

Winter 1981

Alumni Forum, Winter 1981

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ALUMNI FORUM

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Winter 1981

Dean Gives "State of School" at the End of Her Reign

By Judith McKelvey

As some of you already may know, I am resigning as dean at the end of the current academic year. The approaching end of seven years in this office plus the advent of the new year move me to review recent developments and give you a state of the union message about the law school.

The last several years have seen a great number of changes at the law school. After many years in a woefully inadequate physical plant the law school is now housed in a handsome new building which will provide good classrooms and offices and attractive library facilities for at least the next five years.

Of even greater importance than the vast improvement in the law school's physical facilities is the fact that the law school, which has been fully accredited by the American Bar Association since 1970, was admitted to membership in the Association of American Law Schools in 1980, the final and highest stamp of approval an American law school can receive.



Dean Judith McKelvey

Photo by Juliet Gee

Admission to membership in AALS reflects the changes and growth that have taken place at Golden Gate in the past ten years. The fulltime faculty has gone from fewer than 10 to 28, all of whom have exceptional academic and work credentials. The faculty also has a reputation for excellence in teaching and is significantly involved in publishing and community activities which enhance the reputation of the school and the quality of the legal education provided at the law school.

The student body of the law school has more than doubled in ten years and now stands at over 800, two thirds of whom are fulltime students. The average age of the student body is 30 years old and includes over 40 percent women and approximately 15 percent minorities.

The law school curriculum has been greatly enriched over the past several years. In addition to offering an excellent traditional curriculum in basic courses, the law school offers a wide variety of elective courses which makes it possible for students to concentrate in such areas as taxation, criminal law, business law, public interest law, and land use planning. Also available are a wide choice of civil and criminal litigation classes and clinical and ex-

ternship programs. Finally the law school is now offering a number of joint degree programs in public administration, accounting and finance as well as an LL.M. in taxation.

Golden Gate's law review is now in its twelfth year of publication and publishes not only a traditional law review but a highly respected annual survey of Ninth Circuit Court of Appeals cases and one of the few women's rights law review issues in the country. In addition, the law school is now offering advanced legal education programs for lawyers and hosting a number of conferences. Last year, the school was the situs for the 11th annual Women in the Law Conference and this year it will host its third national land use conference.

Placement is also increasingly successful. The school's graduates are being placed with public agencies and the courts as well as with all sized firms around the country. Many graduates are also opening their own offices, a testament to the quality of the advocacy and litigation programs available in the law school curriculum.

One final matter about the internal affairs of the law school also merits attention at this point. Some alumni have expressed their concern to me about a recent change in the governing structure of the law school which changed the voting power of students on matters which come before the governing council of the law school. The changes were effectuated only after considerable discussion with faculty and students and were made to ensure that long term law school policies were determined by the dean and faculty. Although student voting power was reduced, the opportunity for students to have a significant voice on all matters affecting them was preserved by including student representatives on all committees which report to the governing council. It is the general consensus that the changes made will better enable the law school to meet its educational goals and responsibilities.

Of immense importance to the law school is the increasingly important role alumni are playing in the life of the law school. Alumni have become an important arm of the Placement Office both with respect to clinical and internship opportunities for students and with respect to job opportunities for graduates. A number of alumni also participate directly in the law school as adjunct faculty and as judges in moot court and mock trial activities. Finally, alumni have become increasingly generous in their financial support of the law school—a critical factor in these days of high and rising costs.

In my view a new dean will be pleased with what he or she finds at Golden Gate Law School. It is an excellent and innovative school and one that is increasingly well-thought of in the local and national legal community. In fact, it has been described as the rising star among the Bay Area law schools by a prominent local legal educator.

Pride in Golden Gate's quality and accomplishments by all of us who are associated with it is well justified, and the future looks bright. ■

Prof. Susan Foote Joins FDA Bureau of Medical Devices

By Juliet L. Gee

Susan Foote was recently appointed as the consumer representative to the Neurology Devices Panel of the Respiratory and Nervous System Devices Panel.

In 1976, Congress enacted the Medical Devices Amendments to the Food, Drug and Cosmetics Act. Medical devices include everything from bandaids to cardiac pacemakers. In 1938, Congress had given the FDA the authority to regulate drugs to ensure their safety before they entered the market, but the FDA's only authority over medical devices was after they had entered interstate commerce. The FDA could only remove the devices by bringing suit against the producer alleging misbranding or mislabeling and by prevailing in court.

