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Litigating Circumstances
Golden Gate's litigation program builds a strong case

Also: Opposing arguments on Proposition 215
This is my last message as dean. It's been a great honor to serve as dean for the past ten and a half years, but I am ready to "pass the baton" to a new leader. The Dean Selection Committee has been meeting for almost a year, placing ads, making calls, sifting through résumés, and checking references. Six candidates, three of whom are deans at other law schools, have visited the school and met with faculty, students, and staff as well as with President Tom Stauffer. Perhaps by the time this issue reaches you, a new dean will have been appointed.

The greatest strength of the Law School is the quality and experience of the full-time faculty and its dedication to putting teaching first. It has been a real pleasure to work with such a fine faculty, and I look forward to continuing to work with them when I return to teaching. Many of the old-timers you know are still here, but many faculty members are new, having been hired since I became dean. As a matter of fact, of the forty faculty pictured in our recent bulletin, twenty-four were hired over the past ten years. This group has helped breathe new life into the institution while remaining true to our mission of training competent and ethical legal practitioners.

I congratulate Professors Maria Ontiveros, David Oppenheimer, and Cliff Rechtschaffen on recently achieving tenure at Golden Gate. All three are excellent examples of the outstanding teachers/scholars we have added to the faculty in recent years. Maria has written in the areas of gender, race, and harassment. She serves as chair of the Working Group on Cooperative Activities, National Advisory Committee for the NAFTA Labor Agreement. David has written extensively in the areas of affirmative action and employment discrimination. He serves on a number of important boards including the American Jewish Congress, Equal Rights Advocates, and the Society of American Law Teachers. Cliff has been responsible for developing our extensive environmental law curriculum, including the Environmental Law and Justice Clinic and our recently inaugurated LL.M. Program in Environmental Law. He has written on a number of issues including lead poisoning and hazardous waste management.

I also want to welcome four new faculty members to the Law School. Visiting Professor Terrence Chorvat teaches in the LL.M. Tax program. Visiting Professor Chris Okeke teaches in the LL.M. International Legal Studies program. Donna Ryu has joined Golden Gate as an associate professor and associate director of the Women's Employment Rights Clinic. Bruce Bongar of the Pacific Graduate School of Psychology is now a consulting professor at the Law School, with responsibility for helping to oversee the combined J.D./Ph.D. Psychology program.

The faculty has worked hard to keep the curriculum up to date and make sure our students possess all the skills needed to practice law. Several years ago, we expanded both our writing and litigation offerings. Our most ambitious reform is our new Integrated Professional Apprenticeship Curriculum (IPAC) honors program. Students admitted to this program spend summers at the Law School learning lawyering skills. They spend the fall semesters of their second and third years working full-time in law offices. In so doing, they experience the real world of legal practice and learn the importance of professionalism in the work environment. I hope that, if called upon, you will consider hiring one of these fine students to do an apprenticeship semester with you.

One of the best parts of being dean this past decade has been meeting with our remarkable graduates. I hope that I that will have the opportunity to continue to meet with graduates after I return to teaching.

Sincerely,

Anthony J. Pagano
Dean

Anthony J. Pagano
Dean
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"S
o, what hap-
pened to you when you got
to the forest?" asks the
prosecutor.

"So, there I am, going
through the forest, and sud-
denly I see this wolf," answers the wit-
ness. "I get, like, sorta
scared, you know. But the wolf
started talkin' real cool and
smooth. Pretty soon we're drinking a
little of Grandma's whiskey, and the
wolf and I
dally there for quite a
while. Of course,
that was before I knew he was a
murderer!"

Students in Professor Bernie Segal's Mock Trial
class are engaged in the trial of Leonard
Woolf, a
canine accused of murdering
Ida J. Riding
("Grandma")
and violating
the Interspecies
Dalliance Act in the woods with Rhoda
("Red")
Riding-Hood. As in
all trials,
there are opening
statements, direct examinations, and cross-exami-
nations—but this
unusual event is interspersed
with critiques and suggestions by observers.

A fairy tale trial is part of Professor Bernie
Segal's varied approach to helping law students
develop and sharpen their courtroom skills. In this
exercise, he wants students to realize the impor-
tance of telling a story well in court.

"Some lawyers are bound and determined to
make a trial a cardboard, tasteless mass," Bernie
tells the class. "Show us that you understand the
idea that a trial is the telling of a human event."

Developing a Program
When Bernie Segal joined the faculty at Golden Gate in 1972,
he realized that law students needed extensive courtroom expe-
rience, so he began to develop a broad program. Using as a
model the training methods he learned while teaching
National Institute for Trial Advocacy training courses, he
expanded one elective at Golden Gate to a program with more
than thirty-five courses.

He also created a Litigation Certification
Program, an opportunity for law students to
"major" in litigation.

Videotaping and critiquing are very much a
part of the program so students can see them-
selves progress. "Critiquing doesn't mean criti-
cizing," Bernie explains. "It means a construc-
tive, evaluative process. It's very important for
students to absorb what they've learned, to think
about mistakes they have made, to mull over the experience. It's important
to have time to talk it over with colleagues."

Diane Frankel (83), Environmental Team associate with Ropers Majeski
Kohn & Bentley in San Francisco, remembers the class format.
"The videotaping and critiques were really hard, but they were great. I didn't realize it
at the time, but the work helped me get over a lot of my fears."

The First Classes
Kimberly Cluff (97), staff attorney at California Indian Legal Services, took
the introductory course, Trial Advocacy, from Associate Professor Susan
Rutberg. "I was always a good public speaker, but you can't practice a
speech when you're examining someone. The class improved my speaking
technique and ability to think on my feet.

"I remember that one student had a nervous habit of rocking the podi-
um. One day, when he finished a witness examination Susan said, 'That
was great, Steve. But the jury is not going to hear a word you say because
they'll be afraid you're going to fall over.' By the end of the semester, Steve
had conquered his habit." And the rest of the students had learned not to
distract a jury, unless, of course, that is part of their strategy.

To give students more opportunities to try cases, Bernie created the
course Mock Trial, which focuses on the trial experience. This course is for
students who want to reach a more advanced level or want to compete.
In an early assignment, students memorize and perform speeches by historical figures such as Carrie Chapman Catt, Martin Luther King, Jr., Chief Seattle, and Elizabeth Cady Stanton. The speeches are delivered live, then critiqued by Bernie and volunteer alumni. “Use your voice. It’s a great tool,” Bernie tells the students.

In other assignments, individual students are videotaped examining witnesses and completing other exercises. Other students in class react as opposing attorneys while viewing the video. In addition, Bernie periodically pauses the tape to analyze a technique.

Students try cases at least four times over a semester. In even years, the class takes on criminal cases; in odd years, civil cases.

Roxy Hariri (96), deputy district attorney for Humboldt County, believes Mock Trial prepared her so well that “when I went to work I had no problem doing a case right away. Actually, Bernie made me more nervous doing mock trials than I am in the real trials I do now.”

Criminal Litigation
Bernie believes that the Criminal Litigation course now taught by Susan Rutberg “is probably the most extraordinary course of its kind in the country.” In this course, a “real” crime is committed, and students do everything from the arrest through trial. Instead of giving students scripted cases, the professors have other students enact “real” crimes (usually robberies or purse-snatchings) in the alley behind the school. The students in the class are not present. Instead, student actors stage the crime: “Victims” are robbed, they report the crime to student police officers, and student suspects are arrested.

The “Personality” of the Program
When asked about the Golden Gate litigation program, graduates invariably mention Bernie Segal, praising him for his energy, uniqueness, knowledge, humor, and encouragement.

According to Craig Singer (89), deputy district attorney for Fresno County, “Bernie Segal is with me every day that I walk into the courtroom, from my personal style to my belief that when I walk in, the courtroom is mine. When I go into a courtroom and see how lawyers handle themselves with clients, judges, and colleagues, I realize how an alum of Bernie’s program I learned how to be a REAL lawyer, not just how to file motions.”

Sole Practitioner Bill Panzer (88) remembers Bernie’s forceful personality. “Once, during preparation for a Mock Trial competition, one witness didn’t arrive, so Bernie sat in as witness. The other attorney was on a roll, and I felt I had to do something to slow him down, so I made a hearsay objection. From the witness stand, Bernie scolded, ‘Not offered to prove the truth of the matter! Sit down, Panzer!’ I tried to stay in character and said to the judge, ‘Your Honor, I ask that the witness be admonished…’ at which point Bernie interrupted, saying, ‘Shut up and sit down!’ The judge looked at Bernie, then at me, and shrugged helplessly. I sat down.”

Bernie hears from former students all the time. “Someone called me recently and said, ‘Bernie, I was in trial trying this case, and I could hear you yelling in my ear. I take it as a compliment that I’m a student’s Jiminy Crickett.’”

