The Last Frontier
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Getting A Break For Baby
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The Dean Speaks
Burcham's academic plan
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David Baltimore, President, California Institute of Technology & Nobel Laureate.
Dear Fellow Alum:

I have had the pleasure this past year of meeting many of you personally and discussing with you our plans for the future of Loyola Law School. I have thoroughly enjoyed this aspect of my job as Dean, and it has reinforced my long-held belief that the greatest asset of any school lies not in architecture or buildings, but rather in the people that comprise the educational enterprise. But I have also learned that Loyola Law School is much larger than any current student body, faculty or, certainly, existing dean. What distinguishes us most are the thousands of alumni who excel in their work and who claim Loyola as their alma mater. I hope you make that claim as proudly and as frequently as I do.

We need your involvement. Please attend, when you are able, our many campus events. Please hire our graduates. Continue to serve as mentors and role models for the next generation of lawyers. And, please mark your calendars and attend this year's Alumni Dinner on March 20, 2002, at the Beverly Hilton Hotel.

I am honored to serve as our Dean, and I hope to see you soon.

David W. Burcham '84
Dean

ABOUT THE COVER: Henry C. Yuen, is the Chairman and CEO of Gemstar/TV Guide International. As a graduate of both Caltech (Ph.D.) and Loyola Law School (J.D. '80), Yuen is the sponsor of the joint Law & Technology Program presented by both schools. Photographed and designed by York Knowlton; illustration by Robert Accornero

IN THIS ISSUE • PHOTOGRAPHY BY: Catherine Bauknight, York Knowlton, Louis Lesko, Doug Mazell, Adam Timrud and Ted Wilcox • ILLUSTRATIONS BY: Robert Accornero ("Protect Your Property"); Kristin Dempsey ("Babies and Taxes") and Jo Tyler ("The Need for Endowments")

EDITOR AND ART DIRECTOR: Heidi Matz
PROTECT YOUR

“Sound farfetched? Not really.”
The dreams of science fiction are now reality. Cloning, genetic therapy, organ regeneration, and similar applications of modern genomic science seem to make front page news on a daily basis. These exotic procedures are made possible by major advances in understanding and manipulating the human genome.

A genome is the entire set of genes for a particular organism. The human genome contains roughly 30,000 genes, consisting of 3 billion base pairs of nucleotides residing on complex DNA molecules distributed among 23 sets of chromosomes. They are found in virtually every cell of the human body.

Perhaps the most radical advance in genomics is cloning. Four years ago, Scottish researchers successfully cloned a sheep, affectionately named “Dolly.” Since then, other scientists have cloned worms, mice, pigs, cattle, and continue to race toward a human clone. It is safe to say that somewhere, right now, human cloning experiments are under way. The first cloned human is not far off.

An engineered clone is created when the genetic material from a single source cell is injected into an egg cell stripped of its original genetic material. The cloned embryo gestates and yields an exact copy. As this technology progresses, there are social, ethical, moral, and legal questions that are raised; none have been answered. Efforts to ban or regulate cloning research may delay the inevitable, but will not prevent it.

Four states have blocked cloning and in late July 2001, Congress passed two bills banning human cloning—even for disease research. But the research will continue internationally, so federal and state efforts may be futile. As cloning and other genetic therapies become reality, it is prudent for scientists, lawyers and other policymakers to reach out to each other and find common ground.
A n effort to educate lawyers on evolving scientific research has begun; and for scientists, the corollary. As judges, legislators and lawyers are mostly uninformed regarding the hard science of the human genome project, scientists are commensurately estranged from the law.

The Program for Law & Technology at the California Institute of Technology (Caltech) and Loyola Law School was started in 1999 to bridge the gap between these disciplines. Dr. Henry Yuen '80, an alumnus of both institutions, conceived the Program and is working with Caltech and Loyola faculty to develop it. Among the active participants are Loyola Professors Larry Solum and Karl Manheim who have been involved with the Program since the beginning. Among the technology and law courses they are teaching is Biotechnology Law, now in its third year.

To most lawyers genomics, proteomics, and other exotic biotechnologies are still science fiction. Similarly, according to Manheim, “scientists aren’t sufficiently exposed to the legal issues to understand the ultimate impact of their research.” Enter the Program and its four components: an annual conference, a joint progressive curriculum, workshops and guest speakers, and a fellowship program.

The Program’s annual conference – At the Crossroads of Law & Technology – this year will look at recent advances in genetic and genomic research and their far-reaching effects on the law. The conference will begin with a mock trial on the patentability of the human genome. In the hypothetical case, a commercial genetics company obtains a DNA sample from an HIV-resistant individual, and then patents it. When the individual begins to sell his own tissue samples to researchers, he is sued for patent infringement by the genetics company.

Sound farfetched? Not really. Most human genes have already been patented. The next logical step is to patent the entire genome. If a particular individual’s genetic material has commercial value, either as a research tool or for genetic therapies, then patents are sure to be filed. And, not necessarily by the person whose genetic material it is. For that reason, Caltech President David Baltimore, a Nobel laureate in genetics, urges us to patent our own genome.

The mock trial will be conducted by Loyola law students and Caltech science students. They will be assisted by prominent biotech patent lawyers and genetics experts. The “case” will be tried before the Honorable Marilyn Hall Patel, Chief Judge, U.S. District Court, Northern District of California. Trial is set for Friday, Nov. 9 at Caltech in Pasadena.

Following the mock trial, an academic conference on Genetic Property, Privacy, and Progress is slated for Saturday, Nov. 10, also at Caltech. Prominent law and science academics will explore the legal, social and ethical implications of modern advances in genetics, as well as the future of genomic science. Discussions of stem cell research and other hot topics should draw large crowds, as have previous conferences.
Two years ago, for example, a hypothetical case set in cyberspace was tried before the Honorable Dairmuid O'Scannlain, U.S. Court of Appeals for the Ninth Circuit. Judge O'Scannlain found jurisdiction and venue in a patent infringement action against an Internet users' group for activity on the Internet. The decision was "affirmed on appeal" last year by Judge Richard Posner, U.S. Court of Appeals for the Seventh Circuit. Judge Posner held that the group of anonymous Internet users was a suable entity with a principal place of business—the Internet itself. Since those "decisions," actual cases of a similar nature have been filed.

Besides the At the Crossroads conferences, new courses are being developed under the Program's auspices. For instance, in Loyola's Biotechnology Law seminar, Caltech biology professors provide law students with the science and technology backgrounds they need to master the corresponding legal issues. In addition, the Law School now provides a rich menu of technology and intellectual property courses such as Internet Law and Technology. These respond to the growing interest among students for a technology and law curriculum.

The Program has taken others steps to help the practicing bar keep pace. Speakers have been brought onto both campuses for workshops and lectures. In fall 2000, Judge Posner, who was the settlement judge in the Microsoft case, spoke at Loyola on "Antitrust and the New Economy." This spring, noted Internet architect Karl Auerbach visited Loyola and Caltech. Auerbach, an alumnus of Loyola, was recently elected as the North American Member to the Board of Directors for ICANN—the Internet Corporation for Assigned Names and Numbers. His unique perspective from inside the world Internet governing body formed the basis of his talk—"Why Louis the XIV Would Have Loved the Internet."

In addition to the Program for Law & Technology, Dr. Yuen has established a scholarship program that provides full tuition funding each year to three Loyola students. The students write major articles on legal issues affected by emerging technologies. Last year's recipients wrote on privacy and the Internet, alternative dispute resolution in e-commerce cases, and judicial specialization in high tech cases.

Manheim emphasized that we are in a transitional period. Top law schools like Stanford, Berkeley, and Harvard now have law and technology or internet programs. With the guidance of Dr. Yuen, Caltech and Loyola are equally armed for this evolution. One of the first steps in this joint effort is distance learning between the two campuses to promote interaction by faculty and students.

Besides cyberspace and genomics, the Program is exploring other exotic law and technology issues for future conferences. Two that are being discussed are the law of outer space and artificial intelligence. As policymakers and custodians of the legal regime, lawyers are expected to understand and manage the legal issues of the day. What was once science fiction is quickly becoming science fact. The Program for Law & Technology is one way to help prepare the lawyers of today and tomorrow.
The Dean's New Plan

By James Keane

At the completion of his first year as Dean of Loyola Law School, David W. Burcham '84 reflected on the events of the previous 12 months. "Never a dull moment," laughed the 15th dean in Loyola's history. Nothing, of course, that this veteran of education and the law could not handle.

A life-long educator and a professor at Loyola Law School since 1991, Burcham is uniquely suited to respond to the challenges and opportunities of running a major law school. His background in education includes his grandfather, David Burcham, who was principal of Long Beach Polytechnic High School for many years; his father, Hugh Burcham, a Presbyterian minister who served as school board president; and his mother, Esther Burcham, who taught special education. Dean Burcham himself spent more than eight years as a teacher and administrator at the same high school his grandfather served as principal.

While pursuing doctoral studies in public school administration, Burcham recognized the important role the law played in education issues. He attended Loyola from 1981 to 1984, after which he clerked for Ruggero J. Aldisert, Chief Judge of the Third U.S. Circuit Court of Appeals, and Supreme Court Justice Byron White. After a four-year stint as an associate at Gibson, Dunn, & Crutcher, Burcham returned to his alma mater as an associate professor, teaching constitutional law and ethics.

In the past 20 years, Burcham has seen Loyola go through many changes while retaining its core characteristics. "Since I was a student, the school has certainly changed significantly in some ways. Increases in the size of the faculty and the physical plant are obviously the most prominent," Burcham noted. "There are a lot of new buildings, and we've now expanded to cover our entire city block. In other ways, however, Loyola hasn't changed dramatically. The students are still friendly and diverse, and the faculty still has a commitment to teaching excellence, which was refreshing as a student and is still refreshing to see as a dean."

"I intend for Loyola to be a first-tier law school," he told the Los Angeles Daily Journal in June. After studying areas for improvement, Burcham proposed to increase the school's endowment, improve the bar passage rate, and strengthen the school's identity as an elite institution.

Burcham has identified several key areas of focus for the law school, concentrating on the school's traditional strengths. "There are a number of areas in which we need to have more discussion before we embark on any specific course, but we do want to invest resources in those curricular areas where we have opportunities and are building from strength," Burcham commented.

A primary focus for the law school in the coming years will be developing students' trial advocacy skills. "We already dominate the Southern California trial lawyer bar, and we are going to capitalize on that strength and make it into a truly national program," commented Burcham. "Our trial advocacy program has been ranked eighth in the country, and it's an area where we've been historically most prominent."
I intend for Loyola to be a first-tier law school.”
A major boost to the school's efforts will be the new Girardi Advocacy Center, a three-story structure for which construction began this past summer on the law school campus and scheduled to open in Fall 2002. The building, funded in large part by Loyola Law School alumnus Thomas V. Girardi '64, will feature two state-of-the-art courtrooms and extensive facilities for Loyola's ethical lawyering program. "The Girardi Advocacy Center will be the locus of our new center for ethical advocacy, which will begin next year," Burcham noted. "The director of the program is Professor Laurie Levenson, and she is planning an exciting year of programs and curricula based on teaching advocacy skills and ethics."

A second area of focus for Burcham in the coming years will be law and technology. A centerpiece of these efforts is the Program for Law & Technology, a joint venture between Loyola Law School and the California Institute of Technology. "We became partners with Cal Tech under the sponsorship of Henry C. Yuen '80, who is an alumnus of both Cal Tech and Loyola Law School," Burcham noted. Conceived by Yuen, President and Chief Executive Officer of Gemstar-TV Guide International, Inc., the program will hold its third annual "At The Crossroads" conference this November. With a focus on the human genome, the conference will bring together scientists, engineers and lawyers to explore new developments at the intersection of law and technology.

Revolutionary advances in the decoding of the human genome have raised a number of important moral and philosophical questions that will affect almost every discipline in law. Burcham intends for Loyola Law School to play a prominent role in this rapidly developing area. "The whole area of law and technology is obviously fast-moving, and terribly exciting," Burcham noted. "In addition, our work in this area, both with the 'At The Crossroads' conference and in the classroom, will offer wonderful opportunities for our law students to prepare for and enter new areas of practice in the coming years."

A third strength which Burcham hopes to augment will be Loyola Law School's graduate program in taxation, which recently completed its first year. The LL.M. program in taxation is unique among Los Angeles' major law schools. "Our graduate tax program came out of our strategic planning efforts four years ago," said Burcham. "We began exploring different graduate programs in law, and came to the conclusion that we had a great opportunity to be a leader in advanced studies in taxation. USC and UCLA don't offer such programs, even though we're in one of the key financial metropolitan areas in the world."
To recruit top faculty, establish new curricular strengths, and to build endowment...

...will require a synergy between faculty and the alumni community”

In addition to serving Southern California, the graduate tax program is also attracting applicants from around the nation. “Previously, the top applicants were always found at East Coast programs, the most prominent of which have been Georgetown and NYU,” said Burcham. “Our objective is to make the Loyola Law School graduate tax program one of the best in the country. One of the advantages of being in Los Angeles is that we have an absolutely first-rate adjunct faculty. We have some of the best tax lawyers in the world right here in our own backyard, and an incredibly impressive array of faculty committed to the program and making it work.”

In addition to his three major areas of focus, Burcham also sees opportunities for Loyola in a number of other legal fields, including criminal law, corporate law, intellectual property, and international law. “The faculty and I have some very focused ideas for where we’re headed as a law school,” noted Burcham. “Our current faculty make all of these areas strengths for us. In international law, we are also strong by virtue of our location. There are a number of areas, both in the Pacific Rim and in the newly democratized countries of Central and South America, where we could easily assist in exporting our intellectual capital and legal expertise as they develop.”

In every area, Burcham hopes to expand Loyola’s curriculum by hiring new faculty. He also hopes to create a well-funded endowment to reduce the school’s reliance on student tuition. Also, he will try to acquire funding devoted to improvements in salaries and facilities, allowing Loyola to keep its top professors and recruit elite faculty from around the nation.

Burcham’s optimism about the future is not limited to the law school as an institution; he also predicts a growing demand for Loyola’s graduates in the coming years. “We’re very fortunate, because the exciting and developing areas in law which present considerable opportunities for newly graduated law students also happen to play to our strengths as an institution,” Burcham noted. “We want to leverage those strengths, to create further opportunities for Loyola Law School and its students.”
Babies & Taxes:
Are High-Tech Fertility Treatment Costs Deductible?
by Professor Katherine Pratt

Oh, many's the time in the evening
When the light has fled o'er the sea,
That I dream alone in the gloaming
Of the joys that are not for me;
And oft in my sorrowful bosom
Swells up the mother-love flame,
And I clasp with my arms that are trembling
My child that never came...

The hours swim on the midnight,
The moon looks over the hill,
And the u-u-u-u of the night owl
Sinks mournfully and shrill;
The solitude aches with rapture,
And my heart with the mother-love flame
As I sing alone in the glooming
To the child that never came...

The Childless Mother's Lullaby
by Ella Rhoads Higgins
The springtime of my life
Is passing too.
And ten years' planting
In a willing soil
Have borne
no living fruit.
So many times, I've waited,
Hoped,
Believed,
That God and nature
Would perform
A miracle
Incredible but common.

Nothing grew.
And oftentimes I feel
The mystery of life and growth
Is known to all but me,
Or that reality
Is not as it appears to be.