Since 1938, more and more devices entered the marketplace. Many of these devices were not carefully tested and presented danger to consumers. Some devices caused serious injury and death, such as the Dalkon Shield Intrauterine device or, more recently, Rely Tampons.

The 1976 Amendments provide the public with greater protection from hazardous medical devices. They provide both premarket controls and postmarketing surveillance by the FDA. Different medical devices pose different degrees of danger. For instance, faulty cotton swabs are substantially less dangerous than a faulty pacemaker, while devices such as tampons pose a questionable degree of danger. To deal with these variable degrees of hazards, medical devices are placed in one of three classifications, requiring different degrees of premarket controls.

Class I provides no premarket regulations, either testing or standards setting. Class II requires only performance standards based on what is already known about these devices. Class III is the strictest class. It requires premarket testing according to FDA standards and review by the Devices Panel.

Each panel is composed of medical experts in the area of speciality of the panel. The experts are voting members of the panel. Each panel also has two advisory members, a consumer layperson and an industry representative. Consumer representatives ask questions about devices which medical experts may overlook, and review the proposed labels and warnings from a user's perspective. The addition of consumer laypersons on panels gives a voice to the public on the marketing of these devices.



Photo by Juliet Gee

Prof. Susan Foote

The FDA appointed Foote to one of these panels whose responsibilities include classification of devices into one of the three classes, review of premarketing data for devices classified as Class III, and recommending appropriate labeling and market restrictions. The panel may also suggest reclassification based on new data. The decisions of the panel are only advisory to the FDA. For instance, even though the OB-Gyn panel recommends reclassification of Tampons from Class II to Class III, the FDA has the final determination and may choose to ignore the panel's

recommendation.

Consumer panelists are selected after a consortium of consumer groups screens candidates and sends recommendations to the FDA.

Foote says panelists have a difficult task. They must be informed on the law and knowledgeable enough on technical issues so they know what type of questions to raise. Foote was impressed with the willingness of the medical experts to listen to the consumers' advice and questions. However, she says that it is difficult not to be intimidated by the technical knowledge and expertise of the panelists.

Foote has a great deal of familiarity with the 1976 Medical Devices Amendments. Prior to joining the panel, Foote assisted the FDA in training the consumer panelists. Her article, "Loops and Loopholes: Hazardous Device Regulation Under the 1976 Medical Devices Amendments to the Food, Drug and Cosmetic Act," in the *Ecology Law Quarterly* was adapted for the purpose and distributed by the agency. Foote says consumers are the only panel members who receive any training in the law. "Not only do they serve an important role of representing the public by asking consumer questions, but they must also keep the rest of the panel apprised of the language of the law," Foote says.

Foote says that while the issues are important ones, it is often difficult to generate interest in the public. Anyone can petition the FDA for reclassification of devices. For example, consumers could have petitioned the FDA to hold reclassification hearings to reclassify tampons from Class II to Class III in light of the fact that they are linked to Toxic Shock Syndrome. Foote says, "Few if any reclassification petitions come from consumers. Most petitions are from industries requesting classification from Class III to Class II."

Consumers are not on the panel to try to block any advances in the medical device industry. One cannot always guarantee complete safety and efficacy. Since 1976, however, the government has provided at least minimum protection to the public. It is important, says Foote, that consumers are informed of risks as well as benefits associated with medical devices so that they can make wise and informed choices. ■

Labor Law Clinic Will Bring Students Down From Their Ivory Tower

Labor law clinic will be taught by Barbara Rhine this semester. Rhine, who teaches Labor Law I and OSHA courses, will be teaching this course for the first time.

Students complete labor law classes with a conceptual understanding of "the law" but often lack understanding of the important experiential aspects of labor relations, which cannot be imparted through the case method approach, Rhine said.

"Students interested in the area of labor law need less of an ivory tower approach to learning; they need to become actively involved with the labor community if they are to round out their educational experiences," Rhine said.

The clinic course consists of course readings, class discussion and ten hours per week with a labor law firm, a state or federal agency, or a community group working in health and safety matters. Rhine said that any alumni working in labor law agencies or firms which can offer students a clinic placement should contact her.

