

11-2-2012

In Vino Veritas: A Dispatch from the City by the Bay

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Recommended Citation

Behan, Christopher W., "In Vino Veritas: A Dispatch from the City by the Bay" (2012). *Articles About GGU Law*. Paper 21.
<http://digitalcommons.law.ggu.edu/aboutggulaw/21>

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In Vino Veritas: A Dispatch from the City by the Bay

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If you declined your invitation to attend the inaugural Professor Bernie Segal Criminal Mock Trial Competition (In Vino Veritas) in San Francisco, you missed out. It has been an amazing experience so far. As I write this, I am sitting in a courtroom listening to the second of two superb opening statements in this morning's trial.

My students want to come back every year. Some of them are willing to defer graduation so they can compete here again. A couple may just deliberately miss their flight tomorrow.

So why is this such a good competition? The answer is simple: Wes Porter and his amazing colleagues, students and competition staff. Wes, as many of you know, is the director of the litigation center at Golden Gate University School of Law. He started this competition in honor of the late Bernie Segal, a trial and teaching legend who was a long time faculty member at GGU.

Here are a few features of this competition that I think are noteworthy:

1) The Case File. I will confess that the problem created uncertainty and frustration as we were preparing for the competition, but in execution, it worked well, and I am now a fan of the approach. It was a criminal trial, and Wes wrote the problem with two government witnesses and three defense witnesses. The defense could only call two of the witnesses at trial, and they did not have to disclose which two until after the prosecution had rested.

The different defense witness combinations essentially created three separate cases. This kept the prosecutors honest because they could not game the file for advantage, not knowing in advance what might happen on the defense case.

Also, Wes, a former prosecutor, wrote realistic characters. All were flawed and vulnerable on cross, and none knew enough about the events (a bank robbery) to carry the case on their own. There were no deposition transcripts--just inadmissible sworn or unsworn statements of dubious independent value. No experts, and no cops. Maddening to prep for, but fun to watch in execution.

2) The Scoring. Wes included two scoring innovations in this file that I thought were very helpful. The first was that each competitor had to receive a different score. Thus, no ballots with tie scores based on performance. The second was mandatory 1 point reductions for every instance of an advocate promising something on opening that was not delivered during the trial, and every instance of facts not in evidence on closing. This prevented prosecutors from trying to preemptively argue the defense case for fear they might be wrong. And it kept people from lying about the trial on close. I loved the scoring, frankly, and would love to see other competitions adopt similar ballots.

3) The Teams. If you've followed this blog at all, you know of the many efforts being made to improve the ethics, professionalism and civility at competitions. Wes reached out to a network of like-minded coaches, who brought teams that play by the rules. I didn't hear of any cheating allegations. I know most of the coaches at this tournament, and it was great to know in every single round we had that cheating, ethics or professionalism would not be issues to deal with. There are many advocacy styles that fit solidly within the rules. My teams, for instance, competed against two East Coast teams that were considerably more aggressive than the teams we usually encounter in the Midwest (competing against them was, for us staid Midwesterners, much like participating in post-Thanksgiving dinner political conversations with the family of my Philly-born-and-bred wife). But that is style, not substance. We saw nothing of the behavior that has made the reform movement necessary.

As a sidenote, to my good friend A.J. Bellido de Luna of Maryland: we will face each other again at a competition in the future. Next time, we will not get steamrolled!

4) The Social Events. Last night's reception was one of the best professional receptions I've ever attended. Tomorrow, the final round will be held in Sonoma. All teams will be bused there and given the opportunity to tour California wine country.

5) San Francisco. Of this, nothing more need be said. What a wonderful city and setting for a competition such as this one.

When the invitation comes next year, jump on it. You'll be glad you did.

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