

Summer 1990

Alumni Forum, Summer 1990

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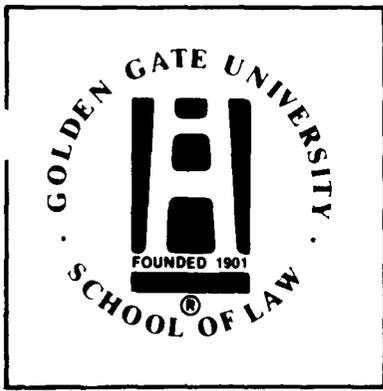


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Alumni FORUM

BankAmerica CEO Receives McKelvey Award

Richard M. Rosenberg, Chairman and Chief Executive Officer of BankAmerica Corporation, was presented with the Judith G. McKelvey Award as the Law School's Outstanding Alumnus of the Year at this year's commencement ceremonies. A double-degree holder from Golden Gate, Rosenberg completed an M.B.A. degree in 1963, and returned to obtain his J.D. in 1966. An active supporter of the University, he has served on the Board of Trustees since 1984.

An evening law student, Rosenberg found that "the instructors were extraordinarily competent. The fact that they were active practitioners added a dimension of reality to the program." By the time he completed his law degree, he had risen to the position of vice president for marketing at Wells Fargo Bank. During the next twenty years, he was to become one of the leading bank marketing strategists in the United States. While at Wells, he developed the Gold Account, packaging for the first time a variety of banking services into one consumer product. In leading Bank of America's resurgence in California as vice chairman and head of the California-banking group from 1987 to mid-1990, Rosenberg again bundled a variety of banking services into the now-familiar ALPHA account. He also reinvigorated Bank of America's single family real estate lending, returning the bank to one of California's leading mortgage originators.



*Richard M. Rosenberg,
Chairman of the Board,
Chief Executive Officer,
BankAmerica Corporation*

Banking has been Dick Rosenberg's career for almost three decades. He was with Wells Fargo for a total of 22 years, eventually rising to the positions of vice chairman and director. In the mid-1980s, he left Wells and moved north to serve as president and chief operating officer of Seattle First National Bank and Seafirst Corporation, BankAmerica subsidiaries. A.W. Clausen, BankAmerica Corporation's two-time chief executive, brought Rosenberg back to San Francisco in 1987, and at the corporation's May 24, 1990, annual

meeting, turned over leadership of the bank to him.

Two recent developments at BankAmerica illustrate Rosenberg's strategic marketing vision. In an interview with *The San Francisco Examiner*, he explained that "in the western United States, we want to be the dominant provider of banking services across all market segments—be it retail, corporate or middle-market. The focus is in the west at this point." Late in May, BankAmerica acquired Western Savings in Arizona, an institution with the third-largest number of checking accounts in the state, and the first of what are likely to be many more acquisitions to round out this expansion strategy.

In consumer banking, Rosenberg's strategies have driven Bank of America

CONTINUED ON PAGE 2

DEAR GRADUATE:

I hope you will take a moment to consider a gift and then write a check made payable to Golden Gate University School of Law.

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Thanks for your support.

Anthony J. Pagano
Dean

McKELVEY AWARD CONTINUED

to the number one ranking in consumer lending among all United States banks. That achievement was based heavily on expanding residential mortgages, as well as home-equity loans, credit-cards and personal loans. In one year, Bank of America increased its total consumer lending by nearly 28%, to almost 23 billion dollars, topping Citibank, Wells Fargo, Security Pacific and Chase Manhattan.

In Rosenberg's vision, however, banking services will not just be offered to the affluent, the middle-class and the business customer. Well aware of the founding philosophies of A.P. Giannini, Rosenberg has also strongly supported a policy to serve low-income families. Bank of America's new Neighborhood Advantage Loan Program is designed to assist families in low-income census tracts with home purchases by offering lower down payments and lower income requirements.

In assessing Rosenberg's overall performance at BankAmerica Corporation since his return from Seattle in 1987, industry analysts credit him with the major role in the astonishing turnaround in the Corporation's financial condition. In 1987, BankAmerica had a net loss of 955 million dollars. By the end of 1989, the banking company enjoyed a net profit of over 1.1 billion dollars, and had built its capital position to the number one capital ranking slot among eleven major American banks.

