, Golden Gate University, 536 Mission St., San Francisco 94105. The cost is \$10.00. Please specify the year of graduation and your name, exactly as it appears on your diploma.

• Where are you now? The Forum is interested in announcing any changes in your professional career. Don't be modest. Send your updated notes plus any changes of address to: Editor, Alumni Forum, Golden Gate University Law School, 536 Mission Street, Rm. 210, San Francisco 94105.

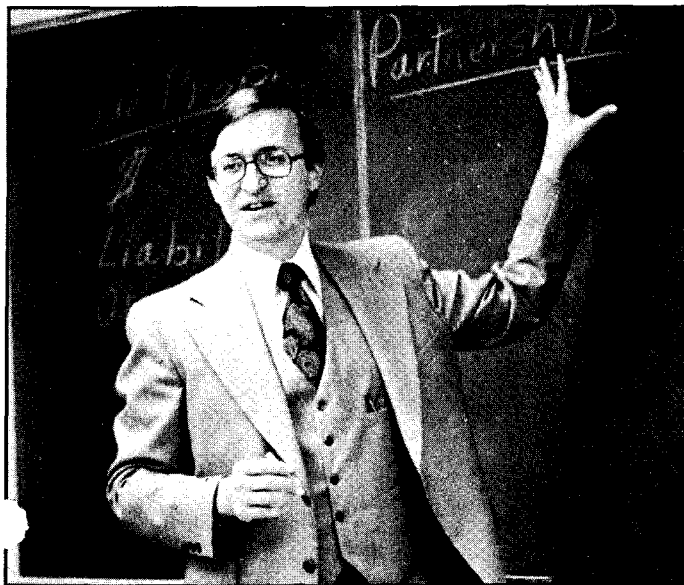
Arbitration — a better solution?

Editor's note: With clogged courts and the high cost of legal services, attorneys and laymen alike are searching for alternatives to adjudication in court. Arbitration is posed by some as the wave of the future. Others fear arbitration might initiate the erosion of the right to have one's "day in court." For better or for worse, arbitration is the alternative currently under consideration in many sectors of the law and of society as a whole.

The main thrust of the San Francisco Bar Association's Committee for Arbitration has been to assist in implementing the new California Rules of Court, §§ 1601-1617. The rules provide for arbitration on plaintiff's motion of certain cases which are at issue. John A. Toker, Chairman of the Bar Committee for Arbitration recommends the new option for several reasons. First, Toker says that after a case is at issue in San Francisco, it takes 18 months to two years to get to trial. If the parties elect arbitration, their case will be heard in 75 to 115 days. Additionally the right to a jury trial *de novo* is preserved. Toker points to Philadelphia's arbitration system as an example of the efficiency which arbitration can achieve. In a system similar to San Francisco's, approximately 60% of the cases are disposed of by way of arbitration. Of that number 8½% are appealed with only 3% actually going to trial.

The San Francisco Bar Association supervises fee arbitration disputes and a bill is pending in Sacramento which would make fee arbitration mandatory in disputes between attorneys and their clients. Finally, arbitration is being investigated for use in dividing family disputes as well as minor criminal offenses.

William B. Allender, author of the following article, is one of arbitration's protagonists. Allender has served as San Francisco Regional Director of the American Arbitration Association since 1970. In conjunction with the American Arbitration Association, he has worked closely with Golden Gate Law School on the "Arbitration for Lawyers" program which was recently completed. A non-lawyer, Allender graduated from San Jose State University with a degree in philosophy. He did post-graduate work at the San Francisco Theological Seminary.



Jay Grenig, ALEP Director

Arbitration: Another Way

By William B. Allender

Arbitration is that process wherein parties in a civil dispute, either by way of contractual agreement or agreement at the time of the dispute, select a mutually acceptable individual or individuals to hear the facts of the case and render a decision that will equitably resolve the controversy. The arbitrator must be free of any conflict of interest with the disputing parties and is usually an individual who has expertise in the field or industry out of which the dispute arises. The American Arbitration Association has approximately 45,000 arbitrators throughout the U.S. and administers in excess of 37,000 cases a year through a network of 22 regional offices.

Arbitration is normally a voluntary process which is an alternative to court litigation. Thirty-six states have enacted modern arbitration laws which uphold and enforce agreements to arbitrate future disputes. The advantages of arbitration are many:

- (1) Arbitrating a dispute is normally faster than going through court litigation;
- (2) Where there is economy in time, there is economy in dollars and cents — arbitration is normally less expensive for the disputants;
- (3) Because the parties in an arbitration participate in the ultimate selection of their arbitrator(s), they have confidence that the neutral(s) has the necessary expertise to render a well informed and realistic decision; and
- (4) Arbitration is private.

