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# THE CAVEAT



VOLUME XVIII

February 1993

ISSUE 9

## Zoe Baird and the Laws That Don't Count

by Alan M. Dershowitz (Harvard Professor of Law)

**Z**oe Baird's withdrawal as attorney general-designate because of the way she and her husband handled their child care raises broad issues that transcend Baird's qualifications. I am not in the habit of agreeing with Sen. Orrin Hatch on most issues, but he was surely right when he quoted Mr. Bumble's famous line that sometimes "the law is a ass."

The reason that honest and decent people like Baird and her law professor husband sometimes break laws like the ones prohibiting the employment of undocumented aliens is that some laws were made to be broken.

They fall into a large category of rules, regulations and statutes that are so rarely enforced that many lawyers advise their clients to ignore them.

Laws that are rarely enforced are dangerous for several reasons. First, they give prosecutors enormous discretion to prosecute selectively. Second, they send a message to law-abiding citizens that only certain laws really count. Third, they foster disrespect for the law in general.

My wife and I have a child the same age as Baird's son. When we hired our child-care person, we insisted on complying with every technical rule and regulation.

We were told by everyone - ranging from accountants to lawyers to child-care agencies - that no one complied with these rules, that it was very expensive to do so, and that we would be damn fools to do what no one else does. Nevertheless, we insisted and incurred the additional expenditures of time and money.

But then again, we had no conflict between receiving excellent child care for our daughter and complying with technical rules that everyone seems to ignore. Had we experienced a direct conflict between obtaining excellent child care and violating a rule that everyone seems to violate - the conflict that Baird and her husband experienced - I don't know what we would have done.

The temptation would have been great to act more like good parents than like holier-than-thou pedants who insist on complying with the most technical of rules.

There has been a lot of posturing by senators, commentators and citizens about Baird's violation of the law. I will bet that not one of Baird's critics can say that they have never violated a single law - even a single important law.

Regulations are pervasive in our society. It is difficult to go through life without running afoul of the millions of regulations that govern our professions, our businesses, our taxes and even our private lives. There are still laws on our books dictating the proper way for married couples to sexually gratify each other.

One of the first priorities of whoever becomes attorney general should be to appoint a commission to review the myriad of regulations that fill volumes of law books in this over-regulated country.

The commission should decide which laws really count and which laws don't. Those that do should be enforced, regularly and evenly. Those that don't should be removed from the books.

There is no room in a free country governed by the rule of law for rules and regulations that are rarely, if ever, enforced. Every citizen has the right to know exactly what is forbidden, what is permitted and what will happen if he or she engages in forbidden behavior.

**T**here should be no laws that are not, as Baird was advised by her lawyer, "matters of enforcement." If a law is important enough to be on the books, it should be enforced. If it is not important enough to be enforced, then it should be taken off the books. Hortatory rules of good conduct belong in church, not in the law books or our nation.

The laws regulating the employment and tax treatments of undocumented aliens may well be important enough to enforce. If so, that policy decision should be announced clearly in advance and mechanisms should be established for enforcing the law evenly.

(continued on page 3)

# WELCOME TO MID YEAR ADMIT STUDENTS!

by Kieran J. Flaherty (SBA President & 3L)

**A**s President of the Student Bar Association I am pleased to welcome you to GGU and wish you lots of success in the coming months. I've enjoyed meeting many of you at orientation. You are probably wondering a little bit about the SBA. Every student at Golden Gate University School of Law is a member of the SBA. The term more commonly refers to students elected to act as representatives of their class ("Reps") and representatives of the entire student body--the Student Bar--in an executive capacity ("Executive Board").

## Representatives:

There are four Reps for each class (first, second, and third years), two from the day division, two from the night division.

There are two Reps for the Mid-Year Admit class, one from the day division and one from the night division. There is one representative for the fourth year class. Elections for Mid Year Admit Students will be held soon.

## Executives:

The Executive Board is comprised of the President, Day Vice-President, Night Vice President, Secretary, and Treasurer. The entire student body votes for these positions, including graduating seniors, every spring semester.

Both the Executive Board and Representatives convene every other week to deal with Law School and related matters. These meetings are open to all members of the student body, with Reps and Executives having one vote per person. SBA Members, both Representatives and Executives, strongly encourage you to drop by the SBA Office, located in the downstairs of the library, to discuss any matters of concern to you or the student body.