The students in the class are divided into prosecution and defense teams, each team litigating one of the cases all semester. The prosecutors read the police reports, decide what charges to file, and file complaints. The defense lawyers talk to their clients and file bail motions. Attorneys appear at arraignments, bail hearings, probation violation hearings, and preliminary hearings. Sometimes they stage a lineup. Court reporting students create transcripts of preliminary hearings. The final trial is held at the courthouse, where a practicing lawyer acts as the judge.

One year, Susan met in advance with the actors playing defendants. She asked some of them to find a lookalike friend to commit the crime instead. That year, of the five defendants, only three had committed the crimes, although

A Student Becomes a Teacher
Associate Professor Susan Rutberg (75) was one of the first graduates of the Golden Gate litigation program, and now she is one of its instructors. “In Bernie’s Trial Advocacy class, I developed confidence because he encouraged me to believe that I could do the work,” she says. In her third year in law school, Susan held a work-study job at the Bayview-Hunters Point Community Defender’s Office. She credits her classroom experiences doing mock examinations and arguments for her success working with lawyers in the work-study job and her later successes in the San Francisco Public Defender’s Office.

“The model I follow in my teaching is Plan, Do, and Review,” Susan explains. “One, you think about the task, isolate and identify your goals, and make a plan of how to achieve those goals. Two, you go out and try it. Then, three, you reflect and evaluate, preferably with another person, so that you can improve. That’s why we call it the ‘practice’ of law.”
in all cases they said to their lawyers, "I didn't do it."

The outcome? Of the three innocent defendants, one was found guilty. Of the two guilty defendants, one was found guilty.

"Two students that year planned to be prosecutors, and they were completely and absolutely convinced of the guilt of their defendants," says Susan. "Then it turned out that they were prosecuting innocent people. It was a very good experience for shaping future prosecutors.

"But this is also a wonderful experience for everyone involved. The events are based on people's real recollections, so it's as close to real life as you can get."

**Civil Litigation**
The litigation program started with criminal law, then expanded into civil litigation. In Civil Litigation: Pre-Trial Phase, students explore the critical pre-trial aspects of a civil lawsuit. They interview clients, formulate strategies, develop case theories, and draft case pleadings and motions. To get experience in all aspects of fact investigation, they interview eyewitnesses, draft interrogatories, take depositions, and develop discovery plans. The course ends with a pre-trial settlement conference.

Mark Vickness (97), associate with Jones Clifford McDevitt Naekel & Johnson in San Francisco, appreciates what he learned in Civil Litigation.

"Bernie carefully reviewed how to draft interrogatories, then offered to critique one. I volunteered and learned that I had done them completely wrong in every way: Bernie tore them apart. The following summer, I worked as an intern at a litigation firm in San Francisco. When I was asked to draft interrogatories, I was really glad my work had been reviewed in class. I completed the interrogatories, and the associates in the firm liked what I wrote.

"The interesting thing is that I was doing this internship with two students from Golden Gate and one from an Ivy League school. When I offered my interrogatories as a sketch they could follow, the two Golden Gate students said, 'Great! Thanks!' The other student, however, looked at me quizzically and said, 'Gee, interrogatories. I'm sure we learned what they were in civil procedure....' That student had no idea how to draft one."

**Other Electives**
In the Lawyering Skills courses, students learn interviewing, counseling, and negotiating skills through simulated exercises and mock interviews. In one version of the course, Susan

"I love the students who do this. I love them for having the courage. I know how it feels. I have never forgotten my first trial, second trial. The sense of total inadequacy, total fear."

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Professor Bernie Segal

**COMPETITIONS**
Golden Gate entered the first national mock trial competition in 1975 and won the Western Regional National Mock Trial Championship. The Law School has entered these competitions every year since. For each competition, a team must try a case five to seven times. But before they even get to the competition, each team com­pletes ten to twelve trials.

Golden Gate has won regional mock trial championships eight times. The Law School's teams have captured gold, silver, and bronze medals in numerous other trial competitions. In the 1997-98 year, one Golden Gate team won the Western Regional Championship of the ABA's National Mock Trial Competition. Another team won the Western Regional Competition of the ATLA Student Trial Competition and went onto the national finals in Washington, DC, where it placed eighth out of twenty-six teams.

In fall 1996, Alison Hardyman (98 Dec) was on a mock trial team that made it to the semifinals. "It was probably the hardest I've ever worked and the most fun I've ever had," she says. She is currently an attorney in the law offices of Mark A. Berg in Auburn, CA.

Suzanne Cohen (97), deputy district attorney for Riverside County, was the first part-time evening student to earn a Litigation Certificate at Golden Gate. She remembers Stephen Lightfoot (92) coaching her mock trial team. "He was always trying to teach us how to ask good questions. He used to crumple sheets of paper and throw them at anyone who..."
HOW TRAINING LAWYERS HAS CHANGED

From an Interview with Professor Bernie Segal

"The method of training trial lawyers when I became a lawyer was OJT—on the job training. If you wanted to do criminal cases, you went to the criminal court assignments court and gave your business card to the clerk, then waited. When the judge found a case that the public defender was unable to handle, he would ask the clerk ‘Who is available?’ Without anyone checking whether you were the least bit competent, your name was called, and you’d have a client! God knows what butchery you committed.

“Nothing ever told you how good or bad your were. Occasionally, you’d get in some kind of mess, and maybe in the process of untangling it, you’d learn something. Occasionally, older lawyers who saw you suffering would come up and say something like, ‘If you would do such and such and such…’

“As long as we had the poor to serve as ‘legal cadavers,’ you could go and practice. Over a period of time by working against more experienced lawyers, you’d begin to understand. But that method of learning is not available anymore—the poor no longer wish to sacrifice for the law profession. In addition, the Constitution has been reexamined; all people, no matter how poor or desperate they are, are entitled to the effective assistance of counsel. It’s a violation of the Constitutional right of the accused to be given a lawyer who doesn’t know his or her front side from back side.

“When I came to Golden Gate, I began thinking about all the students who were interested in a criminal law focus, and I realized how totally unprepared they were and that they couldn’t do the things that I did to learn.”

And the Golden Gate litigation program was born.

Rutberg teaches the skills in conjunction with the Homeless Advocacy Project, a program of the Volunteer Legal Services Project. “The students get classroom training from me and also a crash course in poverty law. Then they go to the HAP office on Market Street and meet real clients with problems ranging from needing a place to live because they’re facing eviction to having a warrant for their arrest because they didn’t appear in court for a ticket for sleeping in the park.” The students interview the clients, draw on experts who are also offering their time, and then help the people solve their problems. In 1996, Golden Gate was awarded the Bar Association of San Francisco’s first-ever Outstanding Law School in Public Service Award for this course.

Through the Criminal Litigation Clinic, students work as externs with the local public defender’s office or the federal public defender. Students in good standing who have taken certain classes can become certified by the California State Bar to appear in court under the supervision of an experienced lawyer.

“Of the courses I teach in the litigation program, I think the Criminal Litigation Clinic is the most valuable,” says Susan Rutberg. “Students are able to put it all together while still under the supervision of an experienced lawyer.”

Returning to “Little Red Riding Hood”

After a two-and-a-half-hour trial, Leonard Woolf is found guilty. Bernie’s students next year may see Leonard Woolf on the stand again, or perhaps another familiar fairy tale character, as Bernie Segal plans to expand his repertoire to include “The Three Little Pigs” (a wrongful death suit against housing contractors) and “Hansel and Gretel” (Department of Social Services prosecuting the father and step-mother for abandoning their children in the woods).
What Did Proposition 215 Do?

In the November 1996 election, California voters approved Proposition 215, known as the "Compassionate Use Act of 1996." Since the initiative passed, many questions have arisen concerning the legality of medicinal marijuana. We asked two people on opposite sides of the issue to write their perspectives on the meaning and results of Proposition 215.

Medical Marijuana Wars: The Empire Strikes Back

by William Panzer (86)
Sole Practitioner and Co-author of Proposition 215

When Proposition 215 passed with 56% of the vote in November of 1996, some viewed it as reasonable and compassionate. Others saw it as a thinly disguised "Trojan Horse" leading inevitably to drug legalization. Why such disparate views? The question of medical marijuana has long been examined in two separate and vastly different forums, those of science and politics. As a result, it is difficult to discern truth from myth, and science from propaganda.

The medicinal use of marijuana has been recorded for more than five thousand years. Marijuana was first listed in the U.S. Dispensatory in 1854 and remained in common medical use in this country until the 1937 Marihuana Tax Act. Numerous comprehensive studies of cannabis have been commissioned since then, and these studies have two common elements: they all concluded that the perceived dangers of marijuana were greatly exaggerated or non-existent, and they all were routinely ignored by the government. Even the Nixon-appointed Presidential Commission on Marihuana and Drug Abuse found no basis for placing marijuana in Schedule I, which has three requirements: the drug has a high potential for abuse, the drug has no currently accepted medical use in the U.S., and there is a lack of accepted safety for its use under medical supervision.