Unless the parties to an agreement to arbitrate present or future disputes restrict the authority of the arbitrator, the arbitrator's decision is final and binding on the parties and is enforceable in

Jay Grenig, ALEP

By Elizabeth S. Sisk

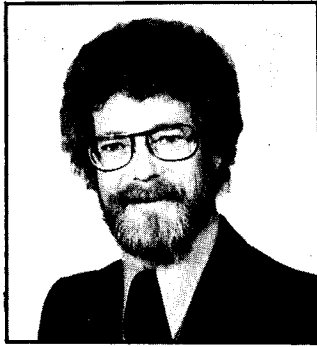
"I was working with the Bar Association and thought there should be advanced programs in San Francisco, even beyond CEB, so I went to the law school and they said 'go ahead.'" So Jay Grenig describes the birth of Golden Gate Law School's Advanced Legal Education Program (ALEP) and his own, uncharted initiation as Director. Under Grenig's management ALEP has become a thriving, significant program (see cover story).

Since his first contact with Golden Gate Law School Grenig's abilities and ideas have been utilized in still another project, the judicial extern program. Grenig is assisting Mary Minkus, Associate Dean of the Law School, in expanding and developing Golden Gate's judicial clerkship program which covers California's courts from the Supreme Court to Municipal Courts. "We've found it's invaluable experience for students to be 'back-stage.' Judges have been enthusiastic and impressed by the quality of students who have come to them from Golden Gate," says Grenig of his latest project.

Grenig's experience with Golden Gate highlights his special talent for identifying needs in the legal world and finding solutions for them. Five years ago Grenig started the California School Law Digest, an education newsletter which keeps school districts and administrators abreast of current developments in

courts of competent jurisdiction if a participant does not comply with the arbitrator's order.

Until recent years, arbitration has been limited to four major categories of cases: disputes between labor and management, commercial disputes (including international trade transactions), disputes over liability and damages involving personal injury as the result of an accident resulting from an uninsured motorist, and construction industry disputes.



Allender

Because of the advantages of the arbitration process, and because of the national concern over the burdened judicial system, it is not surprising that arbitration is being expanded to include new areas of dispute resolution such as: medical malpractice liability suits, freight loss and damage claim disputes, recreational land purchase disputes in California, environmental disputes, and eminent domain disputes. In September of 1976, the American Arbitration Association introduced a new service for the resolution of family disputes wherein the husband and wife can utilize the processes of mediation, a hearing referee, and arbitration to settle their dissolution problems. In addition, the Community Dispute Services of the American Arbitration Association has the capability of resolving housing disputes, campus disputes, community group action disputes, youth and adult correctional institution disputes, Indian rights disputes, and provides an alternative to the prosecution of criminal misdemeanors in five cities throughout the U.S.

Arbitration is another way of settling disputes; oftentimes a better way than court litigation. Chief Justice Warren Burger is correct, "... arbitration is a process that must be used more widely in this country."

3 creative director

the law of education. He says he had school clients and he wanted to recommend a newsletter to them. He couldn't find a "really good" one so he started his own. Grenig's efforts to serve his own clients soon blossomed into the California School Law Digest. More than half of California's school districts currently subscribe to the School Law Digest in addition to university libraries, school attorneys and employee associations throughout the state. The Digest reports California and Federal appellate decisions that affect all levels of education. The Digest has expanded to provide a similar service to areas outside of California with regional newsletters covering approximately 30 states. Grenig is now preparing a policy service for schools, with workshops and training programs to supplement the School Law Digest.

Grenig graduated from Hastings College of the Law in 1971. In addition to all of the activities reported here, he has a private practice, specializing in education law. He also teaches a course in the legal aspects of real estate to undergraduates at Golden Gate. Grenig has served as a consultant for two CEB publications, *Advising California Partnerships* and *Real Estate Remedies*. Grenig's articles on "Liquidating Businesses" and "Buying and Selling Businesses" have recently been published in *West's California Reporter*.

Summer clerkships: Students learn law behind the scenes

By Robert Shubow

How did Golden Gate students keep busy this summer? Many took part in a variety of clerkship experiences — working for trial courts or supreme courts, from cold Alaska to Indian reservations in the Western desert — very different experiences but all fascinating and instructive. Here are a few of their many stories "in a nutshell":

Dianne Estrin clerked for Chief Justice Donald R. Wright of the California Supreme Court. Her duties included reviewing petitions for certiorari and habeas corpus, and analysing issues in petitions for clemency and pardons. "It's a lovely, mellow place to work," says Dianne. "Everyone does his job well. The justices are dedicated people. Chief Justice Wright is one of the finest human beings I've ever met."

