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THE CAVEAT



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ISSUE 3

GGU LAW STUDENT WINS SUBSTANTIAL VICTORY IN CALIFORNIA SUPREME COURT

On July 2, 1992, the California Supreme Court handed down a sharply divided 4-3 opinion in a first amendment case involving commercial speech, Moore v. State Board of Accountancy. The court determined that Moore's constitutional rights were violated, but imposed a remedy that is being strongly criticized by parties on both sides of the issue. The plaintiff in this case, Bonnie Moore, is now a second year law student at GGU. This column is the first in a series in which Moore will discuss her case, its implications, and the events leading up to this decision. A Petition for Rehearing has recently been denied by the California Supreme Court and the parties are preparing to petition the U.S. Supreme Court for certiorari.

THE FACTS BEHIND THE CASE

by Bonnie Moore, 2L

This case concerns itself with the question of who is allowed to use the word "accountant." It seems like such a silly thing to be fighting over, and it becomes even more absurd when you realize that I will never receive any professional or monetary benefit from the final decision. But, there is a question of principle which compelled me to seek redress in the beginning, and which has motivated a number of organizations and individuals to support my case. The principle has to do with the amount of power which can be assumed by a state licensing board.

In 1985, the State Board of Accountancy wrote to me and told me that I could not refer to myself as an "accountant" because I was not a CPA. I responded by, politely, telling them that I thought they were wrong. I had earned a degree in accounting from an accredited university, I had a substantial amount of work experience as a management-level accountant, and my reading of the Business and Professions Code indicated that the prohibitions merely limited me from referring to myself as a CPA.

The Board then referred me to a regulation that had

been written and passed by them rather than the legislature, which, purportedly, merely interpreted the existing statute which prohibited representations as a CPA. This regulation, in fact, expanded the interpretation of the statute by claiming that a person could not refer to himself/herself as an "accountant." The Board informed me that there was no middle ground between CPA and bookkeeper, and in spite of my education and experience, I was required to call myself a bookkeeper.

- I responded by, politely, telling them to go to hell.
- They threatened to arrest me on felony charges.
- So I sued them.
- In a nutshell, that's how it all started.

Why does it matter? Why don't I put on my green eyeshades and fade into the background like all good little accountants and bookkeepers are supposed to do?

Because if a state licensing agency, any agency, is allowed to pass overly broad regulations without the necessity of a legislative battle, then substantial commercial rights of unsuspecting persons can be eliminated without the affected individuals ever knowing what happened. These rights have value on the market and should not be thrown away lightly. State licensing boards are self-interest groups controlled by the professions which they oversee. Each board has an interest in minimizing the competition which its licensees must face. The easiest way to deal with the competition is to eliminate it.

Approximately 45 years ago the State Board of Accountancy eliminated the license that was formerly issued to practitioners who were not CPA's, and arbitrarily decided that there would no longer be two classifications of licenses for accountants. Because the public still demanded their services, a class of unlicensed accountants developed, flourished and grew. Although they are legally allowed to practice, the Board has

(continued on page 2)

Mid-Year Admit Program -- Time for Another Look?

by *Christie Carlson (Mid-Year Rep, Day)*

Welcome back from what was hopefully a restful and exciting summer. As we all well know the trials and tribulations of law school are now before us. I would like to take this opportunity to update the class on the conflict that arose over the fall registration process for 1992 Mid-Year Admits.

Approximately 17 Mid-Year Admits (MYAs) successfully changed their assigned sections at registration. The Registrar honored the requests and changed the sections in the computer, handing each of the MYA students a paper which noted the changes and which was signed by the Registrar.

Upon notice of the section changes, the Administration decided to change all of the MYAs back to their assigned sections. A group of MYAs including myself, went to the Dean of Students, Maggie Hughes, with our contentions regarding this "switch back." The issues we brought to her attention were as follows:

1. The materials the MYAs were given, including the Student Handbook and the Golden Gate University Bulletin, asserted that the appropriate avenue to change sections is through the add/drop process at registration.

2. Knowing that MYAs are a special class in terms of our status and requirements, the administration sent us communications during the summer to aid us in our registration process. During our meeting with Dean Hughes, we highlighted that none of the summer communications stated clearly that MYAs could not engage in the add/drop procedure to further arrange their schedules.