Mother's Day, by Margaret Rampton Munk

More than a million Americans are treated for infertility each year.1 If less extreme treatment does not solve the problem, infertile patients often resort to assisted reproductive technologies (also known as high-tech fertility treatments), including in vitro fertilization (IVF), gamete intrafallopian transfer (GIFT), and procedures that involve third parties such as egg donors and surrogates.

Long-term treatment of infertility extracts a heavy toll, both emotionally and financially:

Infertility involves multiple losses. From the first moment that an individual or couple realizes that they are having difficulty conceiving or carrying a child, they are confronted with loss. As the experience of infertility continues, many losses come cascading toward them: loss of self-esteem, loss of body integrity, loss of privacy, loss of sexual pleasure, loss of time, loss of money, [and] loss of comfort in friendships and family relationships...2

This article addresses one of the financial aspects of fertility treatment, specifically, the tax treatment of fertility treatment costs. Assisted reproductive technologies are very expensive.3 The cost of a single IVF or GIFT procedure is typically around $10,000, and infertile patients often do numerous procedures. In egg donor and surrogacy procedures, the intended parents incur additional expenses,4 the largest of which is the fee paid to the egg donor or surrogate. An egg donor's fee is typically in the $3,000 to $5,000 range, but some egg donors (e.g., donors with very high SAT scores or athletic ability) can command higher fees. Infertile couples have even advertised in college newspapers for donors with specific abilities or traits and offered such egg donors a donor fee of up to $100,000.5 The fee for surrogates also varies, but is usually in the $20,000 to $40,000 range.

Most medical insurance policies do not cover assisted reproductive technologies.6 As a result, most infertile patients are forced to bear the cost of high-tech fertility treatment themselves. Infertile patients may, however, be able to recoup some of these expenses by deducting their fertility treatment costs as medical expenses or having their fertility treatment expenses reimbursed through a medical flexible spending account.

Internal Revenue Code (IRC) §213 provides that taxpayers can deduct their medical expenses to the extent those expenses exceed 7.5% of adjusted gross income. Taxpayers who participate in medical flexible spending accounts are reimbursed for expenses that are treated as medical expenses for purposes of §213.7

Do high-tech fertility treatment expenses qualify as §213 medical expenses? The characterization of high-tech fertility treatment expenses as medical expenses is unsettled and controversial; there are no reported cases or administrative pronouncements that squarely address the issue. This article will discuss various competing arguments that the Internal Revenue Service (IRS) and
taxpayers could make regarding the tax treatment of high-tech fertility treatment expenses.

Section 213 provides that medical expenses include costs incurred for "the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body." The §213 regulations also provide:

[A]mounts paid for operations or treatments affecting any portion of the body...are deemed to be for the purpose of affecting any structure or function of the body [Section 213 deductions] will be confined strictly to expenses incurred primarily for the prevention or alleviation of a physical or mental defect or illness... However, an expenditure which is merely beneficial to the general health of an individual, such as an expenditure for a vacation, is not [deductible].

Infertility is a disease or condition. Assisted reproductive technologies do not "cure" or "prevent" the disease or condition of infertility; instead they "mitigate," "treat," "ameliorate" or "alleviate" it. Non-third-party assisted reproductive technologies (those that do not involve an egg donor or surrogate) also "affect the structure or function of the body," because they cause the intended mother's ovaries to produce egg follicles and cause her to become pregnant if the assisted reproductive technology is successful. Why, then, might the costs of assisted reproductive technologies not be deductible under §213 as a medical expense?

The short answer is that the Internal Revenue Service (IRS) may view the decision to bear children as a nondeductible personal consumption decision instead of a medical decision. Much of the case law under §213 involves taxpayers trying to deduct as a medical expense the cost of an item, such as a pool, that is usually purchased for non-medical personal reasons. The idea is that taxpayers should not be able to convert a nondeductible personal consumption expense into a deductible medical expense by arguing that their medical condition required them to buy the personal items.

On the other hand, where the taxpayers' expenses are for medical treatment by doctors or prescription drugs, it is much harder for the IRS to prove that the expenses are not medical expenses for §213 purposes. The assumption is that most medical treatment originates out of medical necessity, not personal consumption motives. Section 213, however, does not specifically disallow medical expenses that are primarily attributable to the taxpayer's personal consumption motive. This is what prompted Congress to amend §213 in 1990 to provide specifically that the costs of cosmetic surgery are not §213 medical expenses.

The IRS might argue that fertility treatment is analogous to cosmetic surgery. On the other hand, cosmetic surgery is the only type of medical expense specifically addressed in §213. Since Congress specifically excluded cosmetic surgery from the definition of medical care when it amended §213, the Congressional failure to exclude fertility treatment from the definition of medical care may have been deliberate.

The §213 regulations incorporate a baseline of normal biological functioning. For example, the §213 regulations provide:

[T]he cost of medical care includes the cost of attending a special school designed to compensate for or overcome a physical handicap, in order to qualify the individual for future normal education or for normal living, such as a school for the teaching of braille or lip reading.

The question then is whether child-bearing is part of normal functioning or constitutes a form of personal consumption. Opinions in constitutional law and disability law cases are consistent with the notion that reproduction is a normal and important life activity. On the other hand, the tax law has, for purposes of defining the scope of the business expense deduction, treated child-bearing as a form of personal consumption.

Since 1940, when Smith v. Commissioner was decided, the tax law has treated child care expenses as nondeductible personal consumption
BABIES & TAXES

expenses,¹⁸ not as deductible business expenses. In that case, Mr. and Mrs. Smith had to pay for child care so that they could both work. They argued that their child care costs should be deductible as business expenses. The court disallowed the business expense deduction, stating: "We are not prepared to say that the care of children, like similar aspects of family and household life, is other than a personal concern."¹⁹

There is a calm upon her face.
That marks the change that's taken place;
It seems as though her eyes now see
The wonder things that are to be,
An' that her gentle hands now own
A gentleness before unknown.
Her laughter has a clearer ring
Than all the bubbling of a spring,
An' in her cheeks love's tender flame
Glow brighter since the baby came...

How sweet she was, an' yet how much
She sweetened by the magic touch
That made her mother! In her face
It seems the angels left a trace
Of Heavenly beauty to remain
Where once had been the lines of pain
An' with the baby in her arms
Enriched her with a thousand charms
Sue's Got A Baby
by Edgar Albert Guest

The §213 regulations, however, specifically provide that "amounts paid for operations or treatments affecting any portion of the body, including obstetrical expenses..., are deemed to be for the purpose of affecting any structure or function of the body..."²⁰ The issue then is whether the term "obstetrical expenses" incorporates high-tech fertility treatment costs.

The IRS has issued rulings on the deductibility of some types of reproductive medical care expenses. In 1957, the IRS ruled that the taxpayers could not deduct the cost of an artificial insemination as a medical expense, since the expense was "not incurred primarily for prevention or alleviation of a physical or mental defect or illness."²¹ In other words, the IRS did not regard infertility as a defect or illness. Medical diagnosis and treatment of infertility has progressed immensely since 1957. Infertility is now defined as "a disease or condition affecting the reproductive system that interferes with the ability of a man or woman to achieve a pregnancy or of a woman to carry a pregnancy to live birth."²² In light of the current recognition of infertility as a disease or medical defect, the 1957 ruling may no longer represent the position of the IRS on fertility treatment expenses.
Also, beginning in the 1970s, the IRS has consistently ruled that amounts spent on medical treatment to prevent pregnancy (including the cost of birth control pills, vasectomies, legal abortions, and female sterilization operations) are deductible under §213. If the costs of medical treatment to prevent pregnancy are deductible under §213, the costs of medical treatment to facilitate pregnancy may likewise be deductible.

The IRS has also ruled that a husband and wife could deduct the cost of psychiatric counseling for sexual dysfunction. If sexual dysfunction is a disease or defect that prevents normal functioning, infertility should similarly be regarded as a disease or defect that prevents normal functioning. In other words, if the costs of medical treatment of sexual dysfunction are deductible under §213, the costs of medical treatment of infertility should also be deductible.

With a §213 benchmark of normal functioning, the IRS might distinguish between fertility treatment for women of normal child-bearing age and treatment for women past normal child-bearing age. If a younger woman cannot have children without an IVF procedure because her fallopian tubes are blocked, the IVF procedure enables the woman to approximate normal functioning. If a 48-year old woman cannot have children without an IVF procedure (and perhaps an egg donor) because of her age, the fertility treatment arguably enables the woman to approximate supernormal functioning.

What if the fertility treatment affects the structure or function of the body of someone other than the taxpayer, such as an egg donor or surrogate? If an infertile patient conceives through IVF or GIFT with donated eggs, some of the medical treatment affects the body of the egg donor and some of the medical treatment affects the body of the taxpayer; most of the taxpayer’s medical expenses would be allocable to the treatment that affects the donor’s body. If an infertile patient conceives through IVF or GIFT with a surrogate, some of the medical treatment affects the body of the taxpayer and some of the medical...
treatment affects the body of the surrogate. The taxpayer must pay a fee to the donor or surrogate and the agency and lawyer representing the donor or surrogate.

Are the donor and surrogate fees medical expenses? As a threshold matter, §213 cases and rulings indicate that fees paid to persons who are not medical professionals are deductible as medical expenses only if the services provided by the person are necessary to treat the taxpayer’s medical condition. This standard would be usually be satisfied in egg donor and surrogacy procedures because infertile patients do not usually resort to such procedures unless they offer the only way to overcome the patients’ medical infertility.

The §213 regulations, revenue rulings, and case law indicate that the cost of a substitute for the taxpayer’s diseased or defective body part is a medical expense. The §213 regulations specifically provide that taxpayers can take a medical expense deduction for the cost of a seeing eye dog or artificial teeth or limbs. In Rev. Rul. 68-452, the taxpayer received a kidney transplant and paid the travel, surgical, and hospital expenses of the kidney donor. The IRS ruled that the taxpayer could deduct the expenses attributable to the donor but paid by the taxpayer, under §213. In Rev. Rul. 64-163, the IRS ruled that the taxpayers could deduct the amounts they paid to a person who served as a blind student’s guide at school. The tax court has held that taxpayers could deduct the amounts they paid to a person who took class notes for their deaf child.

This “substitute for normal functioning” argument may support a deduction for typical egg donor fees, but would not support full deduction of the whopping $100,000 egg donor fee paid to the athletically gifted Stanford donor. Even if egg donor fees are generally treated as medical expenses under the “substitute for normal functioning” argument, the IRS would probably disallow the portion of egg donor fees that are paid so the infertile taxpayers can go beyond approximating “normal” reproduction and create a “designer baby.”

One problem with even the basic “substitute for normal functioning argument” argument is that may go too far; the logical extension of this argument would seem to permit adoptive parents to deduct adoption expenses where the reason for adoption is the medical infertility of the parents. Congress recently enacted IRC §23, which provides for an adoption credit for part of the expenses incurred by parents adopting a child. Intended parents whose child is carried by a surrogate, then adopted by the intended parents, cannot claim the §23 credit. The enactment of §23 might seem inconsistent with the broadest definition of medical expenses under §213. On the other hand, the legislative history of §23 indicates that members of Congress may have excluded surrogacy expenses from the scope of §23 because they assumed that those expenses would be deductible under §213 as medical expenses.

In a recent unreported tax court case, Sedgwick v. Commissioner, the IRS, with the knowledge of its National Office, disallowed the taxpayers’ §213 deduction for surrogacy expenses the taxpayers incurred in connection with the birth of their child. The facts of the case were a bit unusual because the taxpayers were able to establish that the surrogate was their dependent, for tax purposes, for the year in which the surrogate fees were incurred. The IRS later settled the case entirely favorably to the taxpayers after the judge indicated that he was inclined to decide the case in favor of the taxpayers.

This article has briefly outlined some of the arguments taxpayers and the IRS could make in cases involving the deductibility of the costs of various types of high-tech fertility treatment. In the future, the IRS or courts may specifically address some of these issues; for now, these tax issues add yet another aspect of uncertainty to high-tech fertility treatment.
BABIES & TAXES

In fertility is defined as the inability to become pregnant after a year of trying to become pregnant or the inability to carry a pregnancy to term. The STAFF OF RESOLVE, WITH DAANE ARONSON, RESOLVING INFERTILITY (1999).

SUSAN LEWIS COOPER & ELLIE SARACHUK GLASER, CHOOSING ASSISTED REPRODUCTION: SOCIAL, EMOTIONAL, & ETHICAL CONSIDERATIONS (1998). The authors also note that infertility and the treatment of it can impact the interest of parents, relationships with others, and careers. The author compares the stress of infertility to the stress of a chronic illness. These include the stress associated with: dealing with the schedules of doctor’s appointments and medication, operations and uncontrollable treatment outcomes, the financial expense working through stress and grief, and needing to adjust to a different reality than [the intended parents] had planned. DERRA BROOKWELL, THE ADV FOR A CHILD (1994).

4. Assisted reproductive technologies include: (1) the costs of various prescription drugs, including the drugs that are used to stimulate the ovaries of the intended mother or egg donor; (2) the costs of medical supervision of the stimulation, including the costs of ultrasound monitoring of the developing eggs; and (3) the hospital, lab, and doctor fees for the egg extraction and implantation.

5. These expenses include the fees paid to: (1) the agency that represents the donor or surrogate; (2) legal counsel to represent the donor or surrogate; (3) a psychologist to evaluate and counsel the donor or surrogate; and (4) the donor or surrogate.

6. See, e.g., Marilee Enge, Ad Adoptions and Surrogacy, 16 FEDERAL TAX LAW 73-201 (1999). The taxpayers could qualify as medical expenses only if the expenses incurred under U.S.C. in the calendar year in which they could be claimed. The taxpayers could also qualify as medical expenses only if the expenses incurred under U.S.C. in the calendar year in which they could be claimed.


8. See, e.g., Donnell v. Commissioner, 44 T.C.M. (CDR) 124 (1982) (in which the tax court denied a medical expense deduction for a home pool because there was a community pool nearby).


10. Section 213(h)(1), enacted in 1980, specifically provides that the costs of cosmetic surgery are considered to be medical expenses only if the surgery is required to correct a deformity attributable to a congenital abnormality, a physical injury, or a disfiguring disease; the costs of cosmetic surgery for purely cosmetic reasons are not deductible under §213(h).

11. As the old saying goes: A stitches saves nine.

12. For examples of a constitutional case that discusses the importance of reproductive rights, see Skinner v. Oklahoma, 315 U.S. 528, 532 (1942), in which the Supreme Court struck down a forced sterilization statute. Justice Douglas, in his opinion, noted: “We are dealing here with legislation which involves one of the basic civil rights of man. Marriage and procreation are fundamental to the very existence and survival of the race.” Id. at 541. For an example of a district court rights case that characterizes reproduction as a “major life activity,” see Bonger v. Abbot, 534 U.S. 624 (1996), Justice Kennedy’s opinion states: “The right to reproduce and the sexual dynamics surrounding it are central to the life process itself.” Id. at 625.