The McKelvey awards were established in the name of Professor Judith G. McKelvey, former dean of the Law School, to honor outstanding achievements by Golden Gate University School of Law Alumni. Richard M. Rosenberg, MBA 1963, JD 1966, is truly one of the most deserving recipients of that award.

FEBRUARY BAR NEWS

GGU first-time takers achieved a bar pass rate of 79% on the February exam. The statewide average for ABA-accredited schools was 60% for first-time takers. The overall statewide average for first-time takers and repeaters was 43.7%.

Soviet Attorney Speaks at GGU



Soviet environmental attorney Tatiana Zaharchenko, surrounded by student members of the International Law Association.

Tatiana Zaharchenko, an environmental attorney from the Soviet Union, spoke to a packed crowd of G.G.U. School of Law students and members of the Bay Area legal community in March. Ms. Zaharchenko came as a guest of the Law School's International Law Association (ILA), a new student group formed this year that has garnered a lot of attention from law students and faculty alike because of its variety of speakers and programs.

Ms. Zaharchenko was one of 17 Soviet attorneys on a special American Bar Association sponsored program designed to immerse Soviet attorneys in American legal culture. The Soviet attorneys came to the U.S. last fall and have been spread around the country, interning at various law firms, and taking classes at law schools.

Ms. Zaharchenko, one of two Soviet attorneys based in San Francisco, interned both at Graham & James and, more recently, at Heller, Ehrman, White & McAuliffe. In addition, she has taken environmental law classes at Boalt Hall and has had numerous speaking engagements. She was recently featured on the TV program "60 Minutes" and has appeared in newspapers throughout the country.

During her presentation, Ms. Zaharchenko elaborated at length on the tremendous differences in the role of law in the U.S.S.R. and in the United States. She discussed the system of legal education in the U.S.S.R., the nature and role of the judiciary in the U.S.S.R. and the enormous obstacles that exist to "building a legal society" there because of the government's control of the law.

Ms. Zaharchenko also touched on topics of current interest in the news such as the secession of a Soviet Republic such as Lithuania, ethnic rivalry in the U.S.S.R. and the ramifications of the Chernobyl nuclear disaster. Ms. Zaharchenko was enthusiastically received by the audience, which asked a wide variety of questions.

The presentation and discussion featuring Ms. Zaharchenko was just one of many interesting events sponsored this past year by the International Law Association. Other speakers have included legal practitioners from England, Brazil, Hungary and Africa. Additionally, the ILA has sponsored a workshop on legal study abroad and is making plans for participating in the Jessup Moot Court Competition next year.

—Peter L. Balogh, Class of '91

Mike Rosas: Life in a State Attorney General's Office

At first blush, Michael ("Mike") Rosas (Class of '79) appears to be just what he is: a nice guy who is going to finish first. As an Assistant Attorney General for the State of New York, Mike has dived right into his first love: trial work. When he began with the state attorney general's office in February of this year, he was handed a golden opportunity. As one of the lead counsels for New York, Rosas defended Dr. Sheldon Landesman in the Veronica Prego case.

In *Veronica Prego v. City of New York*, the plaintiff, a physician in her early thirties, claimed that she was accidentally stabbed by a needle left by an intern in debris on an AIDS patient's bed. Dr. Prego claimed the intern had drawn blood and improperly discarded the needle. She further contended Mike's client, Dr. Landesman, violated her confidentiality when she tested positive for the AIDS virus.

Mike's role in this nationally publicized trial was to assist the trial attorney. According to Mike, "things got very inflammatory — there was a lot of mud-slinging during the trial." Mike was successful in having the case against his client dismissed.



Mike Rosas '79

Interestingly, Mike never took any litigation courses during his law school career. In spite of this, Rosas feels GGU prepared him for litigation. Mike revealed that "I credit Myron Moskowitz with sharpening my skills for trial preparation. He would literally force us to think and respond as if in a trial situation. I still have my criminal law note-

book from Myron Moskowitz's criminal law class!"