Rene Feinstein, a third year night student, took a more out-of-the-way assignment. She clerked in a Nevada trial court for Judge Noam Manoukian. "In a one-judge court, a clerk gets plenty of experience in all areas of the law," Rene explains. She averaged writing one memorandum per week, in addition to drafting orders, reading preliminary transcripts and sitting in on pre-trial conferences. "I learned things in that period of time that would have taken me years to learn any other way," she reports. "And I made a lot of contacts. It was my best summer in years." Rene was so impressed with the judge, with the people of Nevada, and with the way of life, that she intends to return and practice there.

Maggie Kaplan and Tiffany Rystrom worked in the State Attorney General's office in San Francisco, Tiffany in the Criminal Division and Maggie in the Environmental and Public Resources Division. "I did a lot of research," states Maggie, "plus some investigatory work. It was a very good training ground." She also updated an environmental primer, analysed bills, and learned a good deal of realpolitik. Maggie wants to work in land use planning law, because she "enjoys bringing people together from different interest groups."

Kathy Kaufman, a night student in her third year, clerked for the San Mateo County Superior Court, in the Research Department. She wrote memos mainly on criminal matters, observed trials, and sat in on settlement conferences. "It was fascinating. The people were very professional and understanding. I loved it."

Randall Berning worked for the second time in the Illinois Attorney General's office, this time in the Court of Claims Division and the Crime Victims Division. He worked directly under six attorneys general, preparing briefs, legal memoranda, motions for dismissal and summary judgment, and even represented the state in various hearings. "The position was extraordinarily competitive and very educational." Randall looks forward to returning to the job next year.

Second year student Allan Lenefsky spent the summer in Washington, D.C., working on the Congressional Internship Program. He worked under the direction of Sen. Lloyd Haskell of Colorado. "We did a lot of research on executive agreements and how they affect the Congress," Allan reports. "It's great to sit in Constitutional Law class now and analyse the same cases. The law is far from settled in this area." The subject is of especial interest to Sen. Haskell, who also serves on the Finance and Interior Committees. "It was a strange and interesting experience," Allan concludes, "and I learned a great deal."

Admissions profile released

Golden Gate is emerging as a nationally known and respected law school with a broadly based applicant pool. Although the majority of our applicants reside in California, all 50 states were represented last year, with non-Californians comprising 40% of all applications. Five hundred seventy undergraduate institutions were represented in the 1976 applicant pool. The University of California at Berkeley is traditionally the largest feeder school, but the Midwest and New York areas are also well represented.

Golden Gate, like other law schools, has experienced a decline in applications over the past few years as the national pool of LSAT takers diminishes and as people are discouraged from entering an overcrowded profession. Statistics indicate, however, that it is those with marginal credentials who are dropping out of the applicant pool. In 1974, when applicants numbered over 3000, the entering class enrolled with a median GPA and LSAT of 3.00 and 604 respectively. In 1976, when applications numbered approximately 2500 the class enrolled with medians of 3.01 and 605. Sixteen of these students have LSAT scores above 700, with the highest a 778, thus many of these are in the 99th percentile.

The law school continues to enroll one of the highest percentages of women law students in the country. The current first year class is 45% women.

New faculty welcomed

New members Golden Gate Law School's full-time faculty for the 1976-77 school year include:

- Allan H. Cadgene, J.D., 1972, Yale University. He is a visiting professor, teaching community property and tax. Cadgene was previously with Orrick Herrington Rowley & Sutcliffe in San Francisco.
- Laurie S. Deutsch, J.D., University of Chicago. She teaches torts and sex discrimination. Deutsch is on the Board of Directors of the San Francisco Neighborhood Legal Assistance Foundation.
- Kenneth Hausman, J.D., 1973, Harvard University. Hausman is a visiting professor and teaches professional responsibility and property.
- Marc Stickgold, J.D., 1963, Northwestern University. He teaches constitutional law. Stickgold comes to Golden Gate from Wayne State University School of Law.
- William Weiner, J.D., 1970, University of Michigan. Weiner teaches civil procedure and evidence. He has worked with Heller Ehrman White & McAuliffe in San Francisco and with the Alameda Public Defender's Office.



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