13. Taxpayers deduct their ordinary and necessary expenses under I.R.C. §162.

14. Smith v. Commissioner, 40 B.T.A. 1038 (1938), aff’d per curiam, 113 F.2d 1142 (2d Cir. 1940).

15. Ibid. at 1039. Professor Douglas Kelm summarizes the tax law’s treatment of charitable costs in this way: “While the expenses of caring for children may be a necessary cost of having the parent bear the home so that he can earn income, it is also an expense arising out of personal, family obligations. The cost of child care is analogous to commuting expenses which are not deductible even though a taxpayer is not able to earn gross income unless he travels from his residence to his place of work.” DOUGLAS A. KELM, FEDERAL INCOME TAX 434, 510-2000 (4th ed. 1999).


18. Id. at 3-6.


23. I.R.C. §213(b)(1)(B). The IRS defined the term “qualified adoption expenses” as “reasonable and necessary adoption fees, court costs, attorney fees, and other expenses — . . . . . . . which are not incurred in violation of State or Federal law or in carrying out any illegitimate parenting arrangement.”

24. The legislative history of §213 includes the following statement, which was made by Senator Bentsen, one of the sponsors of the adoption credit bill:

“The question of fairness is raised when we compare the treatment of adoption costs to those expenses related to the conception, delivery, and birth of a child — or high technology medical expenses for in vitro conception, etc. Parents could in most cases defer and deduct the latter costs as medical expenses. No similar relief is currently available for adoptive families.”

25. A surrogate could qualify as a dependent of the infertile taxpayers only if the taxpayers’ home is the surrogate’s principal home during the calendar year in which dependency is claimed. I.R.C. §151(d)(9).

26. If the requirement, surrogates would not usually qualify as dependents of the taxpayers.

27. There was no reported decision in the case.
Following the Loyola Law School alumni tradition of naming major campus classrooms after a decade of scholarship (e.g. the Hall of the '70s and the Hall of the '80s), a campaign is now underway to name the second-floor 65-person courtroom, to be located in the new Albert H. Girardi Advocacy Skills Center, "The Courtroom of the 90's," after its eponymous classes. The Center will contain more than $1.5 million in state-of-the-art technology including audio-visual equipment, distance-learning connectivity and laptop computer connection -- all for the development of courtroom skills. Initiated in December 2000, the campaign continues to gain momentum toward the goal of raising $100,000 from each of the classes. To date, Loyola has received pledges of $196,031.00 from 352 friends and individual graduates of the 90's.

Campaign Chair, Danny Sonenshein '98, continues to hear from fellow 90's graduates who regard Loyola as an integral component in their professional lives; and their pleasure in contributing to the continued growth of Loyola Law School. "I hope others feel the same way as their classmates and they join them by participating generously in the Campaign," says Sonenshein. "While we have made significant progress, support from everyone is necessary to meet our goals. Together we can make a lasting mark on Loyola," he added.

Dean David Burcham expressed his congratulations and thanks to contributors in the Campaign. "We have a distance to go to reach our goal of $1.5 million to name the Courtroom of the '90s," he said. "We have set some class campaign gift objectives: to receive at least 20 from each class at $3,000 pledged over three years; 30 from each class at $1,500 pledged over three years; 50 from each class at $750 pledged over three years; and 700 other contributions averaging $100. "I believe that the new Advocacy Center will become one of the most impressive and vital buildings on the campus. The Center will permit us to build upon our outstanding reputation for teaching future lawyers the skills necessary to be effective advocates." said Burcham. "For the first time, the annual U.S. News and World Report rankings placed us eighth nationally in trial advocacy. We want to cement this ranking, and move up to number one," he said.

Graduates of the 90's Respond to the Challenge

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The Albert H. Girardi Advocacy Center will contain more than $1.5 million in state-of-the-art technology.

"For the first time, the annual U.S. News and World Report rankings placed us eighth nationally in trial advocacy. We want to cement this ranking, and move up to number one," he said.

Gregory M. Alker '98 and Susan Alker made a $20,000 gift to The Center.

Ricardo A. Torres II '93 pledged a $10,000 gift.
For the past 30 years, Loyola Law School has devoted considerable resources to building its physical plant. Buildings have been built. Property has been purchased. More buildings have been built. This undertaking has cost literally millions of dollars. Upon the construction and completion of the new Albert H. Girardi Advocacy Center, the physical campus will be complete. This means that for the future, a primary goal of Loyola Law School’s Dean is to direct more funds toward academics and to build the endowment.

Much of the administration’s attention is now being directed toward building more endowment. Endowment is a fund; the principal of which is maintained in perpetuity, while the income generated by the principal is used to fund special programs at the Law School. For example, Loyola Law School’s current endowment helps cover the cost of visiting speakers, academic symposia, faculty publications and faculty chairs. An endowed faculty chair provides the salary of a member of the faculty who, by virtue of a distinguished record as a scholar and teacher, is deserving of special recognition. Faculty chairs enhance a school’s financial portfolio, improve the quality of its academic program, and build the national reputation of its faculty. “When you compare Loyola Law School with other first-rate schools, it is clear that we are behind,” states Dean David W. Burcham ’84. “It is not uncommon for a school to have an endowed chair for every tenured member of the faculty. At our law school, we have one fully endowed chair and five partially endowed.” [Presently there are 66 full-time members of the faculty; 76 percent of which are tenured.] “Over the next 25 years, I hope that the number of fully endowed chairs increases dramatically.”

Two areas of scholarship especially deserve attention through endowments. “A chair in ethical advocacy would greatly compliment our new building,” says Burcham. “Similarly, an endowed chair in law and technology would enhance our ability to move forward in this emerging area of law, yet, I would emphasize that chairs are obviously needed in all aspects of our curriculum.”

Endowed chairs provide the respective law faculty with more income. “We at Loyola Law School oftentimes are not able to pay professors what they are worth,” states Burcham. “The result is, another law school can hire them away. Chairs allow us to be competitive; not raided.” Victor Gold, Associate Dean for Academic Affairs, emphasizes the need to endow more chairs. “We have assembled one of the best law faculties in the nation. Our professors are being actively courted by many other law schools. If we do not give our professors what they are worth, we will lose them.”

“Typically an Academic Chair is fully funded at $2 million,” states Assistant Dean for Development, Kenneth Ott. “These funds are invested in the Loyola Marymount University Endowment Pool, which is professionally managed. Each year, five percent of the earned interest is used to support the Chair holder and program while the remaining interest is reinvested in the principal of the endowment. That way there is continual growth of the endowment over the years.”
"The development of the endowment for Loyola Law School has now become our primary goal," admits Ott. "Endowment will provide for the financial security of the institution. It will help secure for the school its place as one of the best law schools in the country."

In turn, student tuition dollars, which normally pay for a faculty member's salary, are now freed for any number of uses. Increased endowment means Loyola Law School can apply tuition money within its budget toward more public interest law offerings, student scholarships, law courses and clinics – all of which are costly. Endowments also are key to controlling tuition expenditures. Burcham adds, "As Dean, I'm committed to keeping tuition increases down. Way down."

Endowing a faculty chair also permits the donor to be associated in perpetuity with the most famous names in legal education. Victor Gold observed, "the Fritz Burns Chair in Property Law is held by Roger Findley. Roger, a former dean and professor at the University of Illinois Law School, is one of the biggest names in the country in Property Law. His casebook has been used by thousands of future lawyers. Each one of them sees the Fritz Burns name on the title page. And when Roger retires, we will hire another equally distinguished scholar to be the next Fritz Burns Professor. Buildings eventually are torn down and replaced. Endowment is forever."

Sedes Sapiente – The Seat of Wisdom

The academic chair had its genesis at the end of the 12th century during a feverish desire for learning. That was when education and the church were inextricably married and out of that union was born the thesis that human wisdom approaches divine wisdom. The flowering of academia and its accoutrements such as gowns, processions and other customs evident at graduation ceremonies had its deep roots in medieval practice. Then, as now, the beneficence of patrons of learning is imperative for the ambitious goals of education. In 1497, Margaret, Countess of Richmond and Henry VII, founded the first chair in an English-speaking country. The Lady Margaret Professorship of Divinity is still occupied today at Oxford. Also, a second chair, still in existence, was founded by the generous benefactress at Cambridge. An endowed chair provides the opportunity for the University to appoint a professor recognized as a prestigious scholar. It brings to the University's students an excellent teacher who inspires confidence by an outstanding record of scholarship.
Virgle’s Odyssey

By Ryan McEachern

Virgle Benson graduated from Loyola Law School in 1976, the only black man in his class. Benson’s life story is heroic and honorable. The tribulations and successes of Benson’s life require this telling, as they may inspire the most despondent, they may enlighten the most ignorant, and they will most assuredly warm every man or woman. Yet had it not been for a series of unlikely occurrences, Loyola Law School’s Alumni would be short a great man.

His life started hard enough, growing up in Los Angeles within the welfare system. After high school Benson served this country in the Navy for four years in Vietnam. After the war, he began his college education at California State University at Los Angeles, receiving a degree in Political Science, after starting in architectural engineering.

At no point in his career at Cal State LA did Virgle consider law school an option, until he was walking across campus and was approached by a Loyola student sent to recruit minority students. Virgle was intrigued by the thought of a new career path. Benson quickly made up his mind after considering his inability to gain employment in any architectural firms. Benson promptly changed his major, and signed up to take the LSAT. On one early Saturday morning he took the exam and a few months later discovered how well he’d done. Armed with confidence Virgle applied to law schools.

Benson interviewed at UCLA, USC, and Loyola. He was not accepted. So, he applied to Southwestern School of Law. The day before school started, Assistant Dean Lola McAlpin-Grant called up Virgle Benson and offered him a spot in Loyola’s evening division, and Virgle accepted.

Gaining admission to Loyola was not Benson’s first and only challenge; while the school was known for being progressive, accepting women and minority students before most other “White” law schools, remnants of discrimination and prejudice still existed. Assumptions about minority students were abound, in the administration, among the faculty, and, of course Benson’s peers.

Shortly after Benson’s admission, various people advised him, to strongly consider not taking Real Property and Constitutional Law his first year. When Virgle asked why, he was told that those particular classes were too difficult for a minority student to handle their first year. Benson ignored the warning, and found that Real Property was second-nature to him. Benson abdicated any remaining

In 1975 when a fearless law student at Loyola.
truth to the misinformed warning when he tutored fellow students over the summer who had failed the course.

Benson states he confronted attributes based on racial stereotypes all throughout law school as he faced constant snubbing and exclusion—typical of the day. He wasn’t informed of social gatherings and parties, had a hard time procuring outlines for his courses, and so on. Someone went as far as to “key” his car, yet somehow he did not harbor resentment or anger. Rather than allowing himself to become a victim, he rose above the constant snubbing, and fought his battles in the classroom, not the “playground.”

Benson found true friendship at Loyola with classmate Danny Borowski (a blonde, long-haired Harley Davidson rider) and the two remain close friends. Their meeting was unintentional while fateful. One day the professor instructed Benson’s class to partner up and when the dust settled, this odd couple remained: Benson, the afro-wearing black student, and Borowski, the blond-haired, white biker. They became inseparable. And even amid the controversy and rejection, Benson still humbly credits his current status in life to this institution. “But for this school, I’d probably be driving a bus somewhere. I owe everything to this school.” Therefore, even though a few individuals may have tried to sour Benson’s career in law school, he still speaks glowingly about Loyola Law School and its constituents.

While law school did not lead Benson to a career in law, as he had once hoped, it did provide him with the tools necessary to accomplish his other goals. Law school, according to Benson, is “the best experience you can have, when you want to do something on your own. It is the key.”

Opting out of the legal field, Benson continued an earlier venture in real estate. It started when he was the first African-American on his block. Suddenly, all the houses went up for sale. Benson, not one to be put off by blatant white flight, bought up each house as it went on the market. He owned the block and sold each house for a tidy profit. Developing houses in Big Bear, his primary region for home building, was Benson’s next career move.

Benson is still in the development business, as well as owning an appraisal firm. Benson has also served as Councilman in Inglewood from 1983 to 1986, and volunteers his time with the South Bay Literacy Program and is on the Inglewood YMCA Board of Directors.

Yet, even without looking at his grand achievements, it is nearly impossible to not be won over by Benson’s charm. He is a role model for any man or woman, not necessarily for his success in business, but for his success at just being.
William Araiza

More than any other constitutional right, free speech and religion are areas that have been undergoing considerable change. Araiza's casebook, Constitutional Law: Cases, History and Dialogues, presents those changes, and by its currency ably integrates these new developments into the way we assimilate traditional material.

Two features distinguish Araiza's casebook from almost all other First-Amendment casebooks. "First, my co-editors and I intersperse between the cases our own thoughts, in the form of commentaries, or 'dialogues.' These dialogues, in which we often directly address each other's points and disagree, allow us as editors to express our views without having to force our opinions into the way we edit or present the cases. We also hope that these dialogues will make the reading process a more social one, in which the student is confronted with different interpretations of the material as she reads it."

Second, we made a conscious choice to include in the casebook numerous references to practices in other nations. Since concepts of democracy and human rights in general, and constitutionalism in particular, has been newly introduced into a great many nations, American constitutional law can profit, we believe, from examining the practices of other nations and legal systems. We believe that exposing American students to that different historical experience, and the resulting different level of protection afforded such speech, will enrich their understanding of the topic."

Robert Benson

In this time of unchecked corporate impunity it is not wishful or naive to scan the horizons, hoping to see the attorney-general issue forth from its government stronghold to squash the legal insurrection of corporate America. The attorney-general packs a potent defense against, the hell-bent, oversized corporation, and Professor Benson feels the time is right for that power to be unleashed.

Challenging Corporate Rule: The Petition to Revoke Unocal's Charter as a Guide To Citizen Action urges a grassroots citizens' revival of a virtually forgotten technique to control irresponsible corporations: revocation of their charters. Professor Benson traces the law of actions against corporations from ancient common law to the statutes on the books today that allow the attorneys general of every state to go to court to force involuntary dissolution of corporate lawbreakers. He argues that, while the technique was used with some frequency in the Populist era of the 19th century, most attorneys general today are too timid to use it despite the fact that we are
in an era of unprecedented abuse of corporate power.

The book presents as a model the complaint that Benson prepared on behalf of a coalition of human rights, environmental, women's and social justice groups, asking the attorney general of California to revoke the charter of the Union Oil Company of California (UNOCAL) for human rights, environmental, labor and social justice abuses. Sadly, two successive California attorney generals have rejected the complaint.

Sande Buhai

Clinical legal education provides exceptional benefits to law students. It is one of the best ways that law students can begin to: (1) identify which type of law they wish to practice; (2) make connections in the legal field to foster future employment opportunities, (3) develop mentoring relationships, (4) learn many important skills, and (5) learn professional responsibility and competence. These benefits directly translate into increased opportunities for successful employment upon graduation.

Practice Makes Perfect: Reasonable Accommodation of Law Students with Disabilities in Clinical Placements emphasizes that these benefits are especially relevant to law students with disabilities, because, although there has been some improvement in the employment of lawyers with disabilities over the past few years, they still suffer from significant discrimination. Law schools must allow and should encourage their students with disabilities to participate in clinical legal education to reap its benefits and assist them in developing long-term successful, professional lives. For persons with disabilities, the opportunity to experiment with different reasonable accommodations and practice using them can make all the difference in performing the essential functions of their jobs.

Robert Chang

Leonard Nimoy spoken word performances are stocked next to Nine Inch Nails albums at some record stores. The pop culture icon and industrial rockers share little musical affinity. Yet, there they stand, lumped together for convenience sake. It is not surprising our ethnic classifications are just as superficial and nonsensical as the record store's categories.