3. Some MYAs happened to call Matt Pachkowski, Law Admissions Coordinator, during the summer and were told that MYA students must petition to change any of their assigned sections. Other MYAs, however, didn't receive that communication and relied on their handbooks and the letters they received from the law school to arrange their schedules. We asserted that on such important issues as arranging your schedule and budgeting your time, the communication regarding the proper registration process should have been clearly documented and not delivered arbitrarily.

4. The registrars are agents of Golden Gate University and at some point the administration must take responsibility for the actions and communications of those in their employ.

The outcome of this meeting was an admission that the

message might not have been as clear as it should have been, although the administration felt it was clear. Those students who switched their assigned sections through add/drop were put back in their pre-assigned sections barring any individual circumstances that justified their schedule changes. While some felt this outcome was not favorable or justified, the conflict has sparked a process which will guarantee that the Mid-Years' voices will be heard and recognized. Dean Hughes has suggested that the MYA class come up with an agenda and a documented inventory of the problems we have faced and possible realistic solutions to those problems. My suggestion is that we all document our concerns and bring them to a meeting where we can set an agenda for a later meeting with Deans Hughes and Pagano.

I think it is important to remember that while these proposed solutions might not immediately help the 1992 Mid-Year Admits, the solutions will start a process of communication and mutual respect which can only help the reputation and morale of our school. Our response is very important. A low turnout for this meeting and the subsequent meeting with the Deans will be a strong message that MYAs are not really affected by the administration's policies and procedures.

The first meeting will occur on 15 September at 12:00 in room 322. This meeting will be our first organizational meeting so please bring your inventories of the problems you have faced and possible solutions. If you are not able to attend this important meeting please give your list of problems to a friend who is coming so that your problems will be addressed.

If you have questions regarding this issue please call Christie Carlson, MYA Day Rep, (415) 337-4675.

Bonnie Moore Case *(continued from page 1)*

harassed and intimidated these individuals ever since, primarily by forbidding them to accurately advertise their services.

This case is really about reestablishing the free speech rights of these individuals. I have not been alone in fighting this injustice. My situation represented an ideal test case, and I have been encouraged and supported by a national accounting organization, and its state affiliate. There are also three amicus curiae in the case, and organizations in several other states are expected to join our petition to the U.S. Supreme Court.

Next issue: What is the constitutional issue?

The Student Bar Association: The Presidents Perspective

by Kieran John Flaherty (SBA President)

Way back in the spring of 1992 I was campaigning for my current post as President of the SBA. You may recall that I published a flyer entitled "Kieran John Flaherty for SBA President: Goals / Agenda." In that simple platform I proposed a program called "Constituency Accountability." The program called for "MYA and Night representatives [to] form a special committee along with [the] Executive Board of [the] SBA to identify problems in their respective programs, determine their needs, formulate proposals and solutions, and [convey] to the administration, faculty and admissions [office] ... their plans so that we can work this summer to improve those programs."

The committee I referred to did not actually form until the SBA Meeting of September 9. However, significant advances toward identifying the problems and proposing solutions happened this summer, and further steps are currently under way toward achieving these goals.

Christe Carlson, the Day Division Mid-Year Admit Representative, has headed up a delegation of concerned MYA students who are hoping to work with the administration to develop a more effective MYA Program for GGU. Allison West, the Third Year Night Representative, has talked extensively with Deans Stickgold and Pagano about night students' concerns. Initially we perceived the administration as resistant to the concerns of the students. But as Dean Hughes is always quick to point out, she is willing to listen to any concrete solutions we have for real problems. So we have decided to take a different approach.

Rather than merely complaining, we are going to return to our basic plan of identifying the problems and proposing solutions. We need to remind the administration that we want to improve our school in any way we can, and then follow up that pledge with mature and workable proposals. As opposed to being adversaries, we will be advocates.

Some of the problem areas that have been recognized with the MYA Program are: the registration process (specifically the mix up where some MYAs were allowed to add/drop classes and were later switched back to their original schedules), a more explicit/accurate description of MYA registration procedures in the Student Handbook, the need for an improved MYA Orientation, general concerns of class selection, and the elusive problem of what year to "categorize" MYAs.