## Student Organizations:

Student Organizations act as their own autonomous groups within the Law School, but are dependent upon the SBA for funding, and may therefore be subject to conditions imposed by the SBA when they receive SBA funds. The Student Organizations are required at a bare minimum to keep the student body informed of their activities by means of the CAVEAT and Law School News.

## Law School Committees:

Several Law School Committees have permanent

positions for student members. The members are appointed by the President of the SBA. The committees, with their number of student members are: Admissions (4), Writing (1), Curriculum (2), Library (1), and Financial Aid (1).

That is a brief introduction to the SBA and how we work. The names and numbers of all the members are listed in this issue of the CAVEAT. Feel free to contact the appropriate person with any of your concerns. Good Luck!

## SBA UPDATE

As you have probably noticed by reading the Law School News, the SBA has been busy representing your concerns surrounding the new method of handing out grades. After a brief meeting with the Dean, he has agreed that the means and distributions (break down of amount of students who received each grade) will be compiled by the Law School Registrar and posted for all students to see. A binder with this information is now available in the Reserve Room of the Law Library.

The rumor that the Law School Library will be prevented from limiting access to GGU students only during final exam week is just that: a rumor. Although it had a grain of truth to it at one time, the official policy of the Law Library to limiting library access to law students during exams remains intact!

SBA has been meeting to address concerns surrounding the transition from the outgoing SBA to the incoming, problems with our SBA Constitution, elections, and budgeting procedures. We'll keep you posted as to any improvements we'll be making.

## SBA Elections:

For all those students who are interested in running for an elective SBA office, please contact your reps or one of the executive officers for information on the steps you need to take to do so. Act **NOW!!!**

Call the SBA Office at 415-442-6697 for the latest news!



## 3L Calendar Watch

**W**alking around school on that first day of classes of our last semester of law school has never been so light. 3Ls giggling and laughing, rested and relaxed and without an ounce of that old study angst.

We came proudly unprepared for the first class, not intending to even read the syllabus until the next week. We registered for an "easy" 11 or so units. We were relieved from maxing-out our Visa cards at the bookstore because at least someone we know had the book, the commercial outline, the flashcards or all of the above. And even if we did have to buy the new, revised, *ream-the-law-student* edition, it was for our last time.

I, for one, had never been so happy to be at school, as that radiant image of the Masonic Hall festivities in May kept me giddy all day. It was like a fresh powder run on a sunny morning. It was like my first bubble bath. It was like the excitement of being at the top of the roller coaster on the Santa Cruz Boardwalk high on cotton candy. (What is that stuff, anyway?) Dare I say, the first day of my last semester in school, forever, was just like butta'?

But seriously, it is exciting that all this hard work is finally nearing the end, and I think that cotton candy feeling inside is not so much the excitement of walking down the aisle in May, but of finally allowing ourselves to feel the gratification of an extremely rigorous task well done. And for all of our whining and complaining I hope that we can find ways of appreciating this experience enough to have no regrets, so that we can take confident and ambitious steps forward towards more of what life has to offer, without looking back.

As far as senior activities go, the SBA has denied our request to go to Disney World on account of the fact that the Disney characters proliferate sexual stereotypes. As an alternative, Dean Pagano suggested "really good wine and cheese" in the GGU board room. The SBA then responded by proposing some "really good kegs" at the Dean's house. Because no consensus could be reached, a graduation committee has been appointed featuring, among others, Scott Sabey, Laura Stover and Debbie Lewis. Please talk to them if you have any suggestions.

**One final nag about the Caveat:** It still needs you. Tod Manning, the current editor (tall guy, brown hair and glasses, wears Converse All-Stars and rides a BMW) is facing the same old problem of lack of contributors, and he is too nice a guy to beg. Writing articles, especially off-the-cuff columns like this one is easy and fun. Try donning a funny hat after a long night studying ... and just think how happy you'll make your mother when she sees your name is print!

Tod dedicates a lot of his time to provide you all with

*by Miles Dolinger (SBA Vice-President & 3L)*

a true forum for your ideas and expressions by publishing the Caveat every two weeks [this was true last semester, but not this one. Editor], as opposed to last year's six-week frequency, and yet letters to the editor are few and far between. There are plenty of issues to discuss, if not current events: Why Somalia? Should the U.S. intervene to halt "ethnic cleansing" by the Serbs? Bill Clinton's promise. Health Care reform, etc. Then school issues: What do you think of the action taken by a single law student who reported to the ABA that he thought our Legal Drafting class violated ABA rules? Now that the Research Projects Clearinghouse (RPC) has officially taken over the greater operations and clientele of the Hastings Research service, should they reform their current employment policy, arguably arbitrary and elitist, of only hiring members of law review and students who graded high in their first year (first attempted) writing and research class? Did Dean Pagano have a good reason for changing the law school's policy on posting grades? Why doesn't GGU have a full-time professor to teach environmental law classes?