After law school, Mike describes his career as a "typical track," a characteristic understatement. Mike spent a few years practicing in family court, where he met his wife Ingrid, a social worker. Family court proved to be solid training ground for the budding attorney. There were days, Mike says, when he was calendared for five trials on the same day.

In addition to law practice, Mike entered the political arena with politicians such as Teddy Kennedy and Mario Cuomo. He was involved with Teddy Kennedy's 1980 presidential bid, eventually chaired Manhattan Hispanics for Mondale, and later worked as legal counsel in Governor Cuomo's office in Albany.

In his current position, Mike oversees cases in the attorney general's torts section. He enjoys his work, noting that "it's a great job. I enjoy trying cases that are first impression—at least to me."

Mike's future looks quite rosy. He hopes to expand his political horizons and perhaps run for a judicial seat. One gets the feeling this is definitely one nice guy who's going to make it.

—Tatiana Roodkowsky, JD'89

U.S. District Court Judge Addresses Class of 1990

The Honorable Thelton E. Henderson, U.S. District Court Judge for the Northern District of California, delivered the 89th annual Law School commencement address on May 26 to over 100 graduates of the Class of 1990. Judge Henderson drew heavily on his own background in the civil rights movement, challenging the Class of 1990 not only to serve their future employers and clients, but also never to lose sight of serving the public interest.

A graduate of Boalt Hall, 1962, Henderson began his legal career as an attorney in the civil rights division of

the U.S. Justice Department. During the mid-60's, according to a *Los Angeles Daily Journal* profile, he worked on voting rights cases in Mississippi, Louisiana and Alabama. A chance encounter with Dr. Martin Luther King, Jr., caused him to change jobs, but not his commitment to civil rights and the public interest.

Henderson had driven into a motel parking lot in Selma, Alabama, just as Dr. King was preparing to leave. King's car had a bad tire, so Henderson lent King his own rental car. That incident caused Alabama Governor George

Wallace to charge that the federal government supported King. Henderson resigned from the Justice Department and returned to Oakland to practice law.

Upon his return to California, Henderson pursued a broad and varied career in many areas of the legal profession. At one point he was directing attorney for the East Bayshore Neighborhood Legal Center in Menlo Park, supervising the delivery of civil legal services to the community. He consulted for the U.S. Commission on Civil

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New Rules About Assigning and Subletting Commercial Leaseholds

Recent amendments to the California Civil Code have a major impact on assigning and subletting in commercial leasing. The old common law rule was that the tenant could freely transfer his leasehold unless the lease prohibited it, but that the landlord could be unreasonable if the lease required her consent. Then came *Kendall v. Ernest Pestana, Inc.*, 40 Cal.3d 466, in 1985, which imposed standards of commercial reasonableness on landlord consent provisions and threw everybody into a tizzy. Now come CC§§1995.010 - 1995.270, undoing a lot of that case.

The new sections make it explicit that there can be restrictions on the tenant's right to transfer, and that they can even be absolute, i.e., totally denying the right to assign or sublet. Alternatively, there can be a clause requiring the landlord's consent, but there is not much legislative clarity on this point. The statutes provide that a landlord consent clause may be silent as to the question of standards (in which event reasonableness is implied), that it may expressly use reasonableness as a standard, that it may impose any other express standard (including sharing any

bonus paid by the transferee), but the statutes do not say whether the landlord can expressly reserve the right to be unreasonable (i.e., a "sole discretion" standard).

On the one hand, the statutes say that consent standards are "not limited to" those mentioned, which suggests that others — including even an unreasonableness standard — are acceptable. But on the other hand, an earlier version of the bill expressly authorizing an unreasonableness standard was deleted after having been approved in the Senate. (Talk about legislative cowardice!) So that issue will have to be litigated for us to know the answer. In any event, there is a price to pay for the right to be unreasonable. A landlord's right to recover rent (rather than merely a damage award of the difference between the rent and the rental value) pursuant to the right clause in the lease following an abandonment by the tenant depends in part upon the landlord having to act reasonably CC§§1951.4. Thus a landlord who demands the right to withhold consent unreasonably may find herself with a tenant who elects to abandon after being turned down, knowing that he is not liable for future rent (because

of the clause) and also knowing that he owes no real damages, since they could have been mitigated probably down to zero by accepting the proposed new tenant.