Rhine expects the clinic to expose GGU students to a wide variety of labor issues, including the current front-line issues of health and safety. At the same time, as a result of the clinic the labor community will get increased exposure to the high quality of GGU students. ■

Law of the Sea Conference

By Joel Marsh

Each spring during the past several years students enrolled in Golden Gate's Law of the Sea Seminar have had a difficult but intriguing task: to assess the progress and prospects for the seemingly endless United Nations Law of the Sea Conference. The conference, consisting of representatives from close to 160 governments, has met twice each year since 1974 in an effort to work out a comprehensive convention on the rights and obligations of nations regarding use of the oceans.

This year is being heralded as the year of fruition for the Conference. The expectation is that a final version of the convention will be agreed upon when the Conference re-convenes in Caracas in March.



Prof. Joel Marsh

The scope of the proposed convention is enormous. It would for the first time establish in one international document virtually universal agreement on long-disputed issues, such as territorial seas, fisheries, international navigation through straits, control of pollution, access to ocean areas for scientific research, rights of landlocked and geographically disadvantaged countries, and exploitation of the vast mineral resources of the deep-seabed.

It has not been easy for students or lawyers to maintain even an overview of the Law of the Sea Conference. During the years of negotiations, several areas of apparent consensus developed, while other areas remained matters of intense controversy and difficult compromise. Significant changes in the maritime jurisdiction of coastal states, for example, have worked their way into state practice during, and often as a result of, the negotiations. A 12-mile limit for territorial waters has now become the rule, in contrast to the 3-mile "cannon shot" standard long favored by the United States and other major maritime nations. Similarly, a 200-mile "Exclusive Economic Zone" is now being claimed by most states. These practices would be mandated by the new convention.

An issue still heavily beset by uncertainty, however, is the right of exploitation of the mineral riches of the deep-seabed. Geographically, this area is part of the high seas, and therefore legally not within any state's national jurisdiction. In 1970 the United Nations General Assembly resolved that the seas are the "common heritage of mankind." States were cautioned against unilateral activities that might undermine the intent of the resolution, which clearly was to assure an equitable share of the oceans' wealth to all nations.

The mineral riches of the deep ocean floor are in the form of potato-size nodules of manganese, copper, cobalt, nickel and

other minerals. The enormous number and potential value of these nodules are such as to have made their exploitation the most difficult issue for compromise at the Law of the Sea Conference. The industrialized countries, while recognizing that some form of international regulation of access is inevitable, have insisted on minimal constraints. From the outset, they have sought establishment of an international agency that would merely issue licenses or grant concessions for exploitation of a particular seabed area.

The developing nations, however, have favored a far more potent international agency, specifically one that would undertake exploitation on its own to distribute the profits so as to assure a direct and equitable share to all nations.

The present draft convention uses both these approaches, but requires the exploiting companies and consortia of the industrialized countries to sell seaming technology to the international exploiting agency. The latter would also control production levels for all deep-sea mining.

It is not at all certain that the present draft convention, though it might be agreed upon at Caracas in March, will pass muster with the U.S. Senate. Domestic mining interests believe that strict regulation of deep-sea mining may not provide sufficient incentives for them to invest the vast sums necessary to enter the field. Portions of the defense establishment feel that access to strategic metals would be intolerably vulnerable under an internationally controlled system.

But there are even broader concerns. New areas of state practice, such as the expansion of maritime jurisdiction through establishment of 200-mile exclusive economic zones, have created immediate considerations for lawyers and administrators in virtually every coastal nation. Problems of resource and fishery management have been greatly multiplied. Arrangements must be made to regulate but also protect the long-established fishing activities of foreign countries in what is now another country's zone. The extended maritime boundaries between adjacent nations must be delineated, which will raise particularly difficult problems where coastlines are highly irregular, and among island nations. Also, the possibility exists that some coastal states will attempt through practice to expand sovereignty over their 200-mile exclusive economic zones.

Despite these problems, the Law of the Sea Convention is an enormous effort of cooperation toward international lawmaking, and for this reason alone warrants continued and close evaluation. If the delegates give final approval to the convention in the spring, the international legal system will be greatly expanded by a large new body of codified rules. The acceptance, interpretation and execution of these rules will be the subject of intense interest by the government, commercial and legal communities for years to come. ■

Tax Litigation Subject of End-of-the-Year Seminar

Tax litigation in the 1980s was the subject of a program of panel discussions sponsored by the law school, the graduate school of taxation and the Bar Association of San Francisco at GGU in December. The program brought judges, government representatives and members of the tax bar together to discuss procedures and developments in tax litigation. Panels ranged from talks on audit examinations all the way through the trial procedures in Tax Court and Court of Claims to tax appeals. A special section on criminal tax litigation was also presented. ■



Faculty Updates



Prof. Allan Brotsky

Allan Brotsky participated as a member of the teaching faculty at the Harvard Law School Trial Advocacy Workshop in Cambridge, Mass., in September.