To the first years and new MYAs, take some advice: It won't do you any good to study all the time, and writing for the Caveat is a great way to make your life here just a little more interesting while doing a public service for your colleagues. You might also consider becoming the next editor-in-chief yourself.

It is a new year and it seems things can only get better. The message of the day comes from Mother Theresa by way of Rinaldo S. Brutico, a ex-Wall Street hound/entrepreneur turned new paradigm network marketer of vitamins: "Whatever you do, do it from the heart, but do it with discipline."

### Zoe Baird *(continued from page 1)*

It was unfair to disqualify Baird because she violated a law that fits into the category of generally unenforced laws. It is even less fair to selectively prosecute citizens who run afoul of such laws.

Yet in my fairly extensive experience as a criminal lawyer, I have seen several defendants threatened with prosecution, and on occasion prosecuted, for violating these kinds of generally unenforced laws. Such threats are usually part of a "we will throw the book at you" attitude designed to get a defendant to cooperate.

The lesson of the Baird fiasco is the "the book" that can be thrown at defendants, nominees and ordinary citizens is too long, its print too fine and its language too vague for a nation committed to the rule of law. (Originally printed in the San Francisco Examiner 24 January 1993. Reprinted by permission of author.)

## LIVING PROOF

by Maria L. Ontiveros, (GGU Associate Law Professor)

**I** take discussions of affirmative action very personally. When people talk about affirmative action recipients, they are not talking about some nameless, faceless African Americans or Chicanas. I know they are talking about me.

Rather than feeling upset or stigmatized, I take pride in this knowledge. I am living proof that affirmative action works.

Such programs are successful when qualified people are placed in positions that they might not have been awarded otherwise - and when they have qualifications or experiences that make unique contributions.

I am fairly certain I was admitted to Harvard Law School under a special consideration plan similar in principle, if not operation, to that recently criticized at Boalt Hall.

Although I otherwise might not have been deemed qualified for admission, I ended up graduating with honors. I entered my profession through an affirmative action, teaching-fellowship program; I now write, publish and teach successfully.

I know I am capable. I believe that the real problem lies with the traditional notion of "standards" or "qualifications."

**W**HETHER you are talking about school admission or job placement, there is rarely only one best, most qualified applicant for a position.

Instead, a number of people can do the job, each possessing advantages and shortcomings.

People who benefit from affirmative action programs are not unqualified.

Unfortunately, people often miss this point.

Affirmative action is too often used as an easy excuse when a white man is not given a position. People blame affirmative action rather than examine the meaning of "qualified."

In reality, our differences allow us to make unique contributions. My heritage shows in my approach to life, the issues in which I am interested and the way I interact with others.

In the classroom, I have seen the eyes of my Latino students light up when I use an example from our shared history and culture. Although this experience is often a first for them, it's an everyday event for white students, with white teachers using examples from *their* common background.

**C**LASS discussions involving students with different racial and cultural backgrounds are inevitably richer and more instructive than those in a homogeneous environment.

Some people contend that affirmative action creates a stigma for people of color. This assumption of inferiority, or prejudice, was there before such programs ever started and would confront us regardless of their existence.

The only ways to fight it are to be successful and to become so numerous that our presence is no longer unusual or noteworthy. Affirmative action programs help us do that.

A more valid concern is determining which differences matter and should be privileged. Selection processes have always rewarded some differences - initially admitting only white men and favoring relatives of past graduates, even if they don't meet the "standards."

By focusing on those who have been either underrepresented or disempowered, affirmative action plans help to create equality in the face of prejudice, unconscious racism, structural barriers and institutional discrimination.

Affirmative action does work. Just look at me.

(Originally printed in the San Francisco Examiner, 4 November 1992.)