In 1988, after two years of hearings, the DEA's own administrative law judge, Francis L. Young, found that

Marihuana, in its natural form, is one of the safest therapeutically active substances known to man... One must reasonably conclude that there is accepted safety for use of marihuana under medical supervision. To conclude otherwise, on the record, would be unreasonable, arbitrary, and capricious.

In recent years, doctors and patients have re-discovered cannabis's many medicinal uses. Cancer patients inhale cannabis prior to chemotherapy to alleviate extreme nausea. People suffering from the wasting syndrome associated with AIDS/HIV use cannabis to stimulate appetite and gain life-saving weight. Glaucoma patients rely on cannabis to lower intraocular pressure.

Yet, in the face of increasing evidence of marijuana's medical efficacy and safety, the pleas of physicians and patients are ignored by the government. Only eight patients in the nation receive medical cannabis legally under federal law. They are participants in the federal Investigative New Drug program that provides each patient with more than one-half pound of medical marijuana per month. The program has been closed to new applicants since 1992.

Proposition 215, codified as Health & Safety Code § 11362.5, seeks to protect three groups: doctors, patients, and caregivers. A doctor may lawfully recommend or approve the use of cannabis for medical purposes. A patient with a doctor's recommendation or approval, and suffering from one of the conditions listed in the statute (cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine) or other serious illness, may possess and cultivate cannabis for medicinal use, as may the patient's designated caregiver.

The statute requires a "recommendation or approval" rather than a "prescription." This wording was chosen to avoid conflict with federal law. Additionally, a prescription serves two separate purposes. It advises the patient of the doctor's recommended treatment and instructs the pharmacist to dispense the particular medication. In the case of medicinal cannabis, no patient would go to the drug store to get a "prescription" filled, rendering the second purpose moot.

The statute intentionally does not specify how much cannabis a patient may possess or cultivate. A patient using medical cannabis may use as little as one or two inhalations occasionally for a condition such as asthma or up to ten or more cigarettes a day for a condition such as glaucoma or the wasting syndrome associated with AIDS/HIV. It was the consensus of the drafters that the amount needed by a particular patient should be determined by patient and physician, not by the police.

Among the most vocal opponents of Proposition 215 has been Attorney General Dan Lungren, who has championed an extremely narrow interpretation of the statute. For example, in the first 215 defense, the defendant used cannabis to help control epileptic seizures. The prosecutor's position? Epilepsy wasn't a "serious illness"!

The attorney general's office has called for the prosecution of patients possessing more than one ounce or two plants. Mr. Lungren has identified no medical basis for these arbitrary amounts, which are significantly less than the medical standard of one-half pound per month established by the federal Investigative New Drug program.

Some district attorneys have taken to charging violations other than possession (H&S § 11357) or cultivation (H&S § 11358). For example, some patients have been charged with possession in a vehicle (Veh. Code § 23222) or transportation (H&S § 11360), on the theory that the statute offers no protection to patients charged with any offense other than possession and cultivation. Some courts have blocked such tactics, recognizing the absurdity of finding, for example, that a caregiver may lawfully possess cannabis for a patient, but violates the law when "transporting" marijuana by walking down a hospital corridor to deliver the medicine to the patient.

Other courts have colluded with prosecutors about limiting the scope of the new law. In San Mateo County, a patient was bound over for trial when the court agreed with the prosecutor that the law did not afford protection for a charge of cultivation, this in spite of the fact that the statute expressly exempts cultivation. (continued on page 8)
Proposition 215: An Affirmative Defense

by John Gordnier
Senior Assistant Attorney General for the State of California

The proponents of Proposition 215 and much of the public assumed that the passage of the measure “legalized” the possession and cultivation of marijuana under certain circumstances. They were wrong.

There are two or three players in every medicinal marijuana case. The simplest combination is a case that involves the patient and his or her physician. A more complex situation arises when the patient is “...too ill or bedridden...” (see People Ex. Rel. Langren v. Peron (1997) 59 Cal.App.4th 1383, 1394) to obtain marijuana for himself or herself. In these cases, a third party, the primary caregiver, joins the roster of players.

The real issue that Peron presents is the distribution of marijuana. Section 11362.5(b)(1)(C) states that one of its purposes is “to encourage the federal and state governments to implement a plan to provide for the safe and affordable distribution of marijuana...” The court in Peron correctly stated:

If the statute authorized the sale or affordable distribution of marijuana to patients other than by personal cultivation, there would be no need to “encourage” the governments to implement such a plan.

[At 1394, emphasis added]

This puts to rest the myth that marijuana clubs or other distribution efforts are authorized by § 11362.5. Likewise, it puts to rest the theory that cultivation by distant growers is somehow made legitimate because some of their product is purchased by clubs or other drug distributors and then sold to patients through drug houses or on the street. The court said:

The statutory language limits the patient’s access to marijuana to that which is personally cultivated by the patient or the patient’s primary caregiver on behalf of the patient. [Peron at 1394, emphasis added]

Personal cultivation, real hands-on effort, by the patient or bona fide primary caregiver, is the only distribution § 11362.5 protects. Possession by a patient or primary caregiver can be defended against using 11362.5. However, the distributor who provided marijuana to the patient or primary caregiver has no defense. (See Peron at 1395 and 1402.)

In other words, Section 11362.5 merely added an affirmative defense (People v. Trippet (1997) C.A. 4th 754).

Section 11362.5(d) mentions only two marijuana offenses as susceptible to assertion of the limited affirmative defense. These are simple possession (Health & Saf. Code, § 11357) and cultivation (Health & Saf. Code, § 11358). Both Trippet, supra, and Peron, supra, have held that the drafters intended that no other sections would be subject to the affirmative defense (Trippet at 1549-1550; Peron at 1392).

“Current medical need” is the concept introduced by the Trippet court in an effort to deal with questions relating to the quantity that can be possessed and the “form and manner” in which that quantity might be possessed (Trippet, at 1549). It is a “factual question” for the trier of fact or, in an in limine context, the trial judge. Even more helpful, however, is the observation that one relevant type of evidence would be the recommending or approving physician’s opinion regarding the frequency and amount of the dosage the patient requires (at 1549). Generally, it will be difficult, if not impossible, for a physician to testify with respect to the frequency and dosage because of variations in THC content and the fact that there simply is no accepted standard marijuana dose for a given illness. Indeed, most people who are proponents of marijuana for medicinal purposes emphasize the value of smoking marijuana because it permits the smoker to “self-titrate” the amount. In other words, the patient determines the dosage and the frequency. Viewed in this light, the claims of proven medical value of marijuana are shown for what they truly are—unproven, anecdotal assertions.

Defense attorneys will assert that § 11362.5(b)(1)(B) means that a client/patient who has a physician’s recommendation or approval cannot be prosecuted. The assertion is that § 11362.5 “legalizes” possession and/or cultivation by patients or primary caregivers. The courts have clarified this question. People v. Trippet (1997) 5 Cal.App.4th 1532, modified at 57 Cal.App.4th 754, found:

Because the statute (§ 11362.5) provides a limited affirmative defense, the burden is, of course, on the defendant to raise the defense and prove its elements. [Emphasis added; see also Peron, supra, at 1390]

The person claiming patient or primary caregiver status still commits the crime of possession or cultivation and can be charged. The issue is whether he or she can prove an affirmative defense that precludes conviction for the crime.

Much attention has been devoted to patients and primary caregivers. The simple truth is that the most important player is the physician. There can be no limited affirmative defense without a valid recommendation or approval from a physician.

The best starting point in describing the physician’s duty is Conant v. McCaffrey 172 F.R.D. 681 (1997 N.D. Cal.). The person tendering a recommendation or approval has the burden to prove to the court two things: (1) that a bona fide physician-patient relationship existed at the time the recommendation or approval was given, and (2) that the recommendation or approval was based on the physician’s best medical judgment (see 693). If either of these bases is not proven, there is no recommendation or approval, and there (continued on page 8)
PANZER

In the first of only two Proposition 215 cases yet decided by the Court of Appeal, People v. Trippet (56 Cal.App.4th 1532 (1997)), the attorney general's office asked the court to rule that the new law created a "limited affirmative defense," rather than a bar to prosecution. Though this issue had never been argued in the briefs or orally, the Court filed a modification six weeks after the original ruling, according to the attorney general's request. The statute, however, unambiguously states its purpose:

To ensure that patients and their primary caregivers who obtain and use marijuana for medical purposes upon the recommendation of a physician are not subject to criminal prosecution or sanction. (H&S Code § 11362.5(b) (1) (B), emphasis added)

Thankfully, some California communities have acted to protect patients and caregivers possessing. Cities such as San Francisco, Oakland, Fairfax, and Santa Cruz have expressed support of local medical cannabis dispensaries. Oakland has adopted police department guidelines in accord with the medical use levels established by the federal Investigative New Drug program.

While some police agencies have accepted the statute in the spirit intended by the voters and have worked with patients, doctors, and dispensaries towards safe and effective implementation, others have taken the position that Proposition 215 is not really law and may be impudently ignored.