In most cases, I suspect that a landlord is better off with a clause giving her a share of the increased rents (plus reasonable grounds for rejection) rather than the right to act unreasonably. This will enrich her when profitable transfers are being considered and will not jeopardize her right to rents in default cases. For a tenant, the new sections reduce rights *Kendall* had given him, but the pressure this puts on the landlord to act reasonably in transfer cases will probably adequately compensate him for the loss. The new code sections are not solely prospective. They have varying degrees of applicability depending on whether existing leases were executed before or after 1983, and so should be of interest if you litigate such matters or do transactional work. The sections do *not* apply to residential leases, so that area remains up for grabs.

—Roger Bernhardt, Professor of Law & David Pouliot, First Year Law Student

DISTRICT COURT JUDGE CONTINUED

Rights, and worked with the Council on Legal Education Opportunity, the Carnegie Corporation and the Ford Foundation's Office of Public Education. For nine years he served as assistant dean of the Stanford Law School, administering the minority admissions program, teaching various courses, and assisting in development of the school's clinical program.

Such a career evolution provided the perfect background for his commencement remarks. He posed the question to the Class of 1990 as to whether law "can even continue to be called a profession, or whether it is increasingly forfeiting that right by its . . . obscene love affair with the billable hour." Henderson stated emphatically that lawyers, "more than any

other group in our society . . . are trained and equipped and have a professional obligation to serve the public interest . . ."

Citing remarks made by Judge Fern Smith at the 73rd annual meeting of the Legal Aid Society of San Francisco, Judge Henderson echoed Smith's sentiments that "the return of the legal profession to the human track is perhaps the most urgent item on the legal agenda." That humanity, he noted, is much more important than measuring performance by tallying up the number of billable client hours at the end of a year of practice.

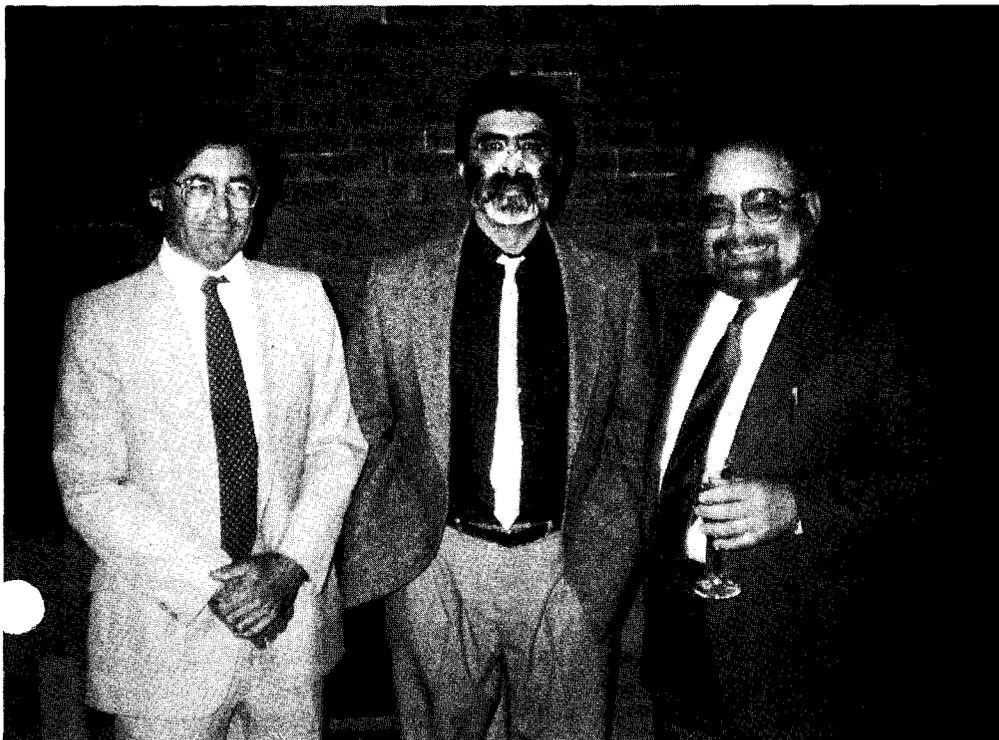
Referring to his own personal experiences in the 1960s, Henderson stated that there was a time "when a law school graduate, in interviewing for a job with a firm, would often insist upon