### CONGRATULATIONS: 1993 MOCK TRIAL FINALISTS

The following students were selected to participate in the 1993 Mock Trial Competition programs:

John Baxter  
Michelle Carroll  
Joan Cox  
Heather Elrick  
Steven Forrester  
Brendan Kunkle  
Cathye Leonard  
Deborah Lewis  
Keith Lyon  
Kari Putnam  
Vanji Unruh

## LETTERS TO THE EDITOR...

To: Sean Brearcliffe and the Federalist Society  
 From: Christe Carlson and Whitney Gabriel, '92 MYAs  
 re: The articles that appeared on the Federalist Society board the week of February 15  
 Date: 26 February 1993

We are both disturbed and disappointed by the commentary we regrettably found on the Federalist Society Board. We believe that the most proper response to this offensive speech is not to prohibit it or deface it, but to combat it with counterspeech. It is in this spirit that we respond to your words.

We are firm believers in your right to voice your position on the issues that concern you. This is not our contention. It is when you stop espousing your cause and instead result to attacking others for their differences that your position becomes offensive. You attack "guilty AIDS sufferers" and "Kimba and Zoe". These statements cry out that you have a fear of the unfamiliar and that your fear is born of ignorance. It is your right under the Constitution to espouse this fear. But is it your duty as a human being to limit your moral fabric to the bounds of the Constitution? Your views are permissible, but are they intellectually and ethically responsible? We are law students. We are supposed to pursue well-reasoned and ethical paths to advocate our positions. We would like to request that you re-post the statements at issue here with an argument that supports your position so that we, as well as others might have an opportunity to analyze the substance of your argument in the event that there is any. Without that opportunity our only solace is in the multitudes of our colleagues who abhor sexism and homophobia and who will prevent your seeds of fear and intolerance from being planted amongst us.

It is our hope that you can once again summon the grace of the human spirit and enter an arena where judgement of others is taboo and wishing death on those less fortunate is inherently evil. "The horizon leans forward offering us space to place new steps of change."  
 M. Angelou.

### GRADES!

Information on grade distributions for each of last fall's courses is available in a binder in the Reserve Room of the Law Library. Check the distributions to make sure they are what you were expecting to see!

## ON LEGAL REASONING...

by George B. Parizek

We are the advocates. But what do we argue?  
 The response on the surface resounds clear: our clients' interest.

It is our jobs, our responsibilities, and our burdens to present the "case" with as much fervor and wisdom for the facts, as allowed, when viewed in the winds of our current legal climate. However, the task of presenting the position involves more than mere juggling of ideologies with constructive truisms. It requires a creative twist of fate called legal reasoning.

What is the texture of this garment: mystery or fable? If it be a mystery, it is our professional obligation to weigh the clues with a careful and inquisitive eye. So the hard decisions can be made on gut reactions substantiated by logic, rather than by looking at blurry snapshots of truth.

If it be a fable, then we are doomed to carry the burdens of mistaken pasts which recall to present minds. Where a judge of character is no more relevant than a critics review of a comic's play.

No, I hope it's a mystery. For when I am placed in the position of hurting or helping my fellow, I want any error of judgement to be attributed to my inadequacy as a detective, rather than a misinterpretation of the script. For the former is unconscionable error which can be learned from and corrected; while the latter is of a breed called by my mind, injustice.

Legal reasoning is like a blend of forces. One force is generated by mind, and one is generated naturally within us, and just where these forces are directed determines how useful or harmful we are.

An attorney was sitting in her office late one night, when Satan appeared before her. The Devil told the lawyer, "I have a proposition for you. You can win every case you try, for the rest of your life. Your clients will adore you, your colleagues will stand in awe of you, and you will make embarrassing sums of money. All I want in exchange is your soul, your husband's soul, your children's souls, the souls of your parents, grandparents, and parents-in-law, and the souls of all your friends and law partners." The lawyer thought about this for a moment, then asked, "So, what's the catch?"

## INTO AFRICA

by Carla V. Minnard, 2L

**P** ennoyer?, or was it Palsgraf?, no, wait... its Pierson!, or was it Peerless????

That is a small excerpt from my thoughts from last spring semester. As you can no doubt tell, my mind was razor-sharp; honed to proud perfection by eight months of reading, briefing, re-reading, re-briefing, and finally, surrendering to the comfortable green of the hornbook. This routine began in August and continued unremittingly until May.<sup>1</sup>

Right before exams (and after completing volume II of my Rejection Letters file), I decided to escape my rituals of reassurance and begin my voyage of discovery. I applied and was accepted to the Nairobi International Law Institute as a summer student. Planning the details of my trip - getting tickets, visas, and shots - proved to be a great stress reliever during finals. Reading Winnie the Pooh also helps, but I'll save that story for another time. When I boarded the plane a few weeks after school ended, my mind was still being adversely possessed by the law demons. As the flight attendant spilled coffee on the gentleman to my right, I pondered whether he might have a cause of action against her, TWA, or both. As I was thinking, I drifted off to sleep only to confront the recurring nightmare that started during finals. In this nightmare, I am sitting in what I think to be my Property final. After writing furiously for 2½ hours on mortgages, deeds, and zoning, I look up and see Professor Howarth and realize I am in my Torts exam. I awoke in a cold sweat as the captain announced our arrival at Jomo Kenyatta International Airport. The moment I landed, all the lingering demons were exorcised.