One of Proposition 215's stated purposes is "to encourage the federal and state governments to implement a plan to provide for the safe and affordable distribution of marijuana to all patients in medical need of marijuana." Little if anything has happened at either the federal or state level in this regard. Rather, the federal government is seeking an injunction to shut down several dispensaries in Northern California. One defense argument in the case is that the government cannot establish a rational basis for placing marijuana in Schedule I. The government counters that the court must accept the "truth" about medicinal cannabis as determined by Congressional vote, instead of by science.

The defendant dispensaries are requesting an open-minded review, which will reveal that cannabis is one of the most studied drugs in existence, having been researched far more than most drugs available in the drugstore. This research firmly establishes that marijuana has clearly proven medicinal value and is remarkably safe.

Several hundred people die from aspirin each year, yet there has never been a recorded death from marijuana toxicity. Unfortunately, in a social atmosphere permeated by the "war on drugs," marijuana is politically poisonous. It is a shame that a system that allows for the medicinal use of substances such as cocaine, morphine, and even thalidomide still expends effort and tax dollars on putting sick and dying patients in prison. We should all know better.

William Panzer, a sole practitioner in Oakland, California, co-wrote Proposition 215 and has represented various individuals and medical cannabis dispensaries throughout California. He earned his B.A. in Political Science from University of California at Berkeley in 1982 and J.D. from Golden Gate University School of Law in 1986.

GORDNIER

can be no limited affirmative defense. In other words, the physician must recommend or approve based on professional judgment of patient need rather than merely permit his or her professional standing to be used by the patient to obtain marijuana.

The prosecution clearly has a right based on the language of section 11362.5, "...recommended by a physician who has determined that the person's health would benefit from the use of marijuana. ..." as interpreted by Conant, to discovery of all of the physician's medical records regarding that patient and the medical condition for which the physician has recommended or approved marijuana. Such records are relevant to the nature, duration, and purpose of the relationship between the physician and patient. They will disclose what other legally and professionally accepted methods of treatment have been attempted before recommending or approving marijuana. These facts are relevant to whether the physician is actively treating the patient or merely helping a person obtain marijuana.

A physician cannot be used to ratify a pre-existing use. Simply put, if a person's use or cultivation precedes the physician's recommendation or approval, § 11362.5 does not apply.

The adoption of § 11362.5 has been dealt with effectively by California prosecutors and law enforcement officials. There has been a good faith effort to give effect to the intention of the voters within the narrow confines of the statute those voters approved. Care has been given to avoid creating "poster children" by imposing zero tolerance policies.

The federal government continues to be the primary factor in marijuana policy. It is the federal authorities who determine the nature and pace of research that would put to rest the question whether marijuana has any medical benefit. The attorney general and the California District Attorneys' Association have supported the funding of carefully controlled research as provided in Senate Bill 535 (Vasconcellos). This bill died on the floor of the State Assembly.

Those who harbor the hope that they can use a poorly written initiative as a way to "legalize" large-scale drug distribution operations have failed:

At oral argument, respondents' counsel introduced the alleged lay drafter of Proposition 215, seeking permission for him to address us and present oral evidence of his intentions when he drafted the initiative in question here. We decline the offer because the drafter's secret intentions, not communicated to the voters, are not legally relevant in determining the intention of the voters in passing the initiative. If there is arguable disparity in this poorly drafted initiative ... this is an inherent feature of the initiative as it was presented to the voters. [Peron, supra, at 1388 fn. 10]

The central point is that those who have criticized the careful approach of prosecutors and law enforcement as an effort to "thwart the will of the voters" overlook the fact that the voters approved a narrow law that established only an affirmative factual defense.

John Gordnier, senior assistant attorney general in the California attorney general's office, is one of the attorneys assigned by Attorney General Dan Lungren to prosecute Proposition 215 cases. Mr. Gordnier received his B.A. in economics from the University of Washington in 1966 and J.D. from the University of Wyoming in 1969.
Outside "the Law"

It’s been said that a law degree prepares people well for any profession they choose to pursue. This issue of ClassAction profiles three Golden Gate graduates who have found success in areas outside the traditional practice of law: Tracey Edwards, who credits fortune and preparation for her success at Deloitte & Touche; Tom Bomar, who thrives on putting together complex business transactions; and Bob Curtis, who turns around troubled companies and manages organizations that reflect his personal values.

By Susan Worth

Tracey Edwards
Class of 1981 (LL.M., 1984)

Tracey Edwards is a woman of the world. She began her life on a foggy summer day in London in 1952 and hasn’t stopped traveling since. “My parents are both fairly adventurous individuals who were willing to live in lots of places and so exposed us to many incredible things,” Tracey explains.

Although she remembers little of her early life in London, Tracey vividly recalls living with her grandparents in Vancouver, British Columbia, along with her mother and twin brothers, while her father served as one of the country’s first military advisors in Saigon. “Can you imagine living with two loving, doting grandparents who didn’t think they’d see you again for a long time? It was like one big party. Plus, my grandfather bought old ocean liners and converted the scrap back into elemental units, so I got to see very cool blueprints and visit his fascinating plant. It was great fun!”

After Tracey’s father returned from Saigon in the late 1950s, the family moved to the United States. At the Fort Monroe Continental Army Command near Langley Air Force Base, NASA scientists were working fervently to launch the first flights into space. “I was lucky to be in such an exciting place, at such a momentous time,” she says. “Alan Shepard, Gus Grissom, John Glenn, Scott Carpenter, Gordon Cooper—they were all there. We still have my childhood Mercury scholastic book, which was signed by all seven of the original Mercury astronauts.”

From the thrills of NASA, Tracey was catapulted into the turbulent political environment of the nation’s capital when her father was transferred to Fort Belvoir in the early 1960s. “I lived in Washington during a critical period for our country. Even though things were quite tense with the Cuban Missile Crisis and Bay of Pigs, the Civil Rights Movement was in full swing, and it was very exciting, as a young adolescent, to observe these significant political events firsthand.”

By the end of the 1960s, Tracey’s family had come to California.
Tracey Edwards (continued)
She was a 19-year-old biology major at UC Santa Barbara when she met her future husband, Morgan Hoff. "It's hard to believe that Morgan and I have been together twenty-six years. He is one of the brightest people I know. He is my best friend, my life partner, and I would rather be with no other person," Tracey says. While Morgan pursued a master's degree in physics, Tracey enabled me to advance quickly within the organization. "I believe that anybody's success is driven by both the people they work for and the people who work for them." — Tracey Edwards

Tom Bomar
Class of 1974

There is a sense of nostalgia, if not a genuine Law School legacy, about the Tahoe City house that Tom Bomar rented during the winter of 1974 while studying for the bar. On one occasion, "Tony Pagano, our tax teacher, arrived on a stormy night with one of his kids. Suddenly, about eleven o'clock, Tony was overwhelmed with excruciating pain. I loaded him and his daughter into my 240Z and we headed for the hospital, 20 miles away, in a raging blizzard." Tony recovered from the kidney stone, and Tom managed to ski forty to fifty times that winter and still pass the bar exam.

As an undergraduate, Tom enrolled at Rensselaer Polytechnic Institute, a small engineering school, in part because "in those days after Sputnik, everyone was supposed to be a scientist" and in part because the small school offered him the opportunity to play football and basketball. "We weren't very good, but we sure had fun!"

After graduating with a degree in economics, Tom sold computers for IBM in New York for about a year, until Uncle Sam sent him "Greetings!" and an invitation to relocate to the Pentagon. There, under the supervision of a bird colonel, Tom spent two happy years as a systems analyst in the telecommunications field. Looking back, he laughs, "I should have stayed in that business; it was the forerunner to the Internet!" His project progressed smoothly until a contract dispute between the Army and IBM brought everything to a halt. "At that point," says Tom, "nothing could happen until they brought in the lawyers. The lawyers figured out how to make things work again." By the time he finished his stint in the Army, Tom had decided to go to law school.

He had become enamored with San Francisco when he was on a one-month assignment at the Presidio, so he accepted Golden Gate's offer to attend law school. By his second year, however, he had run out of money. He went to work for Honeywell, where he sold Cost Plus Imports its first computer. He continued law school full-time, but with some distractions. He and fellow law students John Barg, Bill Gwire, and Rem Barnard set up a table outside classroom doors so they could hear what was going on while they played marathon bridge. (Today, twenty-three years later, these four still meet once a year to reminisce and play bridge.)

In 1974, despite having had "one of the lowest undergrad GPAs in the law school," Tom graduated seventh in his class, with a joint J.D./M.B.A. degree. In the midst of the Watergate era, he was recruited to the Department of Justice's Criminal Division in Washington, DC, where he defended lawsuits against DOJ officials. In 1975, during an extraordinarily muggy August, he realized that he missed the West Coast and wanted to work in business law, so he returned to the Bay Area.
Back in San Francisco, he teamed up with former tax professor Bill Taggart and practiced tax law until he decided to run for supervisor in 1977. Despite "calling in all the debts I had in the world," and walking precincts for hundreds of hours, Tom lost the election in a three-way race. "But," he smiles happily, "through that effort I met two of the most important people in my life: Merritt Sher, who became my mentor and recruited me to the real estate business, and Carole 'CJ' Westrick, also a Golden Gate Law School graduate (77), who later became my wife."