Marc Stickgold, Bill Ong Hing and Visiting Clinical Professor Charlotte Fishman attended this fall the annual conference of the California Law School Clinical Consortium, a state-wide group of law professors and administrators concerned with clinical legal education.

Nancy Carol Carter spent fall break in Michigan where she interviewed state officials for a project evaluating the operation and services of the Michigan State Law Library. She later prepared the evaluation report, which included a projection for automated and computer developments for the state library and a five-year development plan for the library.

Nancy Carol Carter

Drucilla Ramey spoke to the annual convention of the Nevada Trial Lawyers' Association in October on the subject of litigating cases involving sex discrimination in employment. She also acted as Mistress of Ceremonies at the annual Bill of Rights Day Event of the Northern California chapter of the ACLU. And on Jan. 28 she'll speak at Stanford University on the past ten years of constitutional law developments affecting women. Ramey is also working on a law review article on attorneys' fees in Title VII cases, which will appear in the 1981 issue of the *Univ. of Detroit Journal of Urban Law*.

Thomas Goetzl was also an active speaker this fall, making appearances at the Junior State, Northern California Conference in Oakland in support of Anderson for President; at a gallery management class at the California College of Arts and Crafts, Oakland, speaking on property rights of visual artists; and at the Monterey Peninsula Museum of Art, Monterey, speaking about California legislation affecting artists and collectors.

Susan Bartlett Foote had her article, "The 'Kid-Vid' Crusade," co-authored with Robert H. Mnookin, published in 61 *The Public Interest* (Fall 1980). See also an article on her activity with the Food and Drug Administration elsewhere in this issue.

Myron Moskovitz wrote an amicus brief and orally argued before the California Supreme Court in *Knight v. Hallsthammer*, involving the meaning of the "implied warranty of habitability." He also successfully defended Berkeley's Measure D rent control ordinance from constitutional challenge in Alameda County Superior Court, and spoke on rent control at four CEB panels during the fall.

Bob Calhoun, getting away from it all, will spend a couple of months this semester travelling in Equador and Peru.

Bernie Segal has continued his litigation training for lawyers throughout the fall. He taught at the Hastings College of Trial Advocacy, in criminal advocacy and civil (business litigation) advocacy. He conducted a four-day training program at the San Francisco Public Defender Office in conjunction with a program he began last summer (See *Alumni Forum*, Fall 1980). And he taught a three-day program for Legal Services, which focussed on interviewing and negotiating techniques and deposition tactics. ■

Prof. Gets into Practice to Improve His Teaching

Bill Weiner decided to "practice what I preach" in his civil procedure, evidence and criminal litigation courses at GGU. So he took a leave of absence to practice law for one and one half years. "I wanted to get out and practice for a year or so," said Weiner, "so I could keep my anecdotes and class jokes fresh!" His first anecdote may be about how he won his first civil trial before a jury in his first week of practice.

Weiner set up an office in San Francisco, where he practices both civil and criminal law. On the civil side he handles mostly business litigation and fraud and consumer matters. On the criminal side, he does "simple" cases—from petty theft to murder. He's also got three major public interest class actions, which he said he'll maintain when he returns to teaching in August '81. He expects these cases to last five to six years—the better to practice up on his class action lectures to first year students!

"It's extraordinarily difficult to go into private practice," Weiner, who was an Alameda County Public Defender before he came to GGU, said of his first experience. "It's a constant irritant to have to worry about overhead."

Weiner shares office space with five lawyers, each of whom is independent. But they all bounce ideas off one another regularly.

Weiner said his experiences will benefit his teaching tremendously. "I'll be able to analogize what I did this past year to the subjects I cover in my courses," he explained. "And I'll be keeping abreast of what's going on out in the world."

Weiner also commented that he'll be more sympathetic to students' placement problems. ■

Lobbying Skills Seminar at GGU

On January 17 GGU hosted a lobbying seminar. The program was designed to help public interest advocates represent their constituents more effectively through legislative lobbying. The seminar focused on such topics as how and when to build coalitions around particular issues, how to generate popular support and how to testify on specific bills.