In Disoriented: Asian Americans, Law, and the Nation-State, Professor Chang examines the current discourse on race and law and the implications of postmodern theory and affirmative action—all of which have largely excluded Asian Americans—in order to develop a theory of critical Asian American legal studies.

Demonstrating that the ongoing debate surrounding multiculturalism and immigration in the U.S. is really a struggle over the meaning of “America,” Chang reveals how the construction of Asian American-ness has become a necessary component in stabilizing a national American identity. This fact Chang criticizes as harmful to Asian Americans. Defining the many “borders” that operate in positive and negative ways to construct America as we know it, Chang analyzes the position of Asian Americans within America's black/white racial paradigm, how “the family” operates as a stand-in for race and nation, and how the figure of the immigrant embodies a central contradiction in allegories of America.

Jan Costello

During the 20th century the people of our nation marched, demonstrated and died for social change. Now the 21st century dawns, yet, it is not a clear morning free of discrimination and inequality. Our society must awaken to at least one more social injustice: the ill treatment of the mentally disabled.

“And Who is My Neighbor? Autonomy-Value, the Ethic of Care and Full Inclusion for People with Mental Disabilities” in The Just One Justices: The Role of Justice at the Heart of Catholic Education discusses how American attorneys interpret justice will be critical to this new struggle.

This essay responds to an ongoing schol-
some of the ideas that exist in the minds of their employees. Working Knowledge: Trade Secrets and Noncompetition Agreements in Employment and the Rise of Corporate Intellectual Property, 1800-1920, explains that employer ownership of employee knowledge is a legal construct that is now an accepted part of our culture and economy. Its development and enforcement in the nineteenth century, however, was a prolonged and painful contest between the perceived exigencies of economic development and the ideology of "free labor," and between the norms of artisan production and the expansion of the factory system. These very real economic and legal struggles were fought out partly at the highly abstract level of competing habits of legal discourse about property and contract, and partly in the daily lives of the employees and firms. This is the story of the struggles that created the modern law.

Victor Gold
Dean Gold returned to Los Angeles from the desert (Arizona State College of Law) and joined the Loyola faculty 17 years ago. When he speaks of teaching law he says, "while we can't tell you what truth is, we can show you how to search for it." Thankfully, for those unfortunate persons troubled by legal procedure, the truth is readily available in Dean Gold's books.

Gold is the co-author, along with the late Charles Alan Wright, of four volumes of Federal Practice and Procedure. Now totaling over 50 volumes in length, Federal Practice and Procedure is the preeminent authority on all aspects of federal procedural law and has been cited in thousands of reported court opinions. The other authors of the treatise are on the law faculties at Harvard, the University of Texas, the University of Virginia, UCLA, Hastings, and the University of Michigan.

Gold's volumes all deal with the Federal Rules of Evidence. Specifically, his books cover the rules regulating witnesses, impeachment, opinion testimony, authentication, and the Best Evidence doctrine. The books combine a comprehensive coverage needed by courts and practitioners with the in-depth analysis sought by scholars.

Accordingly, Gold's volumes have been cited in hundreds of cases, including opinions written by every federal circuit court of appeals and most state supreme courts, as well as scholarly articles appearing in the law reviews at Harvard, Michigan, Texas, Georgetown, Columbia, and NYU, among many others. Two of his volumes have received an award from Alpha Sigma Nu, the Jesuit Honor Society.

Richard Hasen
"If I had a dollar for every vote cast, I'd... Oh, I do have a dollar for every vote cast," chuckles your senator. Now, under the unblinking surveillance of millions of computerized cyclopes, does your dollar pass into the hands of our millionaire men's club politicians? Perhaps it is due to the blurry legal ground upon which treasurers oblique electoral spending.

In Vote Buying, such influence over the electoral process is almost universally condemned. Although the reasons for condemnation fall into three distinct categories: equality, efficiency, and inalienability, any one of these may be sufficient to explain and justify a ban on vote buying. This overdetermination matters, not for the ban on core vote buying, but for myriad other situations that are similar to the core case but deviate from it in some way.

The Article attacks vote buying by applying equality, efficiency, and inalienability to evaluate a number of non-core vote buying practices, such as, legislative logrolling, corporate vote buying, payments to increase turnout, candidate campaign promises and campaign contributions, and voting in special district elections. The article then concludes with a suggestion that some of these practices violate only one or two of the three anti-vote buying criteria, and that a decision on each practice's desirability turns on a normative evaluation of these criteria.

Laurence Helfer
The musical freedom espoused during Woodstock has been chipped away by the heavy hammer of corporatization. Now, the World Trade Organization is raising the deviation to the copyright to an international level.

"World Music on the U.S. Stage: A Barnes/TRIPs and Economic Analysis of the Fairness in Music Licensing Act" analyzes the dispute settlement proceedings pending before the World Trade Organization (WTO). These settlements revolve around the Fairness in Music License Act of 1998, a new provision of the U.S. Copyright Act that exempts many bars, restaurants, and retail stores from paying license fees for performing broadcast music in their establishments. In May 1999, the European Community (EC) challenged the Act, and its predecessor "homestyle exemption," as a violation of the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs) and the Berne Convention for the Protection of Literary and Artistic Works (Berne).

The FMLA dispute is the first time in history that U.S. copyright laws will be judged by an international tribunal. The case is an embarrassing one for the United States, which has recently pursued a policy of aggressively encouraging other nations to provide strong legal protections for copyrighted works. Thus, in the first year of the new century, Congress may be faced with an unprecedented choice: modify the Copyright Act to satisfy the demands of international trade jurists or face retaliatory trade sanctions by the EC.
Lisa Ikemoto
Immediately after the Oklahoma City bombing a news program interviewed an Oklahoma resident who felt the tragedy could have been averted if less Muslims were allowed into the country. Of course, that comment was not an isolated incident of bigotry.

Ikemoto in “Lessons from the Titanic: in Start with the People in Steerage, Women and Children First” examines the case in which a defendant ran a scam by placing personal ads in newspapers and magazines all over the United States. The personal ads stated a “SAF” (Single Asian Female), often named, “Velma,” sought a relationship with a man of any race. Persons who responded to the ads received a letter that offered the possibility of exploring “relationship possibilities” and an invitation to join a dating club -- for a fee.

Nearly all who filed complaints were white males who assumed the perpetrator was an immigrant Asian woman. He was, in fact, a non-Asian, U.S. born male. Most of the complaints described the scam in terms that emphasized their own good faith and innocence and that cast the perpetrator as a scheming, deceptive Asian woman. In short, they drew from the Dragon Lady stereotype, which variously characterizes Asian women as scheming, duplicitous and tyrannical.

Larry Lawrence
Hidden within all contracts textbooks lies the horror. Strewn before it the legal minds of our generation lay destroyed by madness; starving, hysterical, nked. Professor Llewelyn's Frankenstein, The Uniform Commercial Code, and its legions of modified goods answers to no common law. Yet, one man carries the torch of code clarity.

Professor Lawrence recently took control of the 20 volume series on the Uniform Commercial Code now entitled Lawrence’s Anderson on the Uniform Commercial Code. In this series, which Lawrence took over in 1999 upon the death of Ronald Anderson, the professor covers not only the entire Uniform Commercial Code, but also the Uniform Computer Information Transactions Act, the Uniform Electronic Transactions Act, and the Electronic Signatures in Global and National Commerce Act. It is worth noting that Lawrence’s Anderson on the Uniform Commercial Code is one of the top two cited multi-volume treatises on the Uniform Commercial Code by courts throughout the nation. In addition, Lawrence will supplement the two new volumes each year. These are either revisions of earlier volumes or, when revisions are made to the current UCC Articles, they cover the new revision, or if new acts come out regarding commercial law outside of the UCC, they will cover these new acts.

Laurie Levenson
So the significant other recorded over your “Practice” video archive and tomorrow you are due in court and you don’t have a clue of what to do. No worries, the “Cliff’s Notes” of federal criminal proceedings are here. The Federal Criminal Rules Handbook is a reference tool for courts, prosecutors and defense counsel who handle federal criminal matters. It contains commentary on all of the Federal Criminal Rules, as well as primers on key legal issues relating to criminal practice. For example, it has primers on sentencing, search and seizure laws, and criminal appeals. It is designed to be used in lieu of a multi-volume treatise. In addition to addressing the Rules, it also contains sections on federal habeas corpus law and the Federal Rules of Evidence.

Samuel Pillsbury
Chief Justice Rehnquist once wrote a stirring elegy upon the passing of one burnt American flag. Yet, the literary effort did not impress many people. Instead, it disturbed them, because Rehnquist’s poetic moment was also a Supreme Court dissent. If it were true that legal decision-making must be divorced from emotion, then why do we praise lawyers and judges for having a “passion” for justice? Could it be that the law’s standard prohibition on emotional influence is misguided, or at least overbroad?

In “Harlan, Holmes, and the Passions of Justice,” in The Passions of Law, Pillsbury uses the examples of two great justices of the Supreme Court, whose terms overlapped for a time in the early twentieth century — John Marshall Harlan and Oliver Wendell Holmes Jr. — as the basis for an exploration of the influence of emotion on appellate decisionmaking. By a brief examination of each man’s biography and a close reading of one of each justice’s most famous dissents — Harlan’s dissent in Plessy vs. Ferguson and Holmes’s in Lochner vs. New York, Pillsbury argues that our current understanding of emotion’s influence in law is impoverished, both in concept and in vocabulary. Taking a more fine-grained approach, one that distinguishes between different contexts and kinds of emotional influence, promises to give us a better understanding both of what law is, and what it should be.

Daniel Selmi
The sun never sets on the American strip mall empire. Considering our systemic sprawl infection, one might conclude governments are powerless in the face of commercial pressures. In fact, this is a critical era for land use regulation. The demarcation of land use power transpiring in the courts may change the face of the earth.

Land Use Regulation: Cases and Materials' major goal is to expose the student to the dynamic forces at work in modern land use regulation. It is a fascinating field. Consider some of the "hot areas": (1) First Amendment issues arising from billboard regulation and attempts by cities to designate churches as historic landmarks; (2) Fifth Amendment issues, such as the Supreme Court land-use decisions to alter the historic underpinnings of takings law and (3) the extent of the police power, e.g. can local governments favor one industry over another in redeveloping property?

In addition, the land-use area has a large dose of politics thrown in. Land use regulation is the most important power that local governments still possess, and local decision makers have a
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large amount of discretion. Practitioners must not only know the law, they also must be able to deal with the political context of development proposals. The book is divided into four parts. First, we teach the students the basic “tools” of land use regulations (e.g. zoning, subdivision regulation, and planning). Next, the book addresses the limits imposed by the legal system as means of controlling local discretion. Third, the book takes a hard look at the major conflict in land use today: the tension between local efforts to control growth and the increasing need for housing for our population. Finally, the last part of the book is entitled “The Use of Land Use Controls To Effectuate Government Policy Objectives.” Here, we look at the modern trend of altering land uses to achieve specific government goals, such as protecting the environment, citing unwanted land uses (e.g. jails, disposal sites), and achieving economic growth.

Lawrence Solum

The happy chatter of workplace keyboards often betrays the employee shopping the net during work hours and and email-for-personal-use transgressions. Those key strokes may be the echoes of something more sinister; something like evidence destruction.

“Destruction of Evidence in Civil Litigation” in The Litigation Manual: Pretrial examines a very old legal problem that has taken on new forms in the internet age. Professor Solum’s article surveys a variety of legal strategies for controlling “spoliation” or destruction of evidence. These include criminal penalties for obstruction of justice and civil issues such as sanctions for specific violation of discovery rules, and in some states a spoliation of evidence tort.

Solum began work on this topic as a law school student, and has written a book and several articles on the subject. One of the effects of this work has been to dispel a variety of myths, including the one that evidence can legally be destroyed so long as a lawsuit is not pending or that destruction of evidence cannot be sanctioned if it is done pursuant to a document management policy. Among the difficult questions that courts now face in the computer era is whether there is an affirmative obligation to preserve backup tapes that might contain deleted files or email messages.

Peter Tiersma

Many lawyers experience ostracization from social circles upon graduating from law school. However, it would be rash to ascribe this shunning to our friends’ inability to cope with our newfound soullessness. Maybe the lawyer-geek syndrome is just a curable communication breakdown.

More than just a social aid, Peter Tiersma’s Legal Language aims to describe the language of the legal profession, answering questions like how it got to be the way it is, what distinguishes legal language from ordinary English, how lawyers use both written and spoken legal language to further their strategic interests, and what can and is being done to improve the situation.

The book describes the origins of the English spoken and written by the legal profession and why legal language differs from ordinary speech. Sometimes lawyers use legalese for no apparent reason other than to show that they are members of an exclusive club, or to justify their fees to clients. On other occasions, however, legal language is in fact a relatively precise mode of communication. The nature of legal language also has implications for how it is interpreted.
LLOYD GREIF '84 Is it possible to run a multi-million-dollar investment banking firm relying solely on word of mouth for new business? It is if the firm in question has the impeccable reputation of Greif & Co. It also doesn't hurt to have Lloyd Greif at the helm. Greif built his successful firm (since its founding in 1992) on the premise that L.A.'s countless entrepreneurs were under-served by the area's investment banking firms. "When I look at Los Angeles and its environs, I don't see a metropolis full of Fortune 500 companies," Greif noted. "Instead, I see entrepreneurially owned and operated, middle-market growth companies. These are the businesses that aren't getting the quality of investment banking services they deserve. As an entrepreneur myself, I can look these clients in the eye and feel an immediate resonance with them."