Over the past twenty years, Tom has worked on a variety of exciting projects. He has worked with Merritt Sher developing "power centers" (shopping centers built around dominant retailers) and buying run-down shopping centers, upgrading them, and selling them. He has also been a financial planner and a mortgage broker.

Tom is happiest putting together deals. "I love the challenge of pulling together a complex mix of land acquisitions, approvals, contracts, and investors so that everyone wins. That's what I was made for!"

**Bob Curtis**
**Class of 1974**

His back throbbed, he was soaking wet, and he had started to get used to the dank, musty smell of the humid jungle. After twelve hours on a bus, almost two hours in a bush plane, and three hours in a dugout canoe, Bob Curtis reached his destination: a remote part of the Amazon region of southeast Ecuador. Here, an isolated indigenous tribe of 3,500 Achuars live totally dependent upon and in complete harmony with their environment—nearly two million acres of pristine tropical rainforest in one of the most biologically diverse regions of the world. As director of the nonprofit Pachamama Alliance, Bob wanted to meet and see, first hand, the people and environment he was committed to learn from and to help.

Bob's adventure into the rainforests of Ecuador actually began many years earlier, when he was a young boy growing up in Nashua, New Hampshire. Even then, he had a sense of "the mystical, spiritual side of life" and an intuitive empathy and desire to help others. After he began law school in 1971, his desire to help others led him to the San Francisco Legal Aid Society, where he was soon working thirty hours a week in addition to attending law school full-time. By his second year, he was also "generally helping out" at the nearby est offices, whose philosophy and mission he fully embraced.

When he graduated from law school and passed the bar in 1974, Bob decided to remain at est as in-house legal counsel "for a year or so." Twenty years later, he looks back on an extraordinary fifteen-year professional career with est and other organizations that focus on human potential. His specialty is the international expansion of educational business and professional development seminars, and he has generated millions of dollars in revenue for his employers.

In 1990, when Bob began looking for new opportunities, some friends brought to his attention Phoenix Network, Inc., then a young telecommunications firm. After a three-month analysis of the company, Bob recommended new leadership. The owners persuaded him to direct the organization for a few months, until a new CEO could be secured. Once in place, however, Bob's natural abilities at company turn-arounds took over, and within three years under his guidance, the once-floundering company became the fifth best performer on the American Stock Exchange.

"Any business needs three essential ingredients to be successful: sufficient capital, excellent marketing, and an outstanding management staff," Bob explains. "It doesn't matter how well you can imagine the future if you can't make it happen." He attributes his success to a combination of good intuition, commitment, and long hours of hard work.

Bob now gives the bulk of his time and expertise to a real estate development project in Petaluma and to two nonprofit agencies whose goals reflect values that are important to him. He is executive director of the Hoffman Institute, which offers intensive one-week seminars worldwide on maximizing individual potential and emotional happiness. "The Hoffman Institute concentrates on important human values," he says. "It provides a tremendous benefit to people by helping them to eliminate negative emotional patterns in their lives. It actually brings forth spiritual leadership in a person, which is both exciting and empowering. Who would not want to support an organization that gives people greater joy, love, confidence, peace, and wholeness?"

He is also a board member and volunteer for the Pachamama Alliance, whose name originates from the Quechua language of South America, combining Pacha, meaning "earth," with Mama, the nurturing goddess of wisdom and spirit. "Several years ago," explains Bob, "the indigenous elders and shamans of the Ashuar, concerned about the growing threat to their ancient way of life, actively sought the partnership of committed individuals living in the modern world. The Pachamama Alliance is the result of that union."
Congratulations to three professors who recently achieved tenure this year: Maria Ontiveros, David Oppenheimer, and Clifford Rechtschaffen.

Professor Markita Cooper visited Australia during the summer to conclude her work as a fellow in the Kellogg National Leadership Program. Her fellowship project examined the power of media in the lives of children, with a comparative focus on children's television programming and policy in the United States and other industrialized countries. Professor Cooper researched the influence of media on children, the historical development of children's television programming, and how various countries set policy regarding children and television. Her work took her to numerous cities in the United States as well as to South Africa, Brazil, England, Scotland, the Netherlands, Denmark, Norway, and, most recently, Australia. Now that her fellowship has ended, Professor Cooper plans to turn her attention to addressing ways in which children's television policy in this country can, consistent with First Amendment freedoms and market realities, encourage the television industry to devote greater financial and creative resources to children's programming.

From February to June, Environmental Law and Justice Clinic Staff Attorney Anne Eng and clinic students presented six Saturday workshops to more than 100 residents in the Bayview-Hunters Point community on the topics of public information, public records, and community right-to-know laws. The workshops were part of the Environmental Justice Community Education Project, a collaboration among the Urban Habitat Program, Southeast Alliance for Environmental Justice, the District Attorney's Office, and City College of San Francisco.

Visiting Professor Helen Hartnell published an article entitled "Subregional Coalescence in European Regional Integration" in the Winter 1997 issue of the Wisconsin International Law Journal, and delivered a talk on "NAFTA and Related North American Developments" in Taipei at the 68th Conference of the International Law Association in June 1998. She has received two grants from Golden Gate University, one for her research on harmonization of consumer law in the EU and in Central/Eastern Europe, and another to develop the International Advocacy Program at the Law School. In August she began working on a Ph.D. in Jurisprudence and Social Policy at the University of California at Berkeley.

During the summer, Professor Janice Kosel taught International Commercial Law to sixteen Armenian LL.M. students at the American University of Armenia (AUA) in Yerevan. AUA was established in 1991 by the joint efforts of the Republic of Armenia, the General Benevolent Society of Armenia, and the University of California. It is located in the former communist training facility, a block from Parliament, the president's office, and the American Embassy. Professor Kosel, who knows no Armenian or Russian, taught the class in English. After a six-month intensive language program, all of the students were fluent in English.

Professor Thomas Goetzl recently confirmed rumors that he had at last found the love of his life and was married on May 28 to Rainbow Koehl, a theatre arts graduate of the University of Wisconsin, Madison. They enjoyed a lovely honeymoon in French Polynesia.


Professor David Oppenheimer spent part of the spring writing a U.S. Supreme Court amicus curiae brief on the law of sexual harassment for the National Employment Lawyers' Association. This summer he co-counseled a jury trial in federal district court, where he successfully argued that CalTrain was violating the Americans with Disabilities Act (ADA) by failing to provide access to disabled passengers. In October, Professor Oppenheimer spoke at a conference at Duke University Law School on employer responsibility for sexual harassment on the job.

Associate Professor Alan Ramo was part of a panel on Race, Gender and Class on "Environmental Justice and Energy: The Hunters Point Case" at the American Sociological Association Annual Meeting on August 22 in San Francisco.

In March, Professor Clifford Rechtschaffen spoke on "Ethical and Environmental Justice Implications in EMF Policy" at a workshop before the California Department of Health Services in Berkeley. In April, he was a panelist in San Francisco on "Prosecuting and Defending Actions Under the Unfair Practices Act and False Claims Act" at the Conference on Private Enforcement of Environmental Law. On June 11 and June 19, he spoke on "Environmental Justice: What Planners Need to Know" at the Joint Workshop of California Chapter of the American Planning Association and the State Bar of California, Environmental Law Section. A study Professor Rechtschaffen completed about the environmental record of Attorney General (and gubernatorial candidate) Dan Lungren has been quoted in various newspapers, including the Los Angeles Times, Sacramento Bee, Fresno Bee, San Francisco Examiner, and San Jose Mercury News. His article, "Deterrence vs. Cooperation and the Evolving Theory of Environmental Enforcement," will appear in the fall 1998 issue of Southern California Law Review.

In May, Professor Marc Stickgold visited the Pacific island nation of Palau where Golden Gate externs are currently working in the legislative counsel office. While there, he helped develop a new environmental law externship with the Palau Conservation Society, whose director has been awarded the Goldman Prize for environmental work. From Palau, Professor Stickgold went to Guam, where he met with a group of Golden Gate graduates working there.

Associate Professor Susan Rutberg has been awarded the Career Achievement Award by the Northern California Criminal Trial Lawyers Association, in recognition of her "many, varied, and outstanding career achievements." Last spring she took a leave from the Law School and worked in the San Francisco Public Defender's Office. (See her article on page 14.)
Practicing what you preach:

THE RETURN OF THE ANCIENT DEFENDER

BY SUSAN RUTBERG
ASSOCIATE PROFESSOR OF LAW

Most of the first 15 years of my life as a criminal defense lawyer were spent in and around the San Francisco Hall of Justice. In January 1998—after ten years of full-time teaching, and about a dozen years away from the San Francisco criminal courts—I went back for a one-semester sabbatical at the public defender's office. I was excited about the opportunity to try out some of what I'd been preaching as a teacher. Yet years of teaching "Lawyering Skills" and "Criminal Litigation" was hardly preparation for the shock of reentry. Like Rip Van Winkle when he first opened his eyes after that long sleep, I often walked around dazed and confused, with a strange sense that things had gotten a lot worse in the years since I left the practice.