Some of the problem areas which have been recognized in the night division are: not having a full year's schedule at the time of registration for class planning purposes, class scheduling (particularly the problem of having two four-credit classes as the only required courses offered), and night students not necessarily having priority for night courses.

The next step in the process is to gather suggestions from the student body, something Christe Carlson, Allison West, Alex Lubarsky, and I have been doing all along. In fact, I attended a meeting with the four Deans, the Registrar, and the Admissions Director to address some of our concerns with registration. The decision to publish a complete full year's class schedule at the time of fall registration was made, along with publishing 1992-93 registration materials in [the 1992] spring semester rather than over the summer. The administration is also developing a plan to have all first-years' registration, and others who get their pre-registration first choice of classes, to skip the waiting in line to register and thus reducing the volume of registrants and length of lines.

The MYA Reps and Night Student SBA Reps intend to meet with the Deans and talk through some of our proposals, and hopefully iron out some of the trouble areas. We'll keep you posted of our progress via *The Caveat* and *Law School News*.

Other SBA News...

Elections for SBA Reps will be held on September 15, 16, and 17. The polls will be open each day for the day students. The polls for the first year night students will be open from 6:00 - 9:00 PM on Tuesday, September 15, and again on Thursday, September 17. The positions up for grabs are:

<u>POSITIONS</u>	<u>WHO MAY VOTE</u>
2 1st Year Day Reps	(all first years - DAY)
1 2nd Year Day Rep	(all second years - DAY)
1 3rd Year Day Rep	(all third years - DAY & all '91 MYAs - DAY)
2 1st Year Night Reps	(all first years - NIGHT)

The new SBA budget for the 1992/1993 year was passed at the September 9 meeting. Please see the bulletin board outside of the Law Library to see where the money is going.

Clubs may get money for their head representatives to attend their national conferences. See the SBA board outside of the Law Library for details.

Club News

Environmental Law Society

The Environmental Law Society (ELS) kicked off another year of events and activities with a well-attended pizza orientation meeting, drawing about 35 students. The group's leadership has switched from a traditional hierarchy to one which will organize around specific projects. This new structure should ensure more equally distributed responsibility and encourage the participation and energy of more members. To that end, ELS has chosen to pursue the following projects for this year: A careers panel and brown bag speakers series; a regional environmental law springtime symposium; expanding Golden Gate's curriculum with both a Natural Resources/Environmental Law Certificate Program and an in-house environmental law clinic. Furthermore, the group has decided to become more active in the community in the areas of small business recycling and styrofoam usage. (Bet you didn't know that San Francisco has a styrofoam ban, albeit unenforced.)

Remember, we did not inherit the earth from our ancestors -- we are borrowing it from our grandchildren! To be involved contact Karen, Christe or Miles, c/o ELS, 49 Stevenson, 14th floor mailboxes.

International Law Association

Contact Person: Alilda Duangjak
(415) 751-5107

With its first meeting on September 1, the International Law Association (ILA) is off to an auspicious start for the upcoming school year. The meeting brought together returning members, many

new members (mostly first years - way to go guys!), and even a professor (Larry Jones). The agenda was packed with projects (both long and short term) to expand the scope of the relatively young club (its only four years old).

First on the list was a monthly newsletter which will keep members up to date on current events in the ILA and in the international community. Members have been encouraged to contribute to the newsletter with their views on particular international issues.

The ILA is also planning to have many speakers come to GGU. The International Law Opportunity Speaker Series will present attorneys from law firms who will speak on the field of international law and career opportunities within it. Another speaker series is the Current Event Series which will feature speakers involved in the cutting edge of international law. A series on the European Economic Community is also in the making. The ILA is also planning a conference in conjunction with the Feminist Jurisprudence Society.

The ILA is going to set up a mini-library/career information center in the Career Planning and Placement Office. While there are some materials already there, the ILA would like to see a more extensive selection that will help students choose a particular area of international law and contact firms that specialize in international law. In addition, a listing of GGU alumni who work in international law will be compiled for the library.

The ILA will continue to support the Jessup Moot Court Team. The competition involves writing legal briefs and arguing international issues. Professor Sucharitkul has prepared and coached GGU's team to victory in the past and this year should be just as exciting and successful.

However, international law is not

only work, work, work! The ILA is planning food fairs that feature dishes from all over the world. Many social events are also on the horizon. In fact, the happy hour in conjunction with the ABA/LSD held at the Produce Market Saloon on September 3 was a smashing success.