Panelists included R. C. Aros, Western Center on Law and Poverty; Ralph Hurtado, Mexican American Legal Defense and Education Fund; Jim Tucker, ACLU. The program was sponsored by the Consumers Union and the Public Interest Clearinghouse. ■

Copyright Book Hits the Stands this Spring

Adjunct Prof. Neil Boorstyn has written an Attorney's Guide to the Law of Copyright which is to be published early this year by the Lawyers' Cooperative Publishing Co. Prof. Boorstyn, who took two years to write this 700-800 page definitive work, took a leave of absence last spring semester. "I got it in on deadline!" Boorstyn exclaims proudly.

A very detailed book, Boorstyn wrote it for the general bar. "The book is for those in general practice who are not thoroughly familiar with copyright law," Boorstyn explained. "The book explains what the copyright law says, what it means and its general application. I explain how courts have dealt with particular problems in the past, give the leading cases, and point out pitfalls and weaknesses in certain areas." ■

. . . And a Note from Our New Placement Director

1968
Allen E. Sommer has been appointed Presiding Workers Compensation Judge in San Francisco.

1972
George Holland, immediate past president of the Charles Houston Bar Association and senior partner in the law firm of Holland & Bell, had primary responsibility for recently negotiating a major wrongful death settlement.

1975
Suzanne Marychild has opened a new law office in Sebastopol. Previously she was associated with Gunn, Marychild and Nugent in Santa Rosa. She also was Vice President and Manager of the Affirmative Action Department of the Bank of California.

Tony White is supervising attorney for the Housing Task Force at the Fresno County Legal Services. He writes, "My wife and two infant sons (24 and six months) and I just came to Fresno in June, 1980. I encourage alumni and current students to check out the Valley! There is a lot in motion, and a little more room for growth here than in the crowded Bay Area."

1976
Joel Blackman has joined Mission Community Legal Defense, Inc., in San Francisco, where he practices criminal law.

Valerie A. Karpman has joined the law firm of Don E. Bailey in San Francisco.

1977
Valerie J. Ranche has opened a new law office in San Francisco. She practices general civil law, concentrating in plaintiff personal injury, probate, estate planning and landlord-tenant law.

1978
Claire E. (Boots) Whitmer has opened a new office in San Francisco with Peggy Marshall Kagel.

Herschel D. Kwinter recently completed one year with the Bank of America's Oakland District Trust Office, where he is a trust administrator.

1979
Ellen M. Singer has become associated with the Law Offices of Kenneth W. Carlson in Oakland. The firm specializes in products liability cases, especially asbestos, on behalf of plaintiffs.

1980
Lynn Rossman is a one-year attorney law clerk for Chief Justice Rose Bird of the California Supreme Court.

Elliott Smith, former editor of the *Alumni Forum*, is an associate with Fleischmann and Farber, a general civil practice firm in San Francisco.

Kevin Robinson is serving a one-year term as a law clerk to Judge Blair of the Fairbanks (Alaska) Superior Court.

Ed Garson is a deputy attorney general in the Torts and Condemnation section of the California State Attorney General's Office in San Francisco. He works on civil rights and tort defense for the State. ■

Portia Stewart, whom you may remember as assistant director of admissions, has become Placement Director. She's been aggressive in finding jobs for GGU students, and now wants to make a plea to all of you:

As alumni of Golden Gate School of Law you are aware of the high quality of education and legal exposure being provided our students. As the academic credentials of these students continues to improve and the clinical and extern programs continue to expand, current graduates are well-rounded in their attitudes and knowledge.

As the new Director of Placement, I would welcome the support of all of our alumni in keeping the placement office informed of any legal openings (part-time, summer or permanent) in your vicinity or with your firm.

Feel free to contact me at the Law Placement Office. ■

Watch for more news about Stewart and the Placement Office in our Spring issue.

Recent Events

Immigration law was the topic of six seminars designed to assist the general practitioner presented at GGU recently. The seminars, covering such areas as deportation hearings, labor certification, political asylum and visas were sponsored by the Bar Assoc. of San Francisco and the Assoc. of Immigration and Nationality Lawyers.

CEB continued its noon videotape presentations at GGU this fall with lectures on such widely varied topics as real property secured transactions, use of trial objections, damages and organization and counseling closely held corporations. Other subjects will be covered in noon-time videotapings throughout the winter at GGU.

The 1980 Regional Family Law Symposium was held at GGU in October, sponsored by the American Academy of Matrimonial Lawyers, No. California Chapter. Demonstrations on business, retirement fund and real estate valuations highlighted the event. ■

Tom Returns from Recruiting

Ed Tom, Director of Admissions for the Law School, recently returned from a major recruitment trip which took him to 15 states in six weeks. He spoke to students from more than 50 campuses and reports that the response was very encouraging.