In 1973, I absorbed the culture of the Hall of Justice from the perspective of a lowly, inconsequential student—a researcher/writer, last-minute go-fer for the trial lawyers at the Bayview-Hunters Point Community Defender. Everything simultaneously scared and outraged me in those days, even the Hall itself—that great gray fortress of “Justice” with its dim and flickering fluorescent lights, windowless corridors, ugly unadorned courtrooms.

And the players: the police, prosecutors and judges (all mostly white) arrayed on one side, and the “Just Us” ex-hippies and poverty lawyers (somewhat less white) lined up with our clients (mostly poor and non-white) on the other side. I identified with the clients because they were young.

Yet they were so unlike me. These young men and women inhabited a world hobbled by poverty and racist stereotypes, where daily survival was a struggle. The lines were drawn: Everything was black and white, us against them.

THAT WAS THEN, THIS IS NOW

Some things are exactly the same. New paint hasn't camouflaged the grim dinginess of the courthouse. And on my first trip to the county jail, I’m almost knocked out by the oh-so-familiar smell—a combination of institutional food, too little air, and too many men—the stink of their fear not masked by bravado.

Some things have improved. There are new alternative sentencing or diversion programs, some run by the sheriff, with optimistic names such as “Roads to Recovery” or “Resolve to Stop the Violence.” Others, such as Drug Court and Mentor Court, are even run with the support of the prosecutor's office.

Also, there are many more women in the defense bar and the place is not so solidly white, even on the bench. Many of the new DAs are young; some are openly gay or lesbian; several are of color. On the one hand, this diversification is encouraging. On the other hand, a defendant of color in San Francisco in 1996 is likely to be prosecuted by another person of color. It's hard to think of this as progress, though it probably is.

But the ranks of the accused are, if anything, less diverse than when I was last here. Twenty-five years ago, disproportionately large numbers of African-American men were being prosecuted. Today, the numbers of defendants of color are off the charts. I'm stunned by the visuals: Young man after young man, almost all of color, mostly African-American, wear the jail jump suits, garish spots of orange among the dark suits in superior court.

DEFENDING

Nor has life gotten easier for those of us who are responsible for providing counsel to these disadvantaged defendants.

For years I have been teaching students how to prepare criminal cases: create rapport and gather facts in an interview, conduct fact investigation, research the law, plan case strategy. Now I realize what I haven’t taught: how to go into a holding cell at 8:30 a.m., interview ten to twenty-five arraignees, and then stand next to each new client in the courtroom, making sure that he is treated respectfully by the
“Now I realize what I haven’t taught: how to go into a holding cell at 8:30 a.m., interview ten to twenty-five arraignees, and then stand next to each new client in the courtroom, making sure he is treated respectfully by the court....”

PAIN FROM THE NAKED CITY
I become a sponge that absorbs a million painful stories from “the naked city.”

During my five-month stint I represent many longtime addicts, many of them tired and ready to quit. But even in Willie Brown’s San Francisco—with its liberal DA, progressive sheriff, and compassionate judges—drug treatment programs are hard to come by. On the day before I leave, two clients who have been given one last chance to avoid state prison and have been waiting in county jail for months, are both accepted into a treatment program. I find out later that neither made it through the first week.

Saddest of all, so many of the young people in jail are the children, and even grandchildren, of the people I used to represent. What I see in their faces scares me: an absence of affect, a sense of hopelessness. Raised by parents not really present because of drugs, alcohol and/or incarceration, many of these kids learned early on to cope by getting high. I’m reminded of Jim Goldberg’s photography show about home-

less young addicts, Raised by Wolves, and start to think about my young clients as cubs.

In the jail, I run into a former client, a guy I barely remember from twenty years ago. He tells me that his son, whom he hasn’t seen in a long time, is also in the jail and he is glad for the opportunity to re-connect.

“What is he charged with?” I ask.

“Oh, nothing too serious, just spousal abuse.” He laughs at the look on my face. “Hey, don’t blame me! I didn’t raise him.”

“I’m leaving now,” I say, getting up from the interview room, “and you just keep on saying that over and over, until you hear yourself.”

THE “STRANGE FRUIT” OF OUR TIME
But my client’s absent parenting is only part of the reason his son is in jail. All these young men of color, locked up for years and years, are the terrible “strange fruit,” as Billie Holiday once put it, of our time. In many ways things seem better now. The Hall of Justice functions more like a community. In twenty-five years, the culture of the professionals in the criminal justice system has changed significantly. There is tangible diversity. The mix of backgrounds, cultures, viewpoints, makes the Hall a vibrant, even exciting place to be.

But for the rising tide of poor, young people filling the prisons as fast as we can build them, the culture has not improved. What used to be a gap between poverty and justice is now a chasm.

I come back to teaching at Golden Gate with a renewed sense of the importance of indigent criminal defense. Working to keep young people of color out of prison or to mitigate the time they spend away from the community won’t fix the deep-rooted problems involving race and class in American society. But from this Rip Van Winkle’s perspective, it is definitely a necessary part of the solution.

This article was adapted from one Susan Rutberg published first in the summer 1998 Women Defenders newsletter and then, in different form, in The Recorder newspaper.

Golden Gate University School of Law
1960s
John Fraser (64) is one of three writers of a column entitled “Three Amigos,” which appears every other Friday in the PlacERVILLE MOUNTAIN DEMOCRAT. He used to work as the executive director and general counsel for the Association of California Water Agencies. He retired in 1993 after 25 years of service.

Carlos C. LaRoche (64) was elevated to one of two Superior Court judge positions in Mariposa County. He presides over the oldest courthouse still in operation west of the Mississippi River.

1970s
David Tranberg (73) left the Eureka, Trinidad, and Fortuna, CA, city attorney positions on June 1 to become the assistant city attorney in Redding, CA, to face new challenges and live a different lifestyle.

Hon. Lee Baxter (74) was named one of the Bay Area’s top five judges in an article that appeared in The Recorder in April. The article stated that Judge Baxter “wins high marks from attorneys as affable, open-minded, consistent and matter-of-fact with her rulings.”

Cynthia M. Lee (74) was appointed to the San Francisco Municipal Court by Governor Pete Wilson in June. She joins fellow Golden Gate grads Commissioner Sue M. Kaplan (86) and Judge Carol C. Yaggy (79) in the Municipal Court.

Nancy Cherney (77) joined Steevel, Levitt & Weiss’ finance and real estate group where she handles corporate, municipal, asset-backed, and structured finance, as well as real estate transactions and acquisitions and mergers.

Timothy Smallsreed (77) is the managing partner at Fitzgerald, Abbott & Beardsley, a 26-attorney litigation and transactional firm in Oakland.

Janet Mangini (79) received two awards this year for her work against the tobacco industry. In June, she traveled to Washington, DC, to accept a Gleitsman Foundation Citizen Activist Award. In October, she received the 1998 Golden Gate University Community Service Award.

Walter E. Switzer (79) was appointed presiding judge over a seven-judge court for the Mesa, AZ, City Court.

Carol C. Yaggy (79) was elected to the San Francisco Municipal Court in June. Golden Gate grads Cynthia M. Lee (74) and Sue M. Kaplan (86) also serve on the Municipal Court.

1980s
Carol Kingsley (81), a tax partner at Carroll, Burdick & McDonough, was sworn into the San Francisco Ethics Commission on June 11. The five-member commission investigates ethical questions, such as conflicts of interest, in city government.

Shelley K. Owens (81) of Juneau, AK, closed her domestic relations practice to become project coordinator with the Alaska Department of Public Safety, Council on Domestic Violence and Sexual Assault in Juneau.

Laura Drenning (82) joined Gutierrez & Associates as an associate in April.

Cordia (C.L.) Farrell (82) relocated her offices to a Redlands, CA, Victorian house built in 1891, where she works in probate, elder law, and estate planning. She recently reached 26,000 miles on her 1995 Harley Davidson Super Glide and is breaking in her 1998 H-D Road Glide.

Jeffrey H. Karlin (L.L.M. 82) was named partner at Cantilo, Maisel & Hubbard, a business law firm based in Austin and Dallas. He lives in the San Francisco area and is a senior adjunct professor in Golden Gate University’s School of Taxation. Mr. Karlin authored the casebook Federal Income Taxation of Real Estate and co-authored Investments by Tax-Exempt Entities in US Realty.

Randy L. Barrow (83) joined the firm of Mackenroth, Ryan & Fong. For the past three years he maintained his own practice concentrating on commercial and business law.