Saving the best for last, the ILA is going to get an international law journal started. The journal will parallel a law review journal and will cover topics on, you guessed it, international law. This will be a major project, the rewards of which won't be seen for some time. But the long range benefits are enormous and many members were enthusiastic and full of great ideas.

Women's Law Association

The first meeting of the WLA this semester was dedicated to discussing how the organization wished to define itself this year. It was argued that the organization should be an inclusive group whose purpose is to facilitate activities of interest to a wide spectrum of women.

Topics of interest introduced at the first meeting included: The creation of a support network for first year students and alumni, a faculty-student mixer to welcome new women faculty, the promotion of women political candidates, presentations by women attorneys in diverse legal fields, community service work, lobbying for issues of interest, a panel on defining feminism, and screening movies.

The WLA is open to ideas for events this year, and invites all students to attend its meetings. At the next meeting, officers will be elected and groups will form to organize events. To find out where and when the next meeting will be held, check the Law School News or the WLA bulletin board on the third floor.

Letters to the Editor

RESPONSE...

Dear Editor: I have been asked by students to explain the delay in mailing class rank letters this year. In order to do so, I should first take a moment to explain the process.

Official class rank is compiled once a year after the spring semester. It can only be released after ALL grades are submitted by the faculty. Late grades by any professor will cause a primary delay in the process. The release date of the ranks is a decision heavily influenced by the Associate Dean of Student Affairs. Anyone who has spoken with the new associate dean, Maggy Hughes, realizes that she is staunch advocate of a much earlier release date than was previously established. (The current Student Handbook announces September 1st as the release date each year; I am sure Dean Hughes will work to modify that date for the 1992-93 academic year.)

The first internal and unofficial rankings were determined in mid-July this year to confirm scholarship distribution and to satisfy the needs of those students who were seeking transfer to home states or to U.C. schools.

The second unofficial rankings were available three weeks later but, unfortunately, coincided with the fall pre-enrollment and registration efforts within my office. As most of the law [school] community knows, I am operating with a full-time staff of two human beings - including myself, and we are inundated with the workload of servicing students at a 400-plus to one ratio.

The process was further complicated by the new mandate I have of mailing class rank to individuals versus the former method of posting rank by exam number for general review. While

the new method will soon become more secure and confidential, it was initially very cumbersome to manage. I also felt it imperative to have correct summer addresses for students at a time when they were located, virtually, all over the world. My decision was to hold the mailing (since it was already "late") until the bulk of the law students had registered and supplied my office with up-to-date mailing information.

The class rank problem is probably now resolved. To the students who have asked, "Why can't class rank be sent out sooner?", my answer is, "Beginning next year, it will be!" To the students who have asked, "Why can't you ask for another full-time, trained person in your office since you are obviously understaffed?", my answer is, "I have asked, and will continue to ask for one more full-time person to work with Sharon Styles and myself!"

I take this opportunity to thank the student body for your patience and concern.

Wally Walker, Law Registrar

(Please see the letter from John Hyland printed in the Letters to the Editor in the 31 August 1992 issue of The Caveat. Editor)

EMPATHY...

Dear Editor: In my article about the Rodney King and Reginald Denny beatings ("The Movement From Sympathy to Empathy, Through Fear", 8/31/92 issue of The Caveat) I stated that white men, unless disabled or elderly, don't live with a fear of violence. My statement was, regrettably, underinclusive. I think it is clear that gay men of all races do live with such fear, and that homophobic violence is one of the significant

ways in which gays and lesbians are deprived of equality in our society. Thank you for giving me the opportunity to expand on my remarks.

Professor David B. Oppenheimer

RECYCLING...

Dear Editor: Many restaurants surrounding Golden Gate University are still not recycling their cans or bottles. Please check with your favorite lunch spots and use your consumer power to promote recycling.

Christie Carlson, MYA Rep, 2L

Are These Supposed to be Funny?...