Greif's rapport with his clientele was born of his own work experiences. While an undergraduate at UCLA in the mid-70s, he began working at a Ralph's supermarket as a box boy. Within a couple of years, he had risen to assistant store manager despite attending school full-time, an accomplishment made possible by an extraordinary work ethic. "When I was running the morning crew, I started work at midnight," Greif remembered. "I would get the shelves stocked, go home at 8:30 a.m., attend class from 10 a.m. until 5 p.m., sleep until 11 p.m., and get back up for work by midnight. Luckily, there were two days a week where I was off from Ralph's, and as long as one of those days was on the weekend, I could maintain my sanity." After UCLA, Greif attended graduate business school at USC on Ralph's' scholarships, which paid for both years of tuition. He then worked as a management consultant (a hot field at the time) for two years before moving on to Sutro & Co. as an investment banker. In the meantime, he also attended the evening program at Loyola. "When I applied [to Loyola], it was not with the intention of becoming a lawyer, but of picking up knowledge, skills, and expertise for the business world." Greif also met his wife, Renée ('84), at Loyola, and the two were married in 1986. They live with their three children in the Hollywood Hills. At Sutro, Greif was the firm's top producer for the last nine of the ten years he was there. As he rose to Vice Chairman, he found himself spending an increasing amount of his time on administrative duties rather than his clients. In 1992, with several other Sutro executives, he formed Greif & Co., a 20-employee operation with a premium on client service and a unique focus on mid-level, family-owned and closely-held businesses. The firm now completes in excess of a billion dollars in transactions annually, operating entirely on word-of-mouth referrals from satisfied clients and colleagues. Today, Greif & Co. is known worldwide by its swooping owl logo and its trademark, "The Entrepreneur's Investment Bank," and is a leading purveyor of corporate finance and merger & acquisition services. While Greif has never practiced as a lawyer, he credits his study of the law for much of his success. "Lawyers are trained to think logically and analytically, to be able to see and argue both sides of an issue. The skills and knowledge base I developed at Loyola have been incredibly helpful in structuring and negotiating business deals that are "win-win" transactions for both buyer and seller," Greif noted. He also had high praise for Loyola's "powerful" alumni network: "If you travel in legal or financial circles in and around Southern California, the Loyola alumni card opens a lot of doors."
ENTREPRENEURS

ETHAN MARGOLIS '84 When Ethan Margolis was given an abandoned truck that had been caught in a Laurel-Canyon mudslide in 1973, he saw an opportunity to make a few extra dollars for college. He and a buddy cleaned it up, painted their wry slogan, "Starving Students," on the side, and went to work as movers. • The two 17-year-olds could not have known at the time that almost three decades later, that first truck would have been replaced by a fleet of 350, Margolis would oversee 800 employees, and Starving Students would be the largest moving company in California. • After leaving Fairfax High School several credits short of a diploma, Margolis formed Starving Students to pay for expenses at Los Angeles Valley College and later at UCLA, where he earned a degree in philosophy. Despite stiff competition in the traditionally volatile and low-margin moving industry, Margolis had hired his 50th employee by the time he graduated from UCLA. • “The advantage of running a moving company is that it's something you can do full-time while still attending school,” Margolis commented. “The company was not always profitable, but it gave me a chance to control my own destiny.” • After graduation from UCLA, Margolis enrolled in Loyola Law School’s evening program. He remembers distinctly the first exam he ever took in law school, because he almost spent the allotted time in the UCLA Medical Center. “I got stomach cramps before my Contracts exam,” Margolis remembered. “It was just nerves, but I spent the entire night before the test in the emergency room.” • Despite a rough start and a tight schedule, Margolis enjoyed his time at Loyola: “I end up using the law almost every day in my work, so I loved the process of learning about it. Also, when I started at Loyola, I was never much of a reader, but by the time I was done and had done so much studying, I loved to read.” • Though Margolis had intended to practice law when he began law school, by the time he graduated from Loyola in 1984 he was enjoying his work at Starving Students too much to make the switch. For 15 years, Margolis ran the daily operations of the business. “There have been ups and downs throughout the history of the company. The biggest obstacles in the industry are insuring consistent quality, safety, and regulatory compliance,” Margolis noted. • Margolis, married with two children, Alexa and Darius, recently hired the first CEO for Starving Students. “I’m thinking about getting out of the day-to-day operations of the company, because I have some unfinished business I’ve been thinking about,” said Margolis, who now holds the title of Chairman of the company. • That unfinished business? Finally taking the bar exam. • As for the benefits of studying law, two came to mind immediately for Margolis: “First of all, it teaches you to think analytically. Second, it protects you from being [victimized] by your lawyers.”
With the present economy teetering on the edge of recession and rising unemployment, the average cost of a competent and trustworthy lawyer is beyond the financial capability of the average Angeleno. This is evidenced by an ABA survey that found 75 percent of low-income, and 66 percent of middle-income people can’t afford or don’t trust the legal system. The rising costs of adequate counsel would be less of a concern, if the need for lawyers was declining, but it isn’t. Enter Jeffrey J. Hughes ‘92, the creator of Legal Grind, a timely solution to those who need legal assistance but can’t afford $250 to $600 an hour for a lawyer. The Legal Grind is a community service for those who aren’t indigent enough to warrant free services or wealthy enough to pay out of pocket for full price legal services, though Hughes and staff welcome the entire social spectrum. The client comes into the café and for $20 gets a cup of Joe and 15-minute session with a volunteer attorney. The attorneys who provide this service may either decide to handle the case or refer the case to another attorney who is better suited in the particular field, in return for a small referral fee from the accepted attorney. Of course, some folks just need to be reassured about their situation, and discover that they don’t require any further legal services. Others, however, just need to chat about how to get their landlord/tenant to pay up and some just want good coffee. Affordable legal solutions are not the only service offered at The Legal Grind. A customer can also have legal documents prepared. For a flat fee, documents will be prepared correctly and quickly for those who have figured out which documents need to be filed or submitted, but are unable to untangle the complex maze that is legalese. Additionally, legal books and other legal reference materials will be available to customers who are willing to tread through them. Currently, the Legal Grind has two locations, one in Santa Monica and one in Tarzana—and a third will open soon in Inglewood. Investors and customers are calling for more locations, raving about the very competent help, not to mention the inexpensive cost. Hughes’ timing is better than expected, even by him, as the economy locally and nationally isn’t getting any better. The cost of legal advice or counsel is rising and everyday folks are becoming increasingly incapable to pay the bill without contacting Ditech for a second mortgage. Hopefully Hughes’ community-oriented mission will grow to supply more of the masses with help, and maybe, just maybe, Hughes’ work will inspire others to make their legal services more economically and panoramically available in the noble interests of the people and of justice. In summation, Hughes counsels fellow alumni and putative grads to “handle yourself so that your clients want to respect you.”
ENTREPRENEURS

OPHIR MARISH, CHARLES GUGLIUZZA, AND ALEXANDRA ROSATI '99  What do cellular phones, pagers, PDAs, and laptop computers have in common? All have become increasingly important components of the daily routine in our business and home lives. They also all require batteries for operation—and those batteries eventually need replacement. • With this peculiar market in mind, Ophir Marish approached classmate Charles Gugliuzza in 1998 and first suggested an online store to sell batteries to retailers of electronic products. They were soon joined by Alexandra Rosati, another classmate from their first-year section, and the three '99 grads founded www.ebatts.com under the slogan “Power @ Your Fingertips.” • “Ophir was convinced that the Internet was the ideal vehicle for a commodity like rechargeable batteries,” said Gugliuzza. “Keeping track of the thousands and thousands of batteries that power different products is a data-intensive process, and one for which an online, database-driven company is well-suited. Keeping an inventory of so many different batteries is a real problem for the ‘brick and mortar’ retail stores, because of the shelf space required for so many different models. It’s a niche market, but if you build up a lot of expertise, it can go a long way.” • All three partners attended UC schools for their undergraduate education: Marish at UCLA, Gugliuzza at UC Irvine, and Rosati at UC Santa Barbara. After enrolling in Loyola’s day program in the fall of 1996, they focused on courses that dealt with business transactions, studying the minutiae of mergers and acquisitions, sales and payments, and corporate law. • After Marish and Gugliuzza spent several months attracting investors and fine-tuning their business plan, the company website went live in January 1999. The first five months were a particularly hectic time for the company, since all three current principals were still law students. By April 2001, however, sales had surpassed a million dollars a year at the Newbury Park-based company, and Marish, Gugliuzza, and Rosati were gaining a new appreciation for their legal training. • “So much of running a business requires a knowledge of contracts,” Gugliuzza noted. “When you have that legal background, you don’t have to be intimidated when you’re negotiating with a big company and you need to make some edits to a contract.” • Next up for the three entrepreneurs is a second website, www.ionthefly.com. The new site will expand beyond batteries and offer additional products, including mobile accessories for electronic equipment. • All three have remained close with Bryan Hull, their Contracts teacher at Loyola, and credit law school in general — and Loyola in particular — for much of their success. “I don’t think there’s a better education out there, in terms of law, than what we got,” Gugliuzza said.
As my first official act as a new contributor to the Loyola Lawyer, I would like to invite you to call me at 213-736-1150. The reason is simple yet also very powerful: a simple phone call to the Law School can jump-start a legal career. I have witnessed this countless times during my seven years with the Law School, yet it never ceases to amaze and excite me. The reason, of course, is that it is my mission to advance this law school in the job market and in Career Services and we do that one job and one student at a time.

About two months ago, I was reminded of the dramatic power of a simple telephone call to jump-start a legal career. I received a phone call from a Class of 1999 alumna named Robin who called to place a job listing with our office. She works at a small yet very fine litigation boutique firm that needed a law clerk immediately. The principal of the firm, a Yale Law School graduate, entrusted Robin to contact her law school to seek help in recruiting a law clerk. When Robin called to enlist our help, she specified the characteristics her firm sought and I immediately thought of a graduating student who still needed a job. I contacted the student who in turn submitted an application to Robin’s firm. She was quickly hired as a law clerk. Within a few weeks, the firm extended an offer of permanent employment as an associate following the July Bar Exam.

In less than a month’s time, our student was transformed from another jobless graduating student anxious about funding her Bar study to a very happy and secure employee of a law firm she was proud to be a part of. The law firm was pleased to have quickly and efficiently hired a bright and very capable student and soon-to-be attorney, who is now the third Loyola graduate hired by this Yale Law School alumnus during my tenure at Loyola.

You might say that Robin’s initial phone call resulted in a “two-for-one”, but in fact, it was a “three-for-one” because the Law School itself also became a beneficiary of this simple but powerful act of placing a phone call. The Law School benefited by being able to add this student to the list of those who had secured employment by the time of graduation. This is extremely important in today’s rank-conscious world because the various rankings of law schools place substantial importance on the rate of graduate employment both at the time of graduation as well as nine months after graduation. While employment for all our students and graduates is our highest priority in and of itself, that goal is advanced by enhancing the standing of the Law School in the various rankings.

As you can see, a simple phone call can have a dramatic effect on the Law School and our students. I tell you this for the obvious reason that we need other alumni to make these calls to us because we cannot create jobs here at the Law School; we can only spread the word about jobs outside that someone makes the very modest effort to tell us about. It is our alumni who have the greatest power to effect the employment of our students and graduates by simply calling to apprise us of jobs in your various offices.

Another simple way alumni can help is by contacting your recruiting office and ask whether your employer recruits here at Loyola and to encourage them to do so if they do not already. A major law firm participated in Spring On-Campus Interviewing this year for the first time in years because a partner/alumnus wanted to know why his firm was not scheduled to interview here. He prompted an associate/alumnus to find out. That associate, in turn, involved a second associate and their phone calls to me resulted in their firm hiring at least one student; further proof of the power of a phone call.

I have been involved in different aspects of attorney recruiting for more than 19 years and I have been witness to the power of a phone call more times than I could ever hope to count. Yet, I still get a thrill out of receiving calls and making matches like the ones I described above. I have to imagine it is even more rewarding when you do all this good and wind up getting additional help in your practice in the bargain; all with a simple telephone call.
US NEWS & WORLD REPORT DECLARES:

Yale. Stanford. Harvard. Columbia. UCLA. USC. Reads like a list of the Nobel Committee's most likely visits. In trial advocacy terms, however, it is simply a list of the schools Loyola was graded higher than in U.S. News and World Report's most recent issue scoring law schools. The trial advocacy ratings mine the most qualified experts in the area for their opinions. The methodology isn't as precise as the criterion that identified Loyola as the 4th most diverse law school in the nation. Yet, who is the fittest to rank the best trial advocacy teams than the coaches and professors who vie day in and day out for trial advocacy conquest?

Hammurabi's code was not the last advancement in law. Rather, the modern legal landscape did not become recognizable until black letter law and advocacy got into bed together. Recognizing this intimate union, Loyola seeks to educate its students in the art of advocacy as well as legal theory. Two programs in particular ready students for imminent litigation that follows graduation. The Scott Moot Court Honors Program prepares students for appellate proceedings and the Byrne Trial Advocacy Program for trial court litigation. Both programs pit Loyola students against national competition at tournaments. Currently, these lawyering tournaments—or contests—are regularly judging Loyola students among the top advocates in the nation.

"People can get very crazy at tournaments," Professor Susan Poehls '89 remarks, with a hint of disdain for that type of approach to trial advocacy competitions. As she describes tournament procedure, the moderator of Loyola's Byrne Trial Advocacy Program dwells less on the team's national ranking than its continued professionalism. The competitions are intense; schools are assigned a side, prosecution or defense, minutes before the three hour trial begins. To deal with the vagaries of trial, "you have to be on top of your game, you have to be quick," says Poehls. Witnesses forget their stories, the opposition motions unexpectedly, and a capricious judge can change everything. One Loyola student was berated by a judge to the point of total demoralization. Yet, the team maintains its professionalism and just as that one demoralized student, Margaret Stevens, went on to be the national trial advocacy champion, Loyola's trial advocacy program is now enjoying widespread recognition.

The program began inauspiciously decades ago. In the 1980s, the team competed in one tournament a year and rarely entered the national arena. Even when Professor Poehls was a team member in the late 1980s, the program's status as a trial ad powerhouse was at best inchoate. However, in this first year of the new century, Loyola's bold footsteps were resoundingly heard upon the national stage; arch-rival and number-one ranked Temple was dispatched in the Tournament of Champions; and U.S. News and World Report honored Loyola with a number eight ranking.

Voted EIGHTH in the Nation in Trial Advocacy

By Andrew Willis

loyola on top

32 LOYOLA LAW SCHOOL
At the fore of this surging success is Professor Poehls. A former team member affectionately referred to her as the "heart and soul" of the team. Regardless of whether the program breathes without her, the trial ad moderator is absolutely hooked on coaching. As a team member, Professor Poehls was despondent when she witnessed her talented team lose in a national tournament. She attributes that loss to the temporary absence of the team's coach. Now, after assuming the role of team mentor, the 12-year coach never wants to see a student lose because they were poorly prepared or poorly coached. She feels her job is complete only when a student can say with confidence, "I know how to do this."

The professor laughs, revealing unspoken memories, when she speaks of her students. There is "a bit of a ham" in all of them she says, but there is not one ideal trial advocacy prototype. The team has the expected charismatic speakers, yet, there are also quiet storytellers who lull jurors into their confidence.

The students all share the same rigorous training. Team members, the chosen few victors in an annual intramural competition, train two evenings a week, occasionally on weekends, and always on their own. Students brainstorm extensively and work hard to understand the applicable cases. In this way, they build the necessary spontaneity for trial. However, team members often acquire a knowledge of the case so precise that their presentation can become muddied or blase. To combat this or "to make it real," the students meet each week, individually with an acting coach. Professor Poehls watches the students' progress through this training regime, all the while growing in confidence, and likens it to "watching a child learn to walk."

In the end, Loyola is buoyed by the trial advocacy team's success. Over the last 13 years, the Poehls era, the team has won the regional round of the National Trial Competition 10 times. Those teams continued on to the national round semi-finals four times and to the finals once. During this time victory was achieved at three national tournaments, the Tournament of Champions and the Georgetown White-Collar Crime Tournament twice. Success aside, team members also have a running start to their careers as litigators. Professor Poehls wants her students to be able to try cases the minute they graduate. Considering many judges compare Loyola's trial ad team members to attorneys with 10 years of experience, it is quite clear the professor has attained that goal. The accolades continue after the students graduate. One of the more fitting tributes to the Byrne Trial Advocacy Program was the good-natured complaint the District Attorney lodged with the very successful Alternate Public Defender and former Byrne team member Nanine Hegen. Loyola grads like Nanine Hegen, Ardalan, and Stevens remember the invaluable training and support they received through the trial advocacy program, often dedicating time. Their continued involvement with current students ensures the Byrne Trial Advocacy Program will grace, at first mock and then, real courtrooms with professionalism and victory in the future.
JENNIFER GRACE ‘03
Jennifer Grace knew she wanted to be a lawyer from the time she was a little child, but the law almost lost her to a second love: writing fiction. A 2000 graduate of UC Irvine's prestigious English program, Grace spent her senior year of college contemplating graduate school in creative writing as well as law school.