knowing what kind of pro bono program that firm had before seriously considering joining the office." Now he has found most young law graduates are "afraid to even mention the words pro bono for fear it will kill his or her chances of getting the job."

In closing, Henderson again challenged the graduates with his final words. "Let us not have to look back 20 years from now, and say that the opportunity to make our profession the noble and humane one it should be was a missed one, because we became good businessmen and not good professionals." Professionals, in Henderson's opinion, are those who successfully balance the competing interests of self, employer, client and the public.



Maggie Crosby, ACLU attorney, addressed the Fifth Annual Women's Association Student - Alumni reception on the subject of "The Issue of Reproductive Rights: Prospects in the '90's." The Alumni office thanks the following Women's Association members for co-producing the event: Carole Conn, President; Jill Bennet, Becky Heesch, Monica Rands and Mary Ann Warren.



Faculty, alumni and donors to the School attended a March reception in honor of the publication of new books by faculty members (l-r) Myron Moskovitz, Arturo Flores and Roger Bernhardt. Professor Moskovitz is the author of Cases and Problems in Criminal Law, published by Anderson Publishing Company. Law Library Director Flores has written Werner's Manual for Prison Law Libraries and, with Thomas A. Reynolds, Foreign Law: Current Sources of Codes and Basic Legislation of the World. (See related story in Faculty News.) Both books are published by Fred B. Rothman & Co. Professor Bernhardt is the author of California Mortgage and Deed of Trust Practice, published by CEB, and California Real Estate Finance: Case and Materials, published by Carolina Academic Press.

Alumni NOTES

Class of 1990

Jo Ann Coleman helped compile the second edition of the *Directory of Public Interest Law Firms in Fifteen Northern California Counties* which was published by the Public Interest Law Program in June. She was among five recent GGU grads to be certified as Public Interest Scholars at recent ceremonies by the Program. The others are **Jean Gifford** and **Constance Norton** (Class of '89), **Jeff Glick** and **John Karris**, all Class of '90.

Class of 1989

Tatiana Roodkowsky has joined the firm of Jaffe, Trutanich, Scatena and Blum. The San Francisco firm specializes in environmental litigation.

Class of 1988

Elizabeth A. Carluccio recently became a partner in her family's law firm, Carluccio & Carluccio in Hoboken, NJ.

Landlord-tenant attorneys **Daniel Frankston** and **Cheryl Frank** have recently filed a petition for review with the California Supreme Court, challenging the way the State Bar charges membership fees to new attorneys. They claim the Bar unfairly and illegally forces lawyers admitted in June to pay bar dues for the entire year. Earlier this year, the Bar Board voted to allow June admittees to pay only half the annual dues. But the change does not go into effect until 1991.

Class of 1987

James A. Haverkamp has opened his own office at the Ordway Bldg., 1 Kaiser Plaza, Suite 2360, Oakland, CA 94612. Previously he was with Day Law Corporation.

Julie Ann Candoli has become associated with the Oakland litigation firm of Martin, Ryan and Andrada.

Elizabeth Warf has recently become a deputy attorney with the Legislative Counsel Bureau in Sacramento.

Class of 1986

Tammy-Lyn Gallerani has joined the law office of Iris F. Mitgang in Walnut Creek. The firm emphasizes family law. Tammy was also elected to the 1990

Board of Directors of the Family Law Section for the Contra Costa County Bar.

Class of 1985

Diane Ravnik co-authored the lead article in the State Bar's Labor & Employment Law Section Spring 1990 publication, *California Labor & Employment Law Quarterly*. Her article was entitled "Drug Testing Developments." She also taught the Labor Law Clinic at GGU this past semester.