A prominent young attorney was on his way to court to begin arguments on a complex lawsuit when he suddenly found himself at the Gates of Heaven. St. Peter started to escort him inside, when he began to protest that his untimely death had to be some sort of mistake. "I'm much too young to die! I'm only 35!" St. Peter agreed that 35 did seem to be a bit young to be entering the pearly gates, and agreed to check on his case. When St. Peter returned, he told the attorney, "I'm afraid that the mistake must be yours, my son. We verified your age on the basis of the number of hours you've billed to your clients, and you're at least 108."

Q:
What do you get if you send the Godfather to law school?

A:
An offer you can't understand.

Notes From The Editor

by *Tod Manning (Editor-in-Chief)*

Some friends of mine are missing. I don't know where they've gone. Some said goodbye, most didn't. Do I try to find them or let them fade in my memory while they start their new lives? They are among those euphemistically called the "academically disqualified."

It doesn't matter what they are called, they are my friends, and somehow I don't feel like some of them got a fair shake, nor the proverbial "two bites at the apple." And yet at the same time, I have a quiet relief that I have made it past the first cut. The same relief as driving past an accident scene and feeling thankful that it wasn't me who was involved. But should I avert my eyes or attempt to lend a hand? I tried to help with some, shook my head sadly about others, and sometimes, I still averted my eyes.

I feel sorry for the "speeders," those who were doing so many things, so fast, that they didn't see the oncoming collision, but they were the major cause of their own demise. I feel sorry for those who struggled and just couldn't make it, bless them, but maybe they shouldn't be here. However, I feel especially sorry for those precious few who weren't "speeders;" who weren't struggling; who helped all those whom they came in contact with; and yet, through unforeseen circumstances, had one or two bad classes and were "academically disqualified." They are the few that should be given another chance to prove themselves. The faculty committee who has to review the probation applications of the "academically DQ'd" has a very tough job. I don't envy them. The legal profession has lost some wonderful individuals in the last month. I will miss them.

Next...

Rumor has it that the Law School Administration is looking for a new building for the Law School... I'm not sure about the rest of you, but the article on the cover of the last issue of *The Caveat* about the King and Denny beatings had an impact on how I view violence against others. For those of you who didn't read it, do so. For those of you who did, read it again...

Speaking of empathy, last weekend I went out with a friend of mine from Seattle who has recently started dating a wonderful man who uses a wheelchair for transportation. I never realized how many obstacles there are for those in wheelchairs. How many steps do you walk up every day without thinking twice? How often have you parked in a driveway and blocked a

sidewalk? How wide are the doorways of your home, your place of business, your favorite nightspot? Could you even *have* a friend in a wheelchair and do some of the same things you do now? Seek change and try to help those around you, whether they're in a wheelchair or under threat of being academically DQ'd.

The Buddy Program for the first-years seems to be taking major steps towards helping them cope with their first year of law school. Good job Wendy... The Academic Assistance Program looks like it is taking a major turn for the better. Take part in it and then give your honest constructive comments as to what works and what doesn't. It can only help those who follow us... The 1992 MYA class is doing what it can to make things better for those who follow, read the article on page two of this issue. The 1992 MYAs did a good job by electing **Christe Carlson** as their SBA Rep. **Christe** is having a positive impact on this school as a SBA Rep. I'm sure that those people who are running for the open SBA Reps' positions will strive to do as good a job for their constituents as **Christe**, **Allison West**, and **Miles Dolinger**. The candidates are sincere and would appreciate your vote this week. **You can write in names! Remember to vote!** If you don't vote, don't bitch... You still have until October 5 to **Register to Vote** for the general election in November. People all over the world are dying to vote in a democratic society. And I do mean dying -- literally. Don't you think you could take the time to vote???

I have been unsure about the role of *The Caveat* as a forum for political statements. After I printed the Letter to the Editor from **Miles Dolinger** which advocated strong support for the Clinton/Gore ticket, I felt like I was using the budget of *The Caveat* for an illegitimate purpose. But as Professor Oppenheimer stated, "Find some Bush supporters to write letters and articles." Okay, where are you? I know you're out there. Send in your copy.

The proofreader positions have been filled by **Carolyn West** and **Albert McMeen**. And not to soon i mite ad. Welcome to the staff! Still looking for an Advertising Editor! Anyone interested?

Remember that you can make a difference... Stand up for what you believe and want, or sit down and take what you get. That means, at the very least, **VOTE!**

Next SBA meeting is Tuesday, 22 September at 5:30

Next Caveat deadline is 18 September.