“I still wasn’t sure what I wanted to do after college, but I had always maintained that interest in the law,” Grace remembered. “I was convinced after I sat through some mock classes. I knew that it would be something I would enjoy doing, because I found it so interesting, so I went for it.”

Grace also applied to UCLA and USC, where she was offered a partial scholarship, but ultimately decided on Loyola. “I liked the campus and the people I met when I visited,” Grace said. “Everyone was working very hard, but people were also friendly and seemed a lot like me.”

Her decision to attend Loyola brought her an unexpected reward when she received information she was selected as the 2000 Burns scholar for entering students in the day program.

Jennifer’s future plans include a nod to her more creative aspirations. She hopes to remain in Los Angeles and practice entertainment law, with a special focus on publishing and copyrights. She also hopes to return to creative writing: “Someday, I’ll write that novel!”

TREVOR STOCKINGER ‘02
When the Loyola Law School team advanced to the championship round of The Willem C. Vis International Commercial Arbitration Moot in Austria this year, team members were disappointed they didn’t win. An honor did await team member Trevor Stockinger, however, at the awards banquet: He received the Martin Domke Award for Best Oral Advocate.

The Vis competition features more than 90 teams from 32 countries. Each team prepares a brief to argue on international sales arbitration. Loyola’s team advanced to the 2001 final round before losing to Humboldt University of Berlin.

Stockinger, the first American ever to win the award, found the entire competition rewarding. “It was great to be in Vienna, competing against people from all over the world who, in many cases, spoke better English than those of us from English-speaking countries,” he remembered.

A Burns Scholar upon entry to Loyola in 1999, Stockinger graduated Phi Beta Kappa from Washington & Lee University in Virginia in 1997. He has also been a student of the Korean martial art of Soo Bahk Do since childhood, and found his training provided both mental and physical benefits. “You learn a lot about Korean culture,” commented Stockinger, a black belt.

During college, Stockinger spent a year in Beijing studying Chinese language and culture and interning for an international exhibition company, after which he began to think seriously of studying law as a way of interpreting different cultures. “Law is a good way to study American culture, for example, because law is in many ways a culture’s method for codifying its ideas and beliefs,” Stockinger noted.
It happens every August. A small handful of students are suddenly relieved of tuition responsibilities, parking fees, and any other mandatory bills. Consider it a well-earned gift for being an outstanding scholar. These awards are given to the most extraordinary entering student and a member of the first-year class who achieves an exceptionally high grade-point average along with good citizenship. The Fritz B. Burns Foundation has generously funded the Burns Scholar program to attract students who have great potential for outstanding leadership positions in the legal community. And now here are the current stars.

**STEVE ELSTER '03**  
Law school is teaching Steve Elster time management. In addition to full-time work as a studio teacher in the entertainment industry during the day, Steve attends the law school's evening program. He and his wife also just welcomed the birth of their second child.

Elster, who was named a Burns Scholar for his performance in the evening division, starts his day by spending time with his older son. After a few hours of reading together, getting ready for school and work, and breakfast, Elster works from nine to five on the set of the long-running soap opera, "The Young And The Restless."

"Studio teaching has two components," said Elster, a ten-year veteran of the field. "Any time a minor works in the entertainment industry, a studio teacher is there. Half the job is making sure they receive instruction in the normal academic school subjects. The other half is to be an advocate for the child actor on the set, to make sure everything is done within the boundaries of certain laws that pertain to their working situation."

Weekends are Elster's only chance to study, though even that process can be interrupted by the demands of fatherhood. "The hardest part is staying focused on your books when your son comes in and wants to look at animals with you on the computer," commented Elster. A native of Los Angeles with an Economics degree from UC Berkeley, Elster plans to pursue construction law.

**DR. STEPHANIE ANDERSON '04**  
For Stephanie Anderson, 2000 Burns Scholar for the evening division, law already plays an important role in her work. Anderson is a contractor for Genetics Institute, a biopharmaceutical company engaged in the development of human pharmaceuticals. Like many areas in the rapidly expanding biotechnology field, pharmaceutical product development is influenced by legal concerns over patients' rights, patient privacy issues, patent law, and more.

"Law becomes an important issue with biotechnology companies," Anderson noted, "much of what I do every day touches on issues of informed consent from patients, given the way a person's genotype can give immediate identification of a person who is supposedly participating in a study anonymously."

Much of her work involves clinical research in human medicine and evaluation of experimental pharmaceuticals. She travels frequently, leaving town an average of once a month to work at different hospitals around the nation. Despite her busy schedule, Anderson attends classes in the evening program at Loyola. She hopes to become a patent attorney specializing in biotechnology after earning her J.D.

In her youth, Anderson intended to become a veterinarian. She received her undergraduate degree from North Carolina State University, graduating in 1991 with a degree in Animal Science. "Becoming a veterinarian was basically fulfilling my childhood dream," said Anderson, who grew up all over the nation because her father was in the Air Force. "I always knew I wanted to work with animals. After I discovered I enjoyed doing research while working in a lab, I decided not to go into traditional veterinary practice."
B eing a clerk — or the pen behind the gavel — is possibly one of the best ways (career-wise) to culminate the pursuit of a Juris Doctor degree. A testament to this is the sparkling career our own Dean David Burcham, who began his legal life as a clerk to Justice Byron White of the United States Supreme Court. But how do the fortunate few law students score such a position — and what is life like, so perilously near the top of the legal food chain?

Three contemporary alumni of particular note are Melissa Dulac (class of '00), Matthew Gaul (Class of '98) and Alan Heinrich (Class of '00), all who graduated at the top of their respective classes, have each clerked for judges across this fine nation. Melissa Dulac clerked for the Honorable Ronald S. Lew, District Judge for the United States District Court, Central District, Los Angeles County. Matthew Gaul clerked for the Honorable Terence T. Evans, United States Court of Appeals for the Seventh Circuit, Chicago, Illinois, and, for the Honorable John S. Martin, Jr., United States District Court for the Southern District of New York. And all-star alumnus (he appears in our admissions catalog) Alan Heinrich, clerked for the Honorable Dairmuid O'Scannlain, Circuit Judge for the United States Court of Appeals, Ninth Circuit, Portland, Oregon.

Dean Burcham painted a great portrait of the benefits of clerking, “for a graduate beginning a law career, the clerkship requires that they hone their research and writing skills to a highly sophisticated level. An inside view of the judicial process gives them a perspective that cannot be had by practice alone.” Associate Dean Victor Gold added, “it’s great because they are exposed to very important and brilliant judges. They learn so much about the law, appellate practices, and establish credentials that will enhance their future career. Doors open that would not otherwise be available.”

Our triumvirate of clerks was each inspired to take the less-traveled road of clerking by several of their professors. One professor in particular was frequently mentioned as an advocate for clerking, Professor Laurie Levenson. Levenson recognized particular talents in each of the putative clerks, and helped steer them onto a path toward careers on the seated side of the bar.

Melissa Dulac '00 respectfully acknowledges the complete education received at Loyola. Of course Dulac was intimidated by the law school method of calling on first-year law students without provocation, but soon learned that Loyola professors were actually quite kind, supportive and unselfish with their time. One particular professor to whom Dulac credits her interest in criminal law is, again, Professor Levenson. “I remember talking to
When questioned about her decision to clerk prior to working as an attorney, Dulac shouted, "I can't imagine beginning my career any other way!"

Beyond the substantial procedural matters to which a law clerk is exposed, she feels lucky to have the boss she has: a wonderful and wise mentor who uses anecdotes to teach valuable life lessons. She can walk into the judge's inner chambers and ask him a question about the application or practice of law; or obstacles in general that we all encounter in life. Dulac remarked "a first-year attorney is lucky to even appear before a judge in a courtroom."

Matthew Gaul '98 spoke just as glowingly about the Loyola Law School support system and training. "My first-year professors really brought out the real-world human element in the law and legal decisions," said Gaul. "Professor Pillsbury's thoughtful approach to law and legal writing helped spark my interest in criminal law." Gaul felt very fortunate when he landed a research assistant position with Levenson, whom he discovered, was an "incredibly supportive and inspiring mentor." Additionally, Gaul felt that Loyola really did a great job in getting behind its candidates for clerkships. "I had a lot of support from my professors in terms of getting in the door for an interview with a judge."

When asked to comment on his experiences as a clerk, Gaul couldn't stop praising the knowledge, substantial and practical, that he gained. "Both of my clerkships confirmed all of my reasons for entering the legal profession," said Gaul. "These judges are amazing people who care very passionately about the work that they do, and their position as adjudicators." Gaul continued to eloquently describe the immeasurable challenges involved in advising on the law and writing in conjunction with a federal judge on opinions. He concluded by humbly recounting the immense honor and pride felt when asked by a Federal judge for his take on the law.

Alan Heinrich '00, too, was very pleased with the level of legal education that he received, and the opportunities available to him as a Loyola alumnus. "Loyola's commitment to faculty-student interaction is probably much stronger than schools with a more exclusively research-oriented faculty." For Heinrich, the most important part of the process in procuring a clerkship position was "the tremendous support he received from the administration and faculty, particularly Professor Levenson and (then) Dean McLaughlin."

Working with judges in the highest order of law has exposed alumni Dulac, Gaul and Heinrich to a wide spectrum of humanity, perhaps more so than any experience in a law firm could give. Our esteemed alumni demonstrate that clerking is not an escape from life as a lawyer but a legitimate, honorable and actually more pragmatic way of initiating your career as an attorney—the voice behind the client—while completing your legal education.
It's rumored that you can find the best margaritas in town at Camacho’s Cantina. And, while you’re there, you may run into third-year Loyola Law School student Don Luis Aniseto Camacho. Don is a proud member of our joint JD/MBA program with Loyola Marymount University, sort of. Following graduation from college, Don began the MBA program at LMU. A year later, Don decided to enroll downtown at Loyola Law School. So, Don could be confused for a JD/MBA joint program member, but in fact he has just gone about it en otra manera – in quite another way.

Don recalled that at a very young age he felt predestined to follow in his father’s footsteps. Don’s father, Andy, was an attorney who is now a successful owner of the wildly popular Camacho’s Mexican restaurant chain. Don has already received his business degree and is one year away from his legal degree; young Camacho is poised to deservedly stand next to his father in business.

While Don is not officially in the JD/MBA, he is familiar with it and recommends the program. Don said that anyone with a business major or any interest in the business side of law should, without a doubt, enroll in the program. Business and law are inextricably linked, today more than ever, and it will be an advantage to all who are willing to work through the long hours.

Sharing a generous bowl of chips and spicy salsa, Don explained he has never been afraid of working hard, in school or in life. Graduating from Boston College in 1996 with a degree in Political Science, Don has worked since high school as a summer intern for both the Los Angeles Rams and St. Louis Rams of the National Football League, as well as the Beverly Hills Sports Council. While earning his MBA, Don found time to work for the Trust Company of the West, handling asset allocation.

It is rare, sadly, in this day and age for anybody to speak as glowingly as Don does about his family. Don had great models of success to follow, as his father now owns 17 restaurants from the Santa Monica Pier, to City Walk, to Ontario and Las Vegas, all the way to Texas. His mother Dr. Mary Lou Ozoham is a world-renown radiation/oncologist. Don has two younger siblings: Maria Luisa (former college roommate of Chelsea Clinton), a recent graduate of Stanford University and brother Juan Carlos, currently a sophomore at Stanford. Yet, regardless of pedigree or example of his family, the Camacho’s have reassured Don all along the way that his family will always be there for him.
Imagine getting up before dawn and heading straight to the courts, to spend the whole morning on the stand or meeting with criminals. Around dusk, heading to school and sitting through hours of legal lectures. After class ends, going back to work at the jails to meet with incarcerated clients, including death-row inmates. Then, at midnight, having homework and preparations for the courts to look forward to before sleep. This is the typical day for Dr. Vianne Castellano, a doctor of psychology and Loyola Law School student.

Vianne is a charming, beautiful, and brilliant woman of the humblest roots working to comprehend and report on the mental states of the individuals who have been accused and imprisoned within our criminal justice system. She is a criminal psychologist who diagnoses the accused to determine if mitigation of sentence is required, based on psychological or organic disease or disorder. Vianne does not free, protect or punish, but offers a glimpse of the person's true self to the legal system, which is incapable of comprehending such introspective information during a narrow trial.

The daughter of Italian immigrants, Vianne's family was destitute and she was socially naive yet she managed to make great friends, perform well in school and train to be one of the country's top swimmers. While high school was socially challenging, college altered Vianne's life for good. After being asked to leave Indiana University for harboring fugitives following the Kent State massacre, Vianne received third degree burns in a freak accident. Vianne took NYU classes while recovering in the burn unit, relearning the ability to walk. She graduated college with a psychology degree, and entered a masters program in social work. After earning a MSW, Vianne switched coasts, enrolling in the psychological doctoral program at USC. While Vianne toiled toward her doctorate she still worked for the county, helping severely indigent local juveniles and female gangs, the focus of her thesis.

Working as a therapist and forensic psychologist was not enough for Vianne. In 1990, she was accepted into medical school, hoping to do some socially important things with a medical degree, yet it was not her destiny. After three bouts of unrelated cancer and the death of both parents, medical school grew weary of her leaves of absence and excused her from school. After eight years of medical school trials and tribulations, Vianne changed her path and applied to Loyola. Unwilling to accept defeat, or anything less than a rigorous schedule, Vianne is currently an evening student at the Law School and maintains her rigorous forensic career. Her future includes a dual career in law and psychology. Aware of the potential conflict, Vianne will steer her legal mind toward biotechnology, hoping to foment progression in this developing field with her knowledge of man and mind.
The words “Law Review” on a resume are mighty tools. Perhaps those words are the push an employer needs to hand you a prime job when you’re just out of school. But being on Law Review has its moments, even long before finals week, when one asks oneself: Why am I doing this?

At Loyola, a student has several opportunities to reap the agonies and the ecstasies of law review—by competing for placement on three different journals (all three are student-run publications managed by student Editorial Boards). The Loyola of Los Angeles Law Review, a quarterly established in 1968, is the oldest of Loyola’s journals. Each issue contains articles written by notable authors from across the country—right down to our own back yard. The Loyola of Los Angeles Law Review features articles on a wide range of topics, which are timely and germane to all segments of the legal community.

In 1977, The International and Comparative Law Review was created and in 1981 came The Entertainment Law Review. Both of these journals are more substantively esoteric than The Loyola of Los Angeles Law Review, focusing on their respective fields.

Being selected for law review is no easy task. To be elected to this elite group, a student must submit a writing sample to be judged by the current law review editors (who usually find themselves buried knee-deep in more than 250 hopeful submissions). There is no grade requirement to enter the write-on competition, however the star students from each section can grade on to the journal of their choice.

A staff member is much of a work horse: always on alert for the melodious call of the editor who shouts “I need a staffer.” Many long days and nights are spent completing specialized, sometimes not thrilling, assignments. Weekends are spent poring through articles, many of which are full of that nutty legalese.

A staff member on the Loyola of Los Angeles Law Review has four principle jobs. First, there are cite-checking duties, where the staffer must read for substantive quality, and more notoriously, they must also check every citation to ensure each one supports what is being said, and that the citation is in the correct Blue Book format. The second task assigned a staff member is the completion of three office hours every week. Third, he or she must participate in Production Day—when several staff members perform one last cite- checking assignment on an entire article. This is a crucial as it is the last time that the article’s sources will be checked. Lastly, there is the Responsive Read. Here, a staff member is paired with another staffer or editor to read an article aloud, comparing the manuscript to the proof that will be sent out to the publisher—to ensure the most precise accuracy prior to printing.