Watching the sun rise over the Serengeti Plain - seeing a lioness make her morning kill - climbing Mt. Kilimanjaro - the furthest thing from my mind was springing or shifting (leaping, flying) executory interests. The magnificent landscape of Kenya is rivalled only by the beauty of her people. Without exception, people were welcoming and hospitable. Kenyan friends acted as willing tour guides, taking me everywhere from Lake Naivasha to Lamu. There is an often heard Swahili phrase "hakuna matata." Translated it means "no problem." This is the attitude with which Kenyans approach everything. Needless to say, I made many good friends.

Since this article describes a "study abroad program," I should probably at least mention the educational aspect of my summer. I was among sixty or so law students

from all over the U.S. and Canada. There was a variety of course offerings, including International Environmental Law, Public International Law, Kenyan Law, and International Business Transactions. The classes were taught by both American and Kenyan law professors, which provided a unique perspective. Additionally, the class sizes were small - only seven students in my International Business class - which created a seminar-like environment. This was a refreshing change from the "get to class early or you won't get a seat" days. The downside to this, however, is that with such a small class, you couldn't come to class unprepared and attempt to "backbench" to avoid being called upon.

Many students also availed themselves of various internship opportunities. The United Nations has its environmental branch headquarters (U.N.E.P.) in Nairobi, and several students interned with them. Other internships were available at Legal Aid, the International Court of Justice, the Nairobi Law Monthly, and a Kenyan Women's Legal Assistance agency.

My journey led me outward to Masai Mara and Mombossa, but inward as well. I realized that practicing law on a tiny island in the Indian Ocean could be just as rewarding as striving to rack up 2500 billable hours. Some brilliant person once said that "The darkest thing about Africa has always been our ignorance of it." As you present and future lawyers know, there's no excuse for ignorance. See you in Africa!

[Those students who are interested in studying abroad this summer should start making their applications soon as many of the programs fill up quickly. See the Librarians or the Career Planning office for information. Editor.]

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### Research Projects Clearinghouse (continued from page 7)

Hastings Research will employ Golden Gate law students who have attained a least a "B" grade in their first year Writing & Research course. Researchers must be second or third year students. Interested students should call or drop by the Hastings Research office to fill out an application.

Updated news and information about Hastings Research will appear regularly in the Law School News and the Caveat.

## CLUB NEWS...

### FUTURE TRIAL LAWYERS OF AMERICA

The GGU student chapter of the Association of Trial Lawyers of America (ATLA) is being reactivated! ATLA is a vast organization of attorneys, legal assistants, judges, and law students—the largest association in the U.S. and Canada devoted to trial advocacy. ATLA members are largely interested in personal injury and tort litigation for plaintiffs.

Joining ATLA as a student member will help you expand your future by providing you with trial skills programs, networking opportunities, and attorney contacts.

Benefits of ATLA student membership include free education seminars, scholarships, free ATLA legal publications, discounts on ATLA books and tapes, and admittance to ATLA conventions.

Professor Segal is the ATLA chapter advisor. Althea Kippes, 3L day, is coordinating the reorganization. She can be reached by leaving a message for her at the circulation desk in the law library.

### INTERNATIONAL LAW ASSOCIATION

Membership update: the ILA is now 53 members strong and growing all the time! While your interest is appreciated, remember to pay your annual dues so we can continue to bring speakers and host international law events at GGU.

Speaking of speakers, on Thursday, November 19th, the ILA had the privilege of hosting a panel of in-house attorneys from Chevron and Levi-Strauss. From Chevron, Helen Korniewicz spoke on trademark law; Stephanie Butler on

International Tax; and Adrian Colley on general International Law. Ruth Meyer came from Levi-Strauss to talk about her work in general international law.

The International and Comparative Law Journal is well on its way to becoming a reality thanks to the work of a staff of about 50 motivated and dedicated students. In addition to this talented staff, the Journal has obtained the backing of attorneys from Europe and Asia. The first edition is eagerly awaited!