Randy L. Marmor (83) was appointed managing partner of Haims Johnson MacGowan & McInerney LLP in Oakland.

Andrew Bagon (84) is coordinator at Springfield’s Law House in Springfield, NY. The Law House and St. John’s Law School have formed the first Street Law Clinic in the state of New York. He provides a seminar in teaching methods and strategies to St. John’s students who earn units by teaching law courses at Springfield Gardens High School.

Peter N. Fowler (84) was recently named executive assistant to the assistant secretary of commerce and commissioner of patents and trademarks at the U.S. Department of Commerce in Washington, DC.
Matthew P. Guasco (84) left his position with Engle & Elderly, and she contributes real estate finance attorney, in February 1999. Bride to start his own media- tion firm, Innovation Mediation, in Ventura, CA. Guasco is on the Ventura Center for Dispute Settlement's panel of mediators and is an approved mediator, arbitrator, and settlement officer with the Ventura County Superior Court. In addition, he is on the mediation and settlement attorney panel with the Santa Barbara Superior Court and is a member of several organizations devoted to dispute resolution. He lives in Ventura with his wife, Susan Lascher, and their daughters, Emily and Anna.

Laura G. Drenning (85) joined the firm of Gutierrez & Associates as an associate in April. She is an arbitrator with the National Association of Securities Dealers and is experienced in employment litigation and counseling.

Melodie Hoagland Bankers (85) joined Kenneth I. Tobey, Inc., based in Seattle, as vice president of governmental relations. She is responsible for all corporate legal matters, product development, rate/form filings, statistical reporting, and response to insurance department inquiries.

Gemmie Jones (85) works as a senior central director in implementing the San Francisco Board of Supervisors’ Senior Services Plan. She is president of the San Francisco Coalition of Agencies Serving the Elderly, and she contributes her efforts toward the success of a number of other organizations. Ms. Jones lives in the Richmond district of San Francisco with her daughter, Tiana, who is a freshman at Convent of the Sacred Heart High School.

Mary Ann O’Malley (85), a longtime Contra Costa County prosecutor, was appointed to the Contra Costa County Superior Court by Governor Pete Wilson in June.

Allan Rappaport (85) received the 1998 Alumnus of the Year Award from Golden Gate University in October.

Dianne D. Peebles (86) was appointed assistant managing partner of Haims Johnson MacGowan & McInerney, LLP in Oakland.

Marte J. Bassi (87) joined the San Francisco office of Jaffe, Trutanich, Scatena & Blum.

Joyce Newstat (87) has been named community and governmental relations representative at University of California, San Francisco.

Karen Elcaness (88) joined the Walnut Creek-based law firm of Fleming & Phillips LLP.

Peter Mastromonaco (88), a real estate finance attorney, joined the firm of Landels Ripley and Diamond as a real estate partner.

Richard Hobbs (89) was elected president of the governing board of San Jose Evergreen Community College District. He is director of Santa Clara County Citizenship and Immigration Programs, which received the California State Association of Counties Challenge Award. Mr. Hobbs was named 1998 Community Impact Honoree by the Asian Law Alliance.

Katherine Jaramillo (89) is pleased to announce that her law office, specializing in general civil practice, has relocated in Berkeley, CA.

1990s

Richard Friedling (91) left the Law Offices of Susan L. Jeffries in Alameda to set up his own practice in San Francisco. The Law Offices of Richard A. Friedling handles juvenile criminal law and domestic-violence-related civil litigation.

Dominic J. Falasco (92) became a partner at the newly formed firm of Vaughn & Falasco in January 1998. His practice focuses on criminal, juvenile, and family law. In August, he was certified as a specialist in criminal law by the California Board of Legal Specialization of the State Bar. Mr. Falasco lives in Los Banos, CA, with his wife Connie and daughter Rhiannon, age 2 1/2. They are expecting their second child in February 1999.

Karla Kelly Harr-Siebenlist (92) and her husband Brian had a baby girl, Maya Louise, on May 23, 1998. Ms. Harr-Siebenlist has returned to her position as a staff attorney for Hogan Hispano, a nonprofit agency dealing with refugee, asylum, and other immigration issues. She also sits on the Board of Directors for My Sister’s Place, a shelter for battered women and their children in Washington, DC.

Raymond F. “Chip” Moats III (92) left the San Diego City Attorney’s office in September to continue his late father’s estate planning practice in San Diego. Chip and his wife of six years, Laura Young Moats (GGU Law 89-90) live in San Diego with their two children, Liza, age 5 and Nicholas, age 2. Ms. Moats stays home with the children and works part-time as a manager in a direct marketing scrapbook company, Creative Memories.

Carol Barnett (93), staff attorney of the Support Network for Battered Women, is serving a two-year term on the board of directors of Bay Area Lawyers for Individual Freedom.

James E. Cavanaugh (93), has been an associate with Demler, Armstrong & Rowland in Long Beach since 1994, concentrating on construction defect litigation.
Environmental Law
Summer Program
Forty-nine law students from around the country enrolled in the 1998 Golden Gate University Environmental Law Summer Program, which was held June 1–July 24. In its third year, the program offered courses in Federal Wildlife and Endangered Species Law, Superfund, The Environmental and Land Use Implications of Real Estate Transaction, and the Environmental Law and Justice Clinic. As part of the program, the Law School sponsored field trips to Yosemite and Monterey and a brown bag lunch series with leading environmental practitioners.

Welcome to Two New Faculty Members
Visiting Professor Terrence R. Chorvat joins the tax faculty after two years as acting assistant professor at New York University School of Law. He earned his B.A. from Northwestern University, J.D. from University of Chicago, and L.L.M. in taxation from New York University. He has worked as a manager in Ernst & Young’s International Tax Services Group and an associate at Hopkins & Sutter in Chicago. In summer 1997, he served as a legislative tax advisor to Senator Edward M. Kennedy.

Donna Ryu has joined Golden Gate as associate professor of law and associate director of the Women’s Employment Rights Clinic, replacing María Blanco, who left at the end of the last school year. Professor Ryu earned her B.A. from Yale and J.D. from Boalt. She practiced appellate law with McCutchen, Doyle, Brown & Enersen before joining the Oakland firm of Farisworth, Saperstein & Seligman, where she litigated ground-breaking employment discrimination class actions. In 1994, she became a founding partner of Ryu, Dickey & Larkin, an all-woman civil rights firm.

Summer in Istanbul
Associate Dean Jon Sylvester directed Golden Gate’s second annual summer law program in Istanbul, Turkey. Cosponsored by South Texas College of Law, the program enrolled approximately forty students, half from U.S. law schools (nine from Golden Gate) and half from schools in Turkey. The four-week program was based at Marmara University, on the Asian side of the Bosphorus. Courses included Comparative Legal Systems, International Criminal Prosecutions, and Selected Issues in International Law.

Some of the students in front of Istanbul’s Hagia Sofia Mosque.

Environmental Law and Justice Clinic (ELJC) vs. PG&E
The ELJC played a key role in the new PG&E/San Francisco deal to take the Hunters Point power plant out of PG&E’s divestiture auction and close it down. The Clinic represented the Southeast Alliance for Environmental Justice (SAEJ), the key mover behind the City of San Francisco’s threatened eminent domain action that brought PG&E to the bargaining table. The Clinic represented SAEJ before the Public Utilities Commission where it joined the City in requesting a temporary restraining order blocking sale of the facility. While the TRO was lifted after a hearing, PG&E got the message and negotiated a settlement that made front page news. The Clinic’s clients joined Mayor Willie Brown and PG&E’s board chair at a press conference announcing the end of a conflict that goes back many years and will finally reduce emissions from the largest stationary source of pollution in the Bayview-Hunters Point community.
Graduates in Palau and Guam

Last spring's issue of ClassAction discussed the school's externship program through which upper division students work for the legislature of Palau, a small island nation in Micronesia. As part of inspecting that program, Professor Marc Stickgold visited with Golden Gate graduates who have been working in the western Pacific. These included Randy Riddle (85) and Kathy McGraw (85), who recently returned from Palau to the Bay area; Gus Diaz (78), chief deputy attorney general of Guam (last year he served as acting attorney general); Mary Lou Wheeler (78), counsel to the governor of Guam; and Jim Maher (85), a criminal defense attorney on Guam. Other alums in the area include Maya Kara (85), who has been nominated as attorney general for the Commonwealth of the Northern Mariana Islands, Thomas Keeler (82), Timothy A. Stewart (73), Joyce C. Tang (92), and Drew Bohan (90). Charles K. Greenfield (82), who served for many years as the director of litigation for Micronesian Legal Services on Pohnpei, recently returned to the Washington, DC area.

New Law School Awards

The Law School presented its first annual Outstanding Employer Award and Career Services Alumni Volunteer Award at the May 1998 graduation dinner and awards banquet.