Besides the daily duties, Law Review requires the student to turn in a law review-quality paper that serves to satisfy the Loyola writing requirement. Next year, if elected, the staffer has a chance to become editor. Besides helping with the staffers’ duties, editors handle everything else necessary to get the journal to press.

So what is the payoff for diverting so much energy into joining a journal? To some the answer is: resume-booster. While this may be true to some extent (many employers are attracted to students who have served on a law journal), there is much more to the Law Review experience. A perk to being on Law Review is developing a keen understanding of legal analysis via exposure to articles written by prominent scholars.

Many Loyola alumni have parlayed their experiences on law review into professional success. For example: David Burcham ('84, Chief Articles Editor), Dean, Loyola Law School; Robert Forgone ('70, Articles Editor), Partner, Gibson, Dunn & Crutcher; Allan Ides ('79, Editor in Chief), Professor, Loyola Law School; and Linda Grant Williams ('79, Staff Member), Partner, Dewey Ballantine.

While extra work on top of the already daunting task of being a law student may sound insane to many law students struggling to keep up with rigorous class assignments, the benefit of participating in these venerable school publications will pay off with a few gray hairs and many professional rewards for years to come.
4th annual
ENTERTAINMENT LAW
FEBRUARY 22
2002
Symposium at
LOYOLA
LAW SCHOOL • LOS ANGELES
topics include:
☐ Media Liability for Acts of Audience Violence & other Harmful Behavior
☐ Investigative Journalism: When does it Become Invasive?

FIFTH ANNUAL
WESTERN CONFERENCE ON TAX EXEMPT ORGANIZATIONS
THURSDAY & FRIDAY
NOVEMBER 1 & 2, 2001
Omni Hotel
LOS ANGELES, CALIFORNIA
Co-Sponsored by
LOYOLA LAW SCHOOL, LOS ANGELES & INTERNAL REVENUE SERVICE
Erin Brokovich and her peripatetic boss Ed Masry '60, spoke to an SRO crowd in February as guests of Loyola's Phi Alpha Delta Fraternity.

Roland L. Coleman Jr. '74, has recently been elected President of the Los Angeles County Bar Association. Coleman plans to make the legal community an easier place to exist amongst. He wants to encourage a higher participation rate among local lawyers in bar events. Coleman also intends to attempt to pacify L.A. attorneys, resentful that our legal community has become both hostile and ultra-competitive. Coleman wants to restore the brotherhood that once ruled the profession; not the elitist, racist brethren but respect and admiration that attorneys once paid to their peers. Aside from the L.A. community at large, Coleman desires to breakdown the façade of the black community, making this about lawyers working together regardless of race, background or creed.

District Attorney Steve Cooley spoke to students and faculty during Career Day 2000 last Fall.

Newsworthy
NOTABLE

Roland L. Coleman Jr. Heads The Bar

Congratulations to law student Minah Park on her receipt of the Judge Robert M. Takasugi Fellowship for Public Interest Law this past May. The fellowship granted Park $5000 for the summer in order to work full-time at the Legal Aid Foundation of Los Angeles.

Dean David Burcham at the Spring 2001 Swearing-In Ceremony with, from left: the Honorable Manuel L. Real '51; Carol Williams Elswick '83; and Tomson T. Ong '83.
Dr. Edison H. Miyawaki and his wife Sallie of Honolulu, Hawaii have pledged a gift of $500,000 to help fund construction of the new Advocacy Center. Each year the Miyawakis also support a special moot court competition held for high school students in Honolulu and have created the Miyawaki Law Journal Center, which serves as the home to Loyola’s Law Review, International Law Review, and Entertainment Law Review.

A Toast To Two New Mayors

Loyola Law School is proud to have within our hallowed halls of alumni, two newly elected mayors. Cathryn DeYoung '81, the new Mayor of Laguna Niguel, and Eric Perrodin '94, the Mayor of Compton. DeYoung is a progressive and thoughtful mayor, whose initial accomplishments have been for the sake of the community and appear to be free of partisanship or re-election strategy. DeYoung fought alone to abolish plans to expand the local El Toro airport. While DeYoung lost the battle to protect the serene Laguna Niguel, it proved that she was looking out for her constituents first. Meanwhile, the Mayoral seat in the City of Compton was awarded to Eric Perrodin. Perrodin vanquished Compton’s incumbent Mayor, Omar Bradley who challenged the victory and was dumfounded at his defeat. Perrodin has a challenge ahead of him in reinvigorating his town as he faces a large city that has no police force and political indifference, thus making Perrodin’s road tumultuous at best.

The Annual Orange County Alumni Reception, to be held November 20, 2001 at the Pacific Club, will honor distinguished Loyola alumna Irene E. Zeibarth ‘84.

The dinner event is the prime networking opportunity for all Loyola grads living and working in Orange County.

Information (213) 736-1029.

Dean David Burcham at Commencement 2001, held at Loyola Marymount University, with keynote speaker, the Honorable Pamela Ann Rymer, United States Court of Appeals for the Ninth Circuit, and Robert B. Lawton, S.J., President of the University.

Recipients of the 2001 Distinguished Alumni Awards at the Alumni Dinner in March were (l to r) Professor Emeritus Michael E. Wolfson '73, Professor Christopher N. May (special honoree), Alejandro N. Mayorkas '85, Hon. Patricia Schnegg '77, Dean David W. Burcham '84 (presenter) and Joseph E. Rawlinson '58.
**The Back Door to the Bench: Hon. Carla Woehrle '77**

When she enrolled at Loyola in 1973, Carla Woehrle's career path was anything but certain. Almost three decades later, the federal magistrate judge still shakes her head when she remembers her initial entry into the legal field.

"When I started law school, I must have been the most clueless student on the face of the earth," laughed Woehrle. "I had no idea what lawyers really did. I had a sort of romantic, political-activist perspective when it came to becoming a lawyer, but as for anything about the business of law, I could not have been more clueless." It wasn't until she had Michael Lightfoot as her professor that she decided to become involved in the field. "I went up to Michael Lightfoot and asked him if he would be a reference." Instead, Lightfoot hired Woehrle as a clerk in his firm.

Lightfoot and then-partner Robert Talcott were preparing a police misconduct case in which their client had been convicted of bank robbery based on fingerprints forged by a police officer. The case settled the evening before trial, but the central district trial judge for the case, Warren J. Ferguson, was so impressed by Woehrle's work that he selected her for a one-year clerkship after she graduated from Loyola.

Woehrle returned to Lightfoot's firm after her clerkship, and eventually became a named partner. Lightfoot remembered Woehrle's first court appearance as a lawyer: "We were defending a fellow who had been wrongfully arrested for murder. I was teaching when the jury came back, so Carla had to take the verdict. She and the client drove over to the law school, where I was in the middle of a lecture. They opened the back door of the classroom and smiled at me—that's how I knew we'd won."

Woehrle stayed at the firm until 1996, when she was selected to serve as a magistrate judge. Her duties include ruling on civil discovery motions and disputes, mediating at settlement conferences, and criminal duty, which includes approval of search and arrest warrants and initial bail determination. In addition, she writes decisions in habeas corpus cases. In her spare time, Woehrle works with Uncommon Good, a not-for-profit advocacy group seeking debt relief for lawyers and doctors who want to practice in public-interest fields but whose educational loans make it difficult to work in lower-paid positions. Meanwhile, Woehrle, who lives in Silverlake with her husband and two children, hopes to continue in her current position as magistrate judge for a long time to come.

**Jeffrey Behar '78: A Gentleman and a Lawyer**

Jeffrey S. Behar has earned his new position of President of The Association of Southern California Defense Counsel (ASCDC). A founding partner of the ombudsman-like Long Beach firm of Ford, Walker, Haggerty & Behar, Behar was one of the youngest lawyers admitted to the American Board of Trial Advocates and has been a busy defense lawyer throughout his career. Behar's new role is one of leadership and he has accepted this job with his usual zeal and determination.

Behar is intent on bringing back the civility and honor of yesteryear as hallmarks of the defense industry, in reaction to the recent and rapid decline in social opinion about the profession.

Specifically, Behar is concerned with the current rift between the historically mutual partners of the legal defense firms and the insurance industry. Insurance companies have lost their fondness for law firms, due to exorbitant costs and progressively slower resolutions. Behar is compassionate for the insurance industry's financial solicitude, and suggests that such trepidation can be combated through "an economic and expedient approach" to handling such cases, while excelling in the substantive defense. Behar's solution is not impossible or improbable, and if taken, the relationship between the ASCDC firms and the insurance industry could be repaired.

There's no question that Behar and the ASCDC have a great deal of work ahead of them, but with a newly sharpened focus on ethics, professionalism, efficiency and hard work in the decimated defense industry should be able to reverse the past decades' damage.
Walter J. Lack '73, partner at Engstrom, Lipscomb & Lack, Los Angeles, made a pledge of $100,000 in support of the Ethical Advocacy Program. Funds will be used to develop training programs and support visiting lecturers.

Mark P. Robinson Jr. '72, principal at Robinson, Calcagnie & Robinson of Newport Beach, donated $100,000 toward the Advocacy Center and its programs.

Construction has begun on the new Albert H. Girardi Advocacy Center which will feature state-of-the-art technology and an exciting curriculum.

The Public Interest Law Foundation presents Auction & Casino Night

Loyola Quad Sat., Oct. 20, 2001 6 - 10 p.m.

Visit the Casino and try your luck!
• Black Jack, Craps & Roulette

Auctions for:
• Fine Art
• Restaurant gift certificates
• Outings with Loyola Professors Levenson & May
• Holidays for 2
• Sports memorabilia & more!

Get lucky and win!
• Valuable doorprizes!

Eat a sumptuous dinner, drink wine & listen to lovely live music

Tickets are $20 at the door; $15 in advance; $10 for students

Great Fun to be had by All!

All proceeds benefit PILF scholarships that enable law students to work in public interest law organizations
Los Angeles Mayor James Hahn will speak on October 16, 2001 at the Dean's Forum Dinner, slated to honor the Loyola members of the judiciary.

Christine Spagnoli '86, a partner with Greene, Broillet, Taylor, Wheeler & Parish, received the Loyola Law School Trial Lawyer of the Year award preceding the annual Moot Court Competition in April; Spagnoli also received the F. Scott Baldwin Award for the Most Outstanding Young Trial Lawyer in the Nation by the American Trial Lawyers Association.

Christopher W. Silva '89, St. Francis Winery's C.O.O. and General Counsel, presented former Prime Minister Margaret Thatcher with a bottle of his company's wine.

Thomas J. Nolan '75 will be honored by the State Bar of California with the President's Pro Bono Service Award for providing valuable legal assistance to 57 residents of a Pico-Union tenement. Nolan, managing partner of Howrey, Simon, Arnold & White, invested eight months in the litigation against the apartment complex's slum lord. Citing foul, vermin-racked conditions, Nolan won total renovation of the apartments, a substantial monetary award, and college trust accounts for the residents' children.
Passings

J. Robert (Bob) Vaughan ’39 passed away in March, 2001. Vaughan was a graduate of Loyola Marymount University ('37) and matriculated to the law school, where his father Vincent Vaughan was a member of the faculty from 1921 - 1924. Bob was one of the founding members of the Loyola Board of Visitors and remained active in law school affairs for more than 50 years. He was the former CEO of Knudsen Corporation and has been a long-time member of the Board of the Fritz B. Burns Foundation. He is survived by his wife, Margaret, and daughters; Judy, Christine and Kieran.

Joseph M. McLaughlin ’55 died in November, 2000. For more than 45 years he served as legal counsel to food retailers and manufacturers throughout the West. He was appointed president of the Food Employers Council, which handled labor relations for Safeway, Vons, Ralph’s and other major supermarkets, until he retired to private practice in 1989. At Loyola Law School, he taught labor relations classes and was a member of both the Board of Governors and Board of Visitors. He is survived by his wife Beverly and children; Stephen, Lawrence, Suzanne and Eileen.

Gregory W. Goff ’78, after a long and courageous fight with lymphoma, died in February, 2001. He was 49. After graduating from UCLA summa cum laude in 1975 and receiving his J.D. from Loyola, Greg joined O’ Melveny & Myers, where he was a nationally recognized tax lawyer, and widely known for his creative ability to structure tax-advantaged real estate and other transactions. He is survived by his wife, Sandra, and his step-children, Gary Brennand and Maria Robideau; his five grandchildren; his father George Goff; his mother Dorothy Williams; his grandmother Gertrude Benson; his sister Kim Whitaker; and his brother Larry Goff. There has been a Gregory Goff Memorial Scholarship Fund established at Loyola Law School.*

John G. Thorpe ’56 died in February 2001. After graduating from Loyola Marymount University, he received his J.D. from the law school and followed with a successful career in California, specializing in real property law. Thorpe was a member of the Board of Visitors for the law school and is survived by his wife, Marie; his children, Gregory, Daniel, Peter and Kathleen. There has been a John G. Thorpe Memorial Fund established at Loyola Law School.*

The Honorable Stephen E. O’Neil passed away in July at the age of 56. Both students and faculty members who were affected by his wisdom are deeply saddened by his passing. Judge O’Neil leaves us as supervising judge of the Los Angeles County Superior Court’s criminal division, after serving as a U.S. Attorney, Judge Advocate General and Senior Counsel of Lloyds Bank of California, among many other distinguished positions. O’Neil taught Ethical Lawyering at the Law School and is remembered by Dean Burcham as “a gifted teacher, loved by his students.” O’Neil is survived by his wife, U.S. Court of Appeals, Second Circuit Judge Patti Jo Kitching; and his children Kristin and Michael. There has been a Stephen E. O’Neil Memorial Fund established at Loyola Law School.*

*Contributions to the above memorial funds can be made by sending a check to Loyola Law School 919 S. Albany Street Los Angeles, CA. 90015 Information: (213) 736-1096

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Ellen April (John E. Anderson Chair in Taxation) has recently published "Tax Shelters, Tax Law, and Morality, 54 SMU LAW REVIEW 9 (2001)"); "Inadvertence and the Internal Revenue Code: Federal Tax Consequences of State Unclaimed Property Statutes," 62 UNIVERSITY OF PITTSBURGH LAW REVIEW 123 (2000); and "Current Developments in Corporate Taxation," in 2000 MAJOR TAX PLANNING (USC Law School's 52nd Institute on Taxation). April spoke last January on Current Developments in Transfer Tax, at the meeting of ABA Section of Taxation; in April on the charitable contribution deduction at the Boston College Law Review's Symposium on Churches, Taxes and Politics; and in October, on fundraising activities at the Fourth Annual Western Conference on Exempt Organizations, co-sponsored by Loyola Law School and the Internal Revenue Service.

Susan Smith Bakhshian '91 was a keynote speaker on Diversity and Women in the Law for the American Bar Association, Law Student Division in October 2000. She also spoke to Professor Johan Dyer's ('01) law and economics students at Whittier College about legal fees and their impact on access to the justice system.