On January 26, the ILA had its first meeting of the semester. Many matters were discussed, among them being ideas for future speakers, studying abroad, the progress of the Journal, and a possible "field trip" to discuss issues concerning international law (or not). For any members who missed this productive meeting, please contact one of the officers.

On January 28, the ILA was fortunate to have Dr. Laina Farhut speak on the changing role of women in the Muslim world. Dr. Farhut's lecture on the tension that exists in Muslim countries between the desire for change (democratization) and that for tradition (fundamentalism) was fascinating. This juxtaposition made the abysmal status of women in certain countries more understandable (but no less horrendous). Anyone interested in Muslim or Middle Eastern history should definitely speak with Dr. Farhut.

### RESEARCH PROJECTS CLEARINGHOUSE

**Research Projects Clearinghouse  
takes over Hastings Research!**

On January 1, 1993, Golden Gate University law students, co-directors of Research Projects Clearinghouse

(RPC), took over management of Hastings Research, San Francisco legal research corporation.

Hastings Research's new management will continue the current operations of the RPC under the name Hastings Research. Second year law students Jeremy Blank and Tracey Mlodozeniec will serve as President and Vice-President and Michele Shuster, a third year law student, will be Secretary and Chief Financial Officer of the non-profit corporation.

The takeover returns Hastings Research to its origins as an educational organization employing student researchers and as a source of high quality, low cost research for Bay Area attorneys.

Hastings Research was incorporated in 1975 as a non-profit 501(c)(3) educational organization to train law students to do legal research and writing. Over time, Hastings Research had come to use lawyers exclusively, rather than law students, to provide increasingly sophisticated work, including judgment, to its statewide clientele.

Jim Schenkel, one of the original incorporators and Executive Director, and Mary Donovan, President of Hastings Research, made the decision to return the organization to its original purpose earlier this year. Schenkel and Donovan contacted the co-directors of the RPC with the takeover proposal.

After leaving Hastings Research, the former Executive Director and President will manage the newly created Quo Jure Corporation here in San Francisco, which will offer legal writing and research services through its staff of attorneys.

Hastings Research's new office will replace the RPC located in the SBA office on the bottom floor on the law library. The phone number is (415) 442-6699.

*(continued on page 6)*

# THE BAR, DEAN'S LIST, AND GRADES

by *Tod Manning, 3L & Editor*

## BAR PASS RATE

The July 1992 Bar exam Pass rate for GGU first-time takers was 68.71 %, which is one of the highest levels of success that we have had on the July exam in recent years.

Assistant Dean Egertson has determined that the pass rate for students entering with an LSAT of 34 or above (60th percentile) was 78.6%. This may bode well for the future, insofar as the median LSAT for students entering the past two years is 36 (75th percentile).

The pass rate for first time takers is broken down into quartiles, and into octiles for the fourth quartile, as follows:

(36/37 means that 36 out of 37 people passed)

**First Time Takers - 147**

**1st quartile pass rate 36/37 = 97.3%**  
GPA range: 3.65 - 2.89

**2nd quartile pass rate 25/37 = 67.6%**  
GPA range: 2.88 - 2.65

**3rd quartile pass rate 32/39 = 82.1%**  
GPA range: 2.64 - 2.45

**4th quartile pass rate 8/34 = 23.5%**  
GPA range: 2.44 - 2.14

The 4th quartile was composed of the 7th and 8th octiles as follows:

**7th octile pass rate 7/17 = 41.2%**  
GPA range: 2.44 - 2.29

**8th octile pass rate 1/17 = 5.9%**  
GPA range: 2.29 - 2.14

**Total First-Timer Pass Rate: 101/147 = 68.7%**

## Dean's List: How is it calculated?

I found in a old edition of the LSN that MYAs had to "achieve a 3.0 cumulative grade point average based on completion of at least 29 graded units." MYAs will receive their first ranking at the end of their second spring semester. August admits are eligible for the Dean's List if they achieve a 3.0 cumulative gpa at the

end of their first year. Second, third and fourth year students are eligible for the Dean's List after every fall and spring semester.

The Dean's list is announced approximately September 1 for the previous spring semester and April 1 for the previous fall semester. There is no Dean's List for the summer semester.

## GRADES

This spring the Registrar's Office has announced that some errors were made in the posting of grades to students' records. They have apologized for the errors and have corrected them.

A question that should rise in every student's mind is: "How do I know that other mistakes haven't been made?" The answer to that question is that you don't know unless you personally checked with each instructor to verify that the grade/raw number that was written on your final exam bluebook was the same grade that was posted to your records.