Class of 1984

J. Virginia Stevens has co-authored an article entitled "Toxic Wastes—Should the Ogre's Head be Raised on the Estate Tax Return?" which was published in the March/April issue of *Tax Management, Estates, Gifts and Trusts Journal*. She is an associate with Burnhill, Morehouse, Burford, Schofield & Schiller, Inc. in Walnut Creek and specializes in tax and real estate.

Steven Z. Feuer has had a sole practice in Oneonta, New York for the past three years. He writes that the county seat is in famous Cooperstown, NY, home of the Baseball Hall of Fame. Steven and his wife, Gail, are expecting their first child in August.

Gale Farlow was admitted to the State Bar of Georgia in May and is now an associate attorney with Lawrence & Ford in Eatonton, GA.

Class of 1983

Thomas Manning has left the San Francisco District Attorney's office after six years as Principal Trial Attorney, Narcotics. He will join O'Connor, Cohn, Dillon and Barr, where alumnus **Duncan Barr** ('70) is a name partner.

Class of 1982

Patricia Keane is now senior counsel with Blue Cross of California, in their Oakland office.

Leanna M. Dawydiak is not only a police officer with the San Francisco Police Department as was reported in the last issue of the *Forum*, but she is also an attorney for the Department as well. She represents the Department in Board of Appeals hearings and other miscellaneous personnel matters.

Class of 1981

Charles A. Pernice has opened a law office in Santa Ana that emphasizes

personal injury litigation. He will also handle general civil litigation matters. His address is Plaza Savings Building, 1820 East First St., Suite 140, Santa Ana, CA 92705.

Carol M. Kingsley, who also has a MBA-Tax from GGU, was recently elected president of the San Francisco Womens Lawyers Alliance which is a progressive bar organization aimed at addressing issues of women in the community.

Class of 1980

Last fall, **Richard Clark** was appointed to a four-year term on the Contra Costa Planning Commission. President of Danville Associates, Inc, which renovates and operates apartment buildings and offers investment services, he also is a part-time college instructor.

Along with 12 others, **Elliot Smith** of Berkeley was appointed a *pro tempore* judge by the State Bar to assist the State Bar Court with a burgeoning case load. He will be used on a as-needed basis.

Ann Van Balen was honored in May as a Volunteer of the Month by the San Francisco Bar Association's Volunteer Legal Services Program (VLSP). Ann was singled out as being instrumental in developing two new VLSP programs. One is the District Attorney Family Support Bureau Advice/Settlement Clinic, which aids indigent and low income families to negotiate settlements in their cases with the Family Support Bureau. The other is the "Attorney in Court" Program which offers advice in Family Court to unrepresented defendants on continuances, right to counsel and settlement. Ann volunteers for both, and manages to combine substantial public service activity with a successful family law private practice.

Class of 1979

Kathleen P. Reilly has returned to the Bay Area to accept a position as Assistant City Attorney with the City of Berkeley. Previously she had been a staff attorney for the Santa Monica Rent Control Board.

Bruce Nickerson was recently featured in the *San Jose Post Record* which profiled his ten-year-old practice which emphasizes gay rights. Bruce is a frequent speaker and lobbyist for the rights of people with AIDS, and recently

won a \$20,000 settlement for a client who was fired when his boss found out he had AIDS.

Class of 1977

Alice Smith is the Director of Legal Affairs for Atlantic Computers Plc, a billion dollar leasing/computer company in London.

Jessie Serna is president of the La Raza Lawyers Association, which recently held a benefit dinner to raise scholarship funds for Santa Clara County Hispanic seniors who plan a career in law. Jessie is in private practice in San Carlos, where she specializes in personal injury, wrongful death and medical malpractice.

Karen Kadushin was featured in a musical comedy review, "Briefs VII," a whimsical look at the institution of law in the 90s. The event was a benefit for Legal Assistance to the Elderly in San Francisco.