Students seemed to be very serious about admission to Golden Gate and were usually surprised with the information, attitudes, and programs available to them. "An humanistic approach to the admissions process, a supportive ambience, a highly qualified teaching staff, and a progressive curriculum make Golden Gate a unique place to study law," Tom reported. "Much of the information I shared with prospective applicants was completely contrary to what they had heard, or were expecting to hear, from other law schools—we turned a lot of heads around."

The Admissions Office is interested in establishing a network of alumni who are willing to help with the recruiting effort by making themselves available to see interested applicants. Any alums who are interested or who may know prospective applicants to Golden Gate are encouraged to contact the Admissions Office.

Tom reported some interesting statistics about the current first year class. "Despite the drop in applications," he said, "We enrolled 52% women, the highest in Golden Gate's history. Our GPA median stayed where it had been at 3.00 and the LSAT point difference was within our average of 596. In addition, 25% of the class has advanced degrees and the median age is almost 30." ■

What's Happenin'?

Have we heard from you lately? We'd like to find out about your new job or appointment or any articles or presentations you've given. Or, perhaps you'd like to let other alumni know of the events in your life — new marriages, new children, whatever. We'll publish it. Send your news to Law School ALUMNI FORUM, Golden Gate University, Second Floor, 536 Mission Street, San Francisco, CA 94105. ■

Judge King's Family Litigation Course Is Hard Work That's Worth the Trouble

The family law litigation course is an effort to put students in a position to be able to handle cases of "medium complexity," according to Judge Donald B. King of the San Francisco Superior Court who presides over the course.

The course, Judge King explained, must almost be two courses in one, since family law courses are not oriented to California law. And California appeals courts have handed down more decisions in the last three years than in the previous 100 years. So students must learn substantive law as well as the litigation aspects of the field.

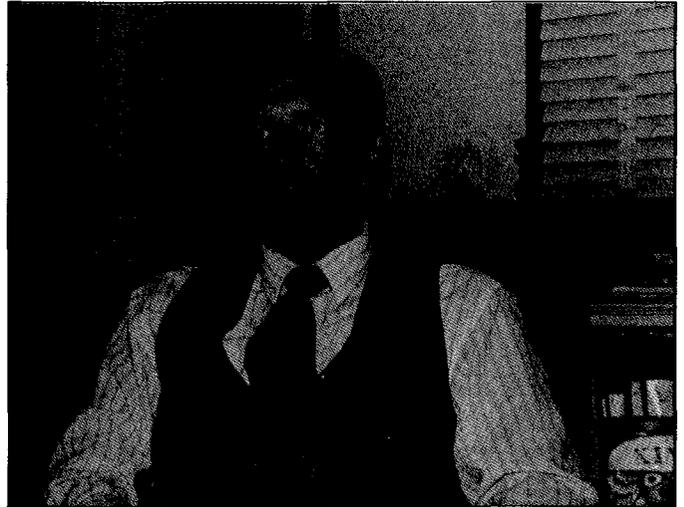
"I was pleased with the results," Judge King said of his class last spring. (The course is also taught this spring.) "The students did very, very well even though they agreed that it involved more work than in any other law school course. I was pleased with their progress."

The hard work involves two in-court exercises in Judge King's court. These include an order to show cause and an abbreviated trial. The goal of the order to show cause presentation is for the students to bring out misinformation their clients have relayed. At the trial stage, only a particular issue is tried, for example spousal or child support or a dispute on valuing community and separate property assets. Students also take a final exam.

"The course," Judge King said, "is designed to place students ahead of where most lawyers are in practicing family law." As a result, Judge King thinks it should be easier for students who've been through his course to find jobs in the family litigation area.

"Most of the Bay Area lawyers know about me and how family law matters are handled here," Judge King, who last year was chosen as trial judge of the year by the San Francisco Trial Lawyers' Association, explained somewhat modestly.

Photo by Nancy Lashnits



Judge Donald B. King

Judge King, who participates with CEB and who has written a "small book" on the subject, said that California law has made divorce, although still fraught with emotion, more akin to the break-up of a partnership or business relationship. Now the issues that bring couples to trial are support and property issues rather than determining the guilty party. "It's a more healthy atmosphere," he said, "than making the other person look lousy." ■



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