The individuals who work in the Registrar's Office are very conscientious, hard-working, and go to great lengths to try to assure that the grades are accurately recorded. Please understand that I am not criticizing them, only the process. The way that process has been explained to me is approximately as follows: The professors write the grades onto grade sheets next to the exam numbers; those sheets are then checked to see that the grades are within the new grade guidelines and also that the means are within 2/10ths of the other sections of the same course, if not they are returned to the professor for corrections; if they are within the 2/10ths, then the grades are transferred by hand to other sheets that include the students' names and exam numbers. Those sheets are then checked again to verify that the grades were written down correctly. Next they are sent to the University computer center to be input.

There are at least four places where humans have to look at multiple sheets of numbers, verify that those numbers were written down accurately, write them onto other sheets or input them into a computer. I know from personal experience that repetitive work such as is involved here will result in mistakes. Maybe not a lot of mistakes will occur, but definitely some will occur. Mistakes will be made in writing, verifying, and inputting the thousands of numbers that are generated each exam period.

As I discovered an error on my report card that had not previously been found by the Registrar's Office, I am requesting that every grade I received be verified.

## SEX, CLIENTS, & THE BAR

by Tod Manning, 3L & Editor

**T**he following excerpts are from a letter I recently received from a friend of mine who is a lawyer in the Southeastern United States.

I have known this man since I was 18. He had always wanted to be a lawyer. He worked his way through undergrad and law school. He enjoyed practicing law, was good at it, and was highly respected for his integrity and abilities in many fields. He had made a comfortable living as a lawyer and had developed a solid clientele in a small office in a medium-sized town. He took on a divorce case for a wealthy woman which soon became quite protracted. He eventually won an extremely favorable settlement for her and her children. Unfortunately, when he presented her with his firm's bill for services, she claimed that he had coerced her into having sex, refused to pay the bill and then reported him to his state's Bar. He is currently facing disbarment proceedings because it is his word against hers. He claims he didn't have any sex with her, let alone coerced sex. Due to the notoriety of the case and the parties involved, his business has dropped off to virtually nothing.

I am sharing these excerpts from his letter so that you will be aware of the possibility that something like this could happen to you when you present someone with a bill or a case result that they don't like.

Please understand that I have never seen such anger, indignation, animosity and hostility from this normally quiet and wonderful human being. Don't pass judgement on his writing abilities nor the facts of his case, as both have been edited. He was venting his anger in a letter, a safe forum sent to a safe friend. I have tried to disguise the facts so not to cause him further pain and embarrassment. I pass it on in the hope that it will stir some thoughts, reflections, and feedback.

".... When the different states' supreme courts (mandated by the legislatures) enact ethical resolutions 'prohibiting coerced sex with clients,' what is happening? First, coercion is always improper, if not unlawful. Coercion, like fraud, vitiates consent. Second, coercion "smells like" extortion or blackmail. "Fuck me and I'll represent you in this emotionally difficult lawsuit." No! That is not truly extortion or blackmail. The client has a choice and can walk away unharmed, unembarrassed, uncompromised.

"In net effect, as one very bright woman lawyer suggested, 'the Bar has no business in lawyers' bedrooms!' Or as a good friend of mine so aptly stated, what ever happened to personal responsibility?!! I quite agree.

"I suggest that the bars' and benches' reaction to public criticism of lawyers in the atmosphere of the new age of 'political correctness' is ghastly inadequate. First, laws already exist to protect against overreaching. New ink is not the solution. Second, someone - everyone - needs to understand personal responsibility. Third, this new political correctness is as large a banner to hide behind as ever there was. The true issues are equality, decency and fairness. I believe that we already have those protections in a document known as the U.S. Constitution!

"All we need do is enforce what we already have on the books. New laws don't help. Especially when they are an uninformed, un-thought-out, political attempt to remedy current socially perceived ills - i.e., lawyer-sex-coercion.

"The field is ripe for abuse - gross abuse - as we know from my case. All a client need do is cry 'Wolf!' and the lawyer's reputation is destroyed, his livelihood stolen away, his time spent in bar proceedings and hiding from the "system" - also known as the newly organized machine of political correctness.

"The hell with political correctness, and every individual who won't stand up for him, or herself, and simply say 'NO!' And how do we fight the people in positions of power (Bar, bench) who use this scenario of human misery for personal gain? And what about the system that allows and encourages this horror by electing judges through a political process, replete with money, ads, and campaign contributions?! Who among us is impervious to such influence? And finally, as Jesus asked, 'Who among you is without sin and would cast the first stone?'