Robert Benson received the annual award for progressive legal work in the tradition of Robert Kenn, former California Attorney General and a founder of the National Lawyers Guild at the June dinner. Last September Benson spoke on "Polsic Culture: Sinse Que Man of Reform" at Loyola's Rampart Symposium and his paper has been published in the LOYOLA OF LOS ANGELES LAW REVIEW. In January, he argued in the press (CBS-TV nationwide news and the San Diego Union-Tribune) that conservation is the way out of California's energy crisis. And in May, Benson spoke to the Unitarian-Universalist Church on "The Free Trade Area of the Americas: Threat to Labor, Environment, Democracy."

Linda Beres and her co-author Thomas Griffith recently published the article "Youth Demonization" in the January 2001 issue of the LOYOLA OF LOS ANGELES LAW REVIEW. Their article "Habitual Offender Statutes and Criminal Deterrence" has been accepted for publication in the CONNECTICUT LAW REVIEW (Fall 2001).

Jean Boylan '86 was elected to the Board of Directors for Heart, a non profit organization that provides art and music programs for disadvantaged high school students. As a member of the board, she organized an event at Loyola Law School on architecture for the high school students. Many local architects participated and 120 high school students attended.

Robert Chang published "Los Angeles as a Single-Celled Organism," 34 LOYOLA OF LOS ANGELES LAW REVIEW 843 (2001). His book, DISORIENTED: ASIAN AMERICANS, LAW, AND THE NATION-State (NYU Press 1999), came out in paperback last fall. Chang was elected to the Board of Directors of the ACLU of California in January. In February, Chang spoke at the University of California at Riverside, was guest lecturer at the Seminar on Asian Americans and the Law at the University of San Diego School of Law, and spoke on the Panel on Wen Ho Lee at the First Bay Area APALSA Conference at Stanford Law School. In March, he was a speaker at the Doing Scholarship session on "How to Become a Law Teacher" sponsored by the Association of American Law Schools at the Western Law Professors of Color Conference; a lecturer at the Asian American Jurisprudence Seminar and a speaker on the Panel on Asian American Jurisprudence, both held at Columbia Law School. In April, he was the Convocation Keynote speaker for Asian American Awareness Month at Williams College in Massachusetts.


In May, she presented a paper entitled, "Can Kids 'Just Say No' (or Yes) to Psychotropic Medication? A TJ Approach to Mature Minors' Involvement in Mental Health Care Decisions," at the Second Annual Conference on Therapeutic Jurisprudence held at the University of Cincinnati.

Mary Colbert was co-presenter with Magistrate Judge Wayne D. Brazil, United States District Court, Northern District Of California, at the Southern California Mediation Association 12th Interactive Conference at Pepperdine University, Entitled "The Changing Face of Mediation Confidentiality: From Old Promises To New Applications." (November 4, 2000). Colbert also provided numerous mediation training sessions to community service organizations throughout Los Angeles County and also served as the Chair of the Ethics Subcommittee of the State Bar Committee on ADR.
Jay Dougherty will be published in the October 2001 issue of the UCLA Law Review with his article, "Not a Spike Lee Joint? Issues in the Authorship of Motion Pictures Under U.S. Copyright Law." Dougherty organized and moderated Loyola's Third Annual Entertainment Law Symposium on "Developments in International Entertainment Law" in February. The program was presented as part of the American Film Market, and in association with the American Film Marketing Association, the Motion Picture Association of America and the Los Angeles Copyright Society. Dougherty created a case study and moderated a discussion of that case study for the U.S. Norman Lear Center's innovative program on "Artists, Technology & the Ownership of Creative Content" in March. He moderated a panel discussion entitled "Where Everyone Knows Your Name... But Who Owns You?: Character Copyrights vs. Actor's Publicity Rights in Wendt v. Host International and Paramount Pictures Corporation," sponsored by the L.A. County Bar Association in December, 2000; and moderated a panel discussion in a symposium at Loyola Law School in April entitled "One Princess, One Tiger, Two Robots and Three Stooges: Recent Right of Publicity Expansions and Limitations."

Roger Findley (Fritz B. Burns Chair of Real Property) wrote a chapter on "Environmental Law" in the new four-volume treatise on United States Law of Trade and Investment (B. Kozolchyk and J. Malloy eds., Fred B. Rothman Publications, 2001). He also was a visiting professor at the University of Paris X, located in the Paris suburb of Nanterre, France, during November-December, 2000. He taught Anglo-American Property law to 75 French students enrolled in the special Anglo-American Law program at Paris X. During June, 2001, Professor Findley taught International Environmental Law to 40 American law students (from many U.S. law schools) at the University of Barcelona, in Spain.


Paul T. Hayden, along with co-author Dan B. Dobbs of the University of Arizona, published the Fourth Edition of his casebook, Torts and Compensation (West Group 2001). Professor Hayden also published two law review articles: "Butterfield Rides Again: Plaintiff's Negligence as Superseding or Solo Proximate Cause in Systems of Pure Comparative Responsibility," in 33 Loyola L.A. Law Review 887 (2000), and "Professorial Conflicts of Interest and Good Practice in Legal Education," in 50 Journal of Legal Education 358 (2000). He also continues his work as a member of the American Law Institute's Members' Consultative Group for the Restatement (Third) of Torts. Professor Hayden has been named a Jacob J.
Becker Fellow beginning with the 2001-02 school year.


Lisa Ikemoto spoke about recent reproductive freedom cases last October at the National Association of Women Judges Annual Conference, held in Los Angeles. In December, she presented “Gender as an Access Barrier,” on the Civil Rights Plenary at the National Health Advocates Conference in Washington, D.C. In January 2001, Ikemoto participated on two panels at the Annual Family Planning Advocates Conference in New York. In February, she participated in the Los Angeles County American Medical Women’s Association and the Women Lawyer’s Committee joint program on RU486 and Politics. She addressed UCLA medical students last April about restrictions on women’s health care that sectarian hospitals impose. She continues to serve as board chair of Asians and Pacific Islanders for Reproductive Health, as a member of the California Women’s Law Center/Merger Watch National Advisory Board, and as a member of the California Women’s Law Center Breast Cancer Legal Project Advisory Board.

Daniel Lazaroff (Leonard E. Cohen Chair in Law and Economics) acted as the moderator for the joint Loyola Law School - Cal Tech program on Law and Technology, which featured Judge Richard Posner of the Court of Appeals for the Seventh Circuit as the principal speaker.

David Leonard (William M. Rains Fellow) published the 2001 Supplement to his book The New Wigmore: A Treatise on Evidence: Selected Rules of Limited Admissibility. He also published the article “Character and Motive in Evidence Law” in 34 Loyola of Los Angeles Law Review. His essay “Different Worlds, Different Realities” appears in the same issue. The essay expands on issues Professor Leonard addressed as a panelist at Loyola’s symposium on the Rampart Scandal. During the last year, Professor Leonard became a member of the Board of Directors of the Santa Monica-Malibu Education Foundation.


Robert Nisselbaum, Director of the William M. Rains Law Library, has received two grants from the Law School Admissions Council. He will serve as project manager to update and prepare a comprehensive bibliography on legal education focusing on diversity issues. In addition, Nisselbaum will serve as project manager for the development of a bibliography for the use of law school applicants interested in minority and diversity issues in legal education. Working with Professor Nisselbaum on the two bibliographies are: Ruth Hill, Head of Reference Services and reference lawyer-librarians Dan Buffalo and Paul Howard ’97.

John Nockleby joined Harvard Professor Lucie White and Adjunct faculty Emily Yozell, teaching Loyola’s Summer Program in Costa Rica. During fall 2000, Professor Nockleby served as a Visiting Professor at Harvard Law School and at Northeastern University School of Law. While teaching at Harvard, Professor Nockleby taught an experimental course incorporating lawyering skills into substantive first year courses.

Professor Nockleby also published two articles, “Why Internet Voting?,” 34 Loyola Law Review (2001) (forthcoming) and “Hate Speech,” in Encyclopedia of the American Constitution (2nd ed., edited by...
Leonard W. Levy, Kenneth L. Karst et al., New York: Macmillan, 2000). His current projects include development of an online casebook on Technology and Privacy, which focuses primarily on the critical issues of privacy on the Internet, as well as related articles on protecting privacy in a digital age. In addition, the Berkman Center for Internet and Society at Harvard Law School, http://cyber.law.harvard.edu/, has asked Professor Nodelman to teach an online course on privacy to a worldwide audience. The course is expected to be uploaded this September.

Daniel Selmi (William M. Rains Fellow) was a panelist at the 15th Annual Land Use Law and Planning Conference held in Los Angeles, where he gave the "Planning, Zoning and Development Law Update." In November, he lectured at the Southwestern Legal Foundation's annual conference on Land Use and Eminent Domain Law in San Francisco. Selmi chaired a panel at the annual State Bar Section of Environmental Law Conference held in Yosemite last October. He is currently preparing a chapter on the application of the Fifth Amendment to land use moratoria that will be published in an American Bar Association book on takings law. The book juxtaposes two articles with differing viewpoints on a single topic in an attempt to see whether "common ground" exists on any takings issues.


Arnold Siegel (Director of Legal Research and Writing) continues to serve as a member of the Pasadena Planning Commission and as chair of the Pasadena Design Review Commission. Siegel also was a member of the ABA Site Evaluation Team for Southern University Law Center, in Baton Rouge, Louisiana.

Lawrence Solum (William M. Rains Fellow) updated Volume 18 of Moore's Federal Practice and authored the 2000 Supplement to his book, Destruction of Evidence. He also completed an article entitled, "Divine Commands and Public Reasons," which will be published in The Modern Schoolman; and his article, "The Value of Dissent," was published in the Cornell Law Review. He delivered a paper entitled "The New Privacy," at a conference on "Privacy in the Information Age," held at California State Polytechnic University, Pomona, and he presented a paper entitled, "ICANN, the Digital Divide, and Distributivo Justicia," at the Southern California Law and Philosophy Group. This past fall Solum taught Internet Law and co-taught a seminar on Law and Biotechnology. Next Spring he will teach a new course entitled "Intellectual Property and Technology." Solum has also been involved in efforts to bring new technologies to Loyola's classrooms, including PowerPoint presentations, the Smartboard (an interactive electronic whiteboard), as well as the development of course web pages.

Peter Tiersma's (Joseph Scott Fellow) book, Legal Language, appeared in a paperback edition in late 2000 (University of Chicago Press). His article, "The Rocky Road to Legal Reform: Improving the Language of Jury Instructions" will appear in the Brooklyn Law Review. Tiersma coauthored an article entitled "Forensic Linguistics in American Courts," which will appear in the Journal of Language. He organized and chaired a session (Language and the Criminal Law) and presented a paper at the American Association for the Advancement of Science in early 2001. Tiersma also made presentations at a conference on the jury at Brooklyn Law School (Oct. 2000), the Jury Summit (sponsored by the National Center for State Courts and the N.Y. Court Administration in February, 2001), and at linguistics departments at CSUN Northridge, U.C.S.B., and Stanford University. He continues serving as a member of the Task Force on Criminal Jury Instructions, established by the Judicial Council of California.

Georgene Vairo (William M. Rains Fellow) wrote several columns on forum selection for The National Law Journal. One column examined the battle between George Bush and Al Gore over whether state or federal courts ought to resolve the Florida vote counting issues. Others addressed the problems of forum shopping and judge shopping. She continues to serve on the Board of Editors of Moore's Federal Practice, and update the Tiersma's chapters on removal, venue, and multi-district transfer. She completed the manuscript for the third edition of her book on Rule 11 sanctions, and prepared articles for and lectured at ALI-ABA Advanced Federal Civil Practice programs in Washington, D.C., and Honolulu, Hawaii. She is raising funds for AIDS research and training riders participating in the various AIDS bicycle rides.

Gary Williams spoke last September during Loyola Law School's Rampart symposium, and has published a corollary article in Loyola of Los Angeles Law Review discussing the absence of prosecutorial ethics that allowed the scandal to develop. Williams was elected to the Board of Directors of the Los Angeles Child Guidance Clinic, a non-profit organization that provides education, coun-
A Hearty Welcome

Two new faculty members

Brietta R. Clark is recent graduate of our neighbor, the University of Southern California Law School. Clark graduated Order of the Coif and member of the Phi Kappa Phi Honor Society, along with innumerable other accolades in 1999. Clark was a Lawyering Skills instructor at USC during her legal education and volunteered as a tutor following her graduation. Until recently Clark has practiced health care law and its peripheral areas with Sidney & Austin downtown. During Clark's career at USC she interned at the National Health Law Program, which works on behalf of Medi-Cal patients and the indigent. Clark's altruistic nature extends to her college years at the University of Chicago where she worked as a paralegal for the Legal Assistance Foundation representing wards of the state in disability claims. Clark's talents and accomplishments should only help to illuminate her students. Clark will be teaching Corporations in the fall and Health Care Law in the spring. Clark is incredibly excited to start teaching at Loyola Law School. “Teaching is something I've always wanted to do, and I love the mentoring process. I think it's especially important, in law, where people need to think critically and need to feel free in a trusting environment.”

Mary F. Dant was recently made a full-time professor here at Loyola. Dant was an adjunct professor here during the 1999-2000 school year, teaching legal research and writing. Dant received her legal education from Columbia University School of Law in 1989, and was a Stone Scholar each year. Dant's years at Columbia were the first higher education she spent outside of Los Angeles. Dant graduated Summa Cum Laude and Phi Beta Kappa from UCLA in 1982, and spent a year and a half in the UCLA philosophy Ph.D. program. Since 1990, Dant has been an associate at Horvitz & Levy as a civil appellate attorney at both the state and federal level. During her tenure at Horvitz, Dant devoted what little free time she had as a volunteer attorney for Bet Tzedek. Dant represented indigent clients in social security claims. Aside from being an accomplished scholar and lawyer, Dant has a humanitarian heart. Surely Dant's concern and patience will be blessed upon her students in Ethical Lawyering, which she will teach in the fall, along with two sections of Legal Research and Writing in both the fall and spring semesters.

And a Warm Goodbye

Adieu to two favorite professors

Professor Michael E. Wolfson has retired as a full-time professor after 19 years of service to Loyola Law School. Professor Wolfson, now Professor Emeritus, instituted the Trial Advocacy and lawyering skills programs on campus in 1983 as well as serving as the administrator of the programs from its inception until 1989. Wolfson's teaching focus has been on developing the necessary skills to litigate. Outside these walls, Wolfson has been equally successful; Wolfson wrote and produced a series of Professional Responsibility videotapes, wrote numerous law review articles and gave a handful of speaking appearances. Being in Hollywood got to Wolfson too as he has written many plays that have performed all over the country, many receiving national recognition. Dean Burcham warmly stated that, "He is a gifted, skilled professor and he will be sorely missed. But the rich legacy and skills instruction, which he helped create, will live on.”

Professor Kathryn W. Tate has been teaching at Loyola since 1985. When Dean Burcham was asked to comment on Tate's legacy he responded, "Kay has been an exceptionally important member of our faculty, teaching both Ethical Lawyering and Corporate Law-oriented courses. The fact that she will be hard to replace was evidenced this year when we couldn't find anyone who could fill her shoes. But the search will go on. " Tate did not contain her talents to the classroom. She has also been a member of numerous committees at Loyola, which are the backbone of administrative and faculty planning, along with maintaining her skills in annual seminars. Professor Tate has already left California with her husband in their mobile home, making Arizona their new residence. Professor Tate's next assignment is to travel this country.
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