



BUILDING A NEW FUTURE AT CHARNEY HALL

By **Jessie Reeves**
Senior Staff Writer

The distinctive new Charney Hall building marks the beginning of an era for the Santa Clara University School of Law. It will enhance the law school experience for both students and staff. *The Advocate* got a sneak peek inside the three-story structure to view the construction progress.

The new building is large enough to accommodate the majority of institutions, programs, and clinics available at Santa Clara Law. While Charney Hall will be more technologically advanced than the current Bannan Hall, the true gem of the new building will be the resources and programs available to students in one centralized location. The Northern California Innocence Project, the International Human Rights Clinic, and the Entrepreneurs' Law Clinic will have their own dedicated space located on the first floor. The



Jessie Reeves is joined by Dean Erwin and Jan Lam during a tour of Charney Hall

integration of institutions and programs into the same building will allow most students to complete clinical hours without leaving the main campus. Only the Katharine & George Alexander Community Law Center will remain at its current location, off campus. The Heafey Law Library will be located on the second floor and private study

rooms will be positioned throughout the building.

In addition, the university has incorporated several helpful, and extremely appreciated features into Charney Hall:

- **More Restrooms**—Say goodbye to lines! A constant complaint has been long wait times to use the bathroom requiring students to rush between classes or having to slip out after class begins. The university took this into consideration when designing Charney Hall and the new building has three times the number of restrooms on each floor, with gender neutral restrooms located throughout the building.

- **A Shower**—Time to Freshen up! A unisex shower will be located on the first floor when students need to tidy up before interviews or other important events.

- **Coffee & Snack Bar**—