Class of 1976

Sara Simmons has been voted president-elect of the newly formed International Aviation Women's Association. Sara is with Wright, Robinson, McCammon, Osthimer and Tatum in San Francisco, and is also active in the Aviation Insurance Association. The new organization will present educational programs for women in the aviation industry.

Daryl Y. Dobashi has been elected by the lawyers in the Fifth Circuit (island of Kauai, HI) to be its first representative on the Board of Directors of the new unified Hawaii State Bar Association. Daryl also has a MS Tax ('78) from GGU.

Sue Hestor was included in *The Recorder's* profiles of "Twenty Who Made the Difference," released in December 1989, for her successful efforts to slow high-rise growth in San Francisco.

Class of 1975

Randy Harper has just been named one of the two heads of Advance Financial Group, a new real estate merchant bank in San Francisco. Formerly he was principal and managing director at Blackman Flynn & Co.

Melinda Stewart of San Jose was appointed last summer by Gov. Deukmejian to the Santa Clara County Superior Court. Since 1983, she had been a Superior Court referee. Previously she had her own San Jose law practice.

Class of 1973

Melvin Honowitz is one of the attorneys for San Franciscan Armand Ertag who is suing his former employer, Western Union, for discrimination based on sexual preference. The suit is based on San Francisco's 12-year-old gay civil rights ordinance. Western

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ALUMNI NEWS _____

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ALUMNI NOTES CONTINUED

Union contends the San Francisco law is unconstitutional because the California Legislature, in passing the Fair Employment and Housing Act has "occupied the field" in job and housing issues. According to the *San Francisco Examiner*, "A Western Union victory, if upheld on appeal, would invalidate at least five gay rights ordinances throughout the state, as well as local laws that ban other kinds of housing and job bias."

Class of 1972

Steven Brabant was recently appointed Regional Director for the West Coast of Citicorp Investment Real Estate, which is located in Los Angeles.

Class of 1968

Rufus "Jerry" Thayer was elected to the Town Council in Tiburon and appointed Vice-Mayor. He currently

serves as Chair of the Tiburon Planning Commission and is a staff attorney with the California Public Utilities Commission.

Class of 1960

In the winter edition of the *Alumni Forum* it was incorrectly stated that Frederick Mandabach was appointed to the Municipal Court in San Bernardino. In fact it was the Superior Court.

In Memorium

Janet Ryan (Class of '85) died of a broken neck in a tragic fall at her home June 8. The 30-year-old deputy public defender with the Contra Costa County Public Defender's Office apparently slipped on the balcony outside her apartment and fell against a third story fire escape railing, which gave way, plunging her 30 feet. Working out of Martinez on felony cases at the time of her death, Janet was praised by co-workers as enthusiastic and committed to her clients. Donations in her memory may be made to a memorial fund set up by her roommate, Ann Moorman, and sent to 2814 21st St., San Francisco 94110.

altering drugs and the right to the elderly to have informed consent regarding chemical restraints.

GGU Law Librarian Arturo Flores was the winner of the 1990 Joseph L. Andrews Bibliographic Award from the American Association of Law Libraries. He won the honor for *Foreign Law: Current Sources of Codes and Legislation in Jurisdictions of the World*, which he co-authored with Tom Reynolds. The annual award was established to provide professional recognition of significant printed contributions to legal bibliography.

In April, Myron Moskovitz gave a speech on landlord-tenant law to the Pro-Bono Project of Santa Clara County.

WASHINGTON, D.C. ALUMNI ALERT

Law School Dean Anthony J. Pagano and members of the faculty will attend a meeting of the American Association of Law Schools (AALS) in January 1991. While in Washington they hope to meet with as many law alumni as possible. Mark your calendar now and watch for your personal invitation in the mail this Fall.

Faculty NEWS

In June Mort Cohen was honored by the Patients' Rights Advocacy Service and the California Advocates for Nursing Home Reform. In separate ceremonies he was recognized for his recent successful law suits concerning the rights of the mentally ill to refuse mind-

GOING TO THE STATE BAR ANNUAL MEETING IN MONTEREY?

Call the Alumni Office, 442-7203, you are interested in meeting with Professor Judy McKelvey to learn more about recent activities at the Law School.

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