### CONGRATULATIONS GGU's BLSA MOOT COURT TEAM!

Congratulations to  
Simona Hunt  
Lori Knichen

They took Third Place in the BLSA Frederick Douglass Moot Court Western Regional Competition. They also won the Patricia Roberts Harris Award for Best Respondent's Brief and the prestigious Derrick Bell, Jr. Award for Best Overall Brief!

## Notes From The Editor

If a White Male Law Student Association tried to establish a chapter here at Golden Gate University School of Law, how would you feel about it? Would you oppose it? Support it? Cry out with charges of racism and sexism? You might think that such a group would be outrageous, but what about the many groups that currently exist here on campus, e.g., the Women's Law Association, Black Law Students Association, Asian Pacific Law Students Association, and LEGALS?

As I read Professor Ontiveros' article on affirmative action, I found myself becoming irritated with her comments about whites sharing a common heritage and white men blaming affirmative action when they don't get a job. I have great respect for Professor Ontiveros, I understand what she meant and I am pro-affirmative action, but isn't she actually perpetuating racial and sexual stereotypes about whites and men?

I know that I will probably never know what it is like to be a minority in the United States, but I am familiar with the actions of many prejudiced people. In 1974 I was kicked out of a man's house in Yakima, then the city, and then the county because I was traveling with a good friend of mine who just happened to be black. The man who kicked us out of "his county" was the sheriff. It was the first time that it really hit me that my friend was different - that he was black. When we would walk down the street in Bend, Oregon, people would cross the street to either avoid my friend or else to get a closer look at him. A very young friend of mine was fascinated by his hair because she had been told that blacks' hair was as rough as steel wool. She felt his hair and found out differently. She was only ten years old, but she was willing to take a risk and educate herself about the unknown. Now there is a lesson for adults.

A group of friends and I helped to initiate the first blacks into a previously all-white organization called DeMolay in the early 70's. There was no space on the application for an indication of race so we processed their applications using the existing system and never mentioned that the new initiates were black. We were quietly reprimanded and ostracized from the national level down to the local chapter. But many, many, others came forward to congratulate us for taking the long overdue step of integration. Some supported us publicly, many did not.

While these racist experiences were not directed at me personally, I did see the detrimental effects that they had on my friends.

In 1984 I was the plaintiff in a suit over an employment contract that my attorney and I thought we had an extremely good chance of winning. Then the

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

defense attorney brought in the female bookkeeper that I had shared an office with and she claimed that I had sexually harassed her. I was stunned. The only contact that I had ever had with this woman was in discussing the books, and that was it. My attorney explained that since my case was to be heard by a woman judge and because it would be my word against the bookkeeper's, it would be best if we settled. Was that sexual discrimination? A woman's word being considered to be of more veracity just because she's a woman? I think so.

As a 'white' man with three older sisters, and parents who were very progressive in the way they raised us to view different races, religions, and sexual roles, I become irritated when I read that white men behave a certain way now. What may have been true in the past, may no longer be true. Before labeling a group, any group, first determine if you are perpetuating a stereotype that is based on facts or rumors that may no longer be true. Use qualifiers when appropriate, but please don't use broad statements.

As for my 'common white heritage,' my father is an orphan, and my mother was of Native American and Irish descent. I'm sure that my family is not that unusual when compared to those of other "whites." However, I think it unlikely that the white males of Serbian, Bosnian, Italian, Russian, Irish, and English descent feel that they share a 'common white heritage.'

In the current politically correct environment it seems ironic that the only group that can be freely stereotyped is that of white males. But how someone can say that because I am a white male I behave a certain way is beyond me.

I assume that each of you are intelligent caring human beings who are tolerant of the differences that are inherent in all people. I will treat you in a decent, fair and equal manner, no matter what your race, sex, religion, sexual preference, or handicap. I would appreciate that same assumption and treatment from you when you speak of me or when you try to place me in a box with others who share my 'common white heritage.'

Next...

The Caveat is looking for a complete new staff for next year. Positions that need to be filled are: Editor-in-Chief, advertising editor, assistant editors, proofreaders, Pagemaker whiz(es), etc. If you really want to have an impact on what happens around this school and you want to make things better for those who follow you, then join the staff of The Caveat. Or run for an SBA office!

Apologies to everyone for the lateness of this issue, but I need help to publish this paper more frequently...