The U.S. Court of Appeals for the Ninth Circuit received the Outstanding Employer Award in recognition of its significant contributions to the professional development of Golden Gate law students. In particular, the Ninth Circuit's staff attorneys were praised for the training they offer student externs by helping to sharpen their legal skills and serving as mentors. Karen Milligan (96) accepted the award on behalf of the Ninth Circuit's Office of Staff Attorneys.

Brooke Oliver (94) was awarded the Career Services Alumni Volunteer Award for her active role in informing students about career opportunities through participation in a variety of Law Career & Alumni Services events. In addition, she was cited for serving as a role model and mentor to the student volunteers she has supervised in her law practice.

Judge Thelton Henderson gave the commencement address at graduation on May 16, 1998. He emphasized the importance of lawyers giving back to the community through pro bono work.

Summer in Bangkok

For the seventh year, Golden Gate University School of Law offered summer law courses in Bangkok, Thailand, for J.D. and LL.M. students. This year, forty-two students and professionals from the U.S., Thailand, Germany, New Zealand, Myanmar, Taiwan, and other countries made the classroom a truly international environment.

A distinguished list of professors taught courses in Comparative Intellectual Property, Current International Legal Problems, International Contracts, International Environmental Law, Regional Organizations, and Introduction to the Thai Legal System. Bangkok's position as a regional and global center was reinforced through field trips to the Thai Chamber of Commerce, the Board of Trade, and a weekend trip to Map Ta Phu, an industrial trade and oil-production center near Bangkok.

Golden Gate's LL.M. students from Thailand were the perfect hosts, providing other students with an insider's guide to Bangkok and Thailand. A highlight of the program was a dinner held at a local Thai restaurant in which traditional Thai dishes were served and guests had the pleasure of watching traditional Thai dances on stage.
Hillary Johns (93) joined the Law Offices of Brian D. Thiesen in Alamo, CA.

Kirsten Keith (93) and John Woodell had a baby girl, Claire Elizabeth Keith Woodell, in February.

A.T. Kippes (93) has been selected by Consumer Attorneys of California to be a guest columnist for their monthly feature, "Practicing in the 21st Century." She wrote two articles regarding incorporating use of the Internet in a law practice. She has also been asked to speak at the Association of Trial Lawyers of America annual convention on the use of technology in a law practice.

Adam Miller (93) is a deputy attorney general for the State of California in the licensing section of the civil law division. He trained with the Leukemia Society of America’s “Team in Training” for several months and ran the San Francisco Marathon on July 12, raising almost $2,000 for the Leukemia Society. He is also a mentor for the BASF Law Academy Mentoring program, a program where lawyers visit local high schools to mentor students and expose them to the legal profession. Adam also attended the recent State Bar conference where he was a delegate to the Conference of Delegates.

Deanna & Scott Sabey (93) sent professor Tom Goetzl a Utah license plate for his collection and wrote, “Deanna is now in-house counsel for a national mortgage company and loves it. Scott practices almost exclusively in the area of real property. He is presently the chair of the real property section of the Utah State Bar and serves on the legislative affairs committee as an advisor on proposed real property litigation.” Both serve as judges of the ATLA/STAC Moot Court competition and see Professor Bernie Segal each year when he travels to Salt Lake City.

Judy Beck (94) left the Humboldt County District Attorney’s Office and joined the Monterey County District Attorney’s Office.

Orlando Gotay, Jr. (94; LL.M. 96) is co-chair of the San Francisco Barristers Club Taxation Committee.

Cem Kaner (94) published his latest book, Bad Software: What To Do When Software Fails (John Wiley & Sons). The book lays out the legal, technical, and business issues in software consumer protection. Mr. Kaner has also been active in the Uniform Commercial Code revision process for software and electronic commerce.

Brenda Lillington (94) joined Bartko, Zankel, Tarrant & Miller as an associate. As a member of the firm’s litigation practice, she brings experience in personal injury defense, construction defect, and civil law matters. She has completed externships with both the California Supreme Court and Office of the United States Attorney in San Francisco.

Brooke Oliver (94) received the Law School’s first Law Career & Alumni Services Volunteer Award in May. She recently won a case on behalf of the United Farm Workers (UFW) Union preventing MCI, NationsBank, and AeroMexico from using in its advertising the UFW rallying cry, “Si, se puede” which inspired the Chicano movement and the fight for farmworker rights 26 years ago. She has also added two associates to her firm.

Jackie Hui Xu (94) joined the firm of Doepken Keevican & Weiss in Pittsburg, PA. Her practice focuses on general corporate matters.

Karen (Blake) Beyke (95) is a member of the Georgia and California Bars and has accepted a position as a law clerk to Georgia State Court Judge Irma Glover. She also teaches as an adjunct professor of international business law at Kennesaw State University, part of the University of Georgia.

Susan Leff (95) is now working at the Napa County Public Defender’s Office.

Mark Watson (95) started a new law firm, Fogarty & Watson LLP, in April, focusing on the areas of commercial transactions, real estate, labor and employment, and political law. He recently won an important case involving candidates’ ballot statements. He and his wife recently welcomed their first child, Alexander, into their home.

Roxy Hariri (96) is enjoying her job at the Humboldt County District Attorney’s Office.

Caren Jenkins (96) joined the commercial litigation department of Graham & James in San Francisco in August. She writes, “I can be reached at (415) 954-0286 or cjenkins@gj.com; and you PRINT that.”

Uyen Nguyen (96) accepted an offer to join the in-house counsel staff of Old Republic Title Company. She joins graduates Rick Dosa (81) and Tommy Gil (81).

Laura M. Petty (96) is working at the Solano County Public Defender’s Office. She writes, “I am happy to report that I have my dream job! It’s tough, but I love it!”

Julie Soo (96) was named full-time staff writer for Asian Week in August. She has been active with the Asian American Bar Association and last year served as a community volunteer in Supervisor Leland Yee’s office.
Mark Uyeno (96) was hired as an associate by Masry & Vititoe, a plaintiff's toxic tort/class action firm in Westlake Village, CA.

Gary Van Housen (96) joined the environmental department at Landels Ripley & Diamond as an associate.

Jeffrey White (96) joined the Law Offices of Michael Berger in Beverly Hills as an associate on June 1.

Aaron D. Bigby (97) joined the firm of Kinder, Wuerfel & Cholakian as an associate.

Udo Budding (LL.M. 97) is the chair of the Europe and Russia Law Committee of the San Francisco Barrister Club.

Romy Celli (97) became an associate attorney at the Law Office of Virginia H. Meyer, an intellectual property law firm in Sausalito, where she had worked as a law clerk since May 1996. She became a member of the United States Patent Bar in January 1998.

Daphne Edwards (97) had a wonderful year clerking for the North Carolina Supreme Court. On September 1, she began a new position in Washington, DC, as a staff attorney for the Office of the Legislative Counsel for the US Senate.

Joseph Gonzalez (97) left Communities for a Better Environment to join Masry & Vititoe, a plaintiff's toxic tort/class action firm in Westlake Village, CA, where he has been working extensively on lawsuits against oil companies for using the additive MTBE in California gasoline.

Erik Liu (97) is working for the San Francisco City Attorney's Office.

Rebecca Platt (97) was elevated from paralegal to an associate to join Townsend and Townsend and Crew's intellectual property practice in Palo Alto.

Jenny Schiavo (97) accepted a position with the Sacramento Public Defender's Office in April.

Carolyn Torrente (97) is working with the general counsel of a Bank of America subsidiary. Her main responsibility is with the corporation's contracts.

Gary Van Housen (97) became an environmental associate at Landels, Ripley & Diamond.

Mark Vickness (97) is an associate at Jones, Clifford, McDevitt, Naekel & Johnson LLP in San Francisco. His firm specializes in representing employees in worker's compensation cases.

Julie Coldicott (98) serves as a judicial law clerk to Magistrate Judge Elizabeth Laporte, Northern District of California.

Andrea Consentino (98 LL.M) joined the Law Offices of Randall Caudle, a sole immigration law practice, as a law clerk.

Christopher Duff (98) received a position with the San Jose City Attorney's Office.

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Please let us know when you have moved so that we will have your current address.

If you have news for ClassAction, we would like to hear from you.

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SAYING GOODBYE TO DEAN PAGANO

To recognize Tony Pagano's accomplishments as dean, please join the Law School faculty and staff, and the entire University community at a dinner in San Francisco's Chinatown on December 8 at 6 p.m. The cost is $40 per person. If you are interested, please RSVP by November 20 at (415) 442-6625 or via e-mail: dholcomb@ggu.edu.

CLASS OF 1998 COMMENCEMENT MAY 16, 1998

Above center: Robert C. Crane giving the Student Farewell speech
Above right: Natalie R. Nuttall, recipient of the Paul S. Jordan Achievement Award and the Rose E. Bird Award
Far left: Tamiza Hockenhull
Left: Joyce Saltalamachia (76) accepting the Judith G. McKelvey Award for Outstanding Achievement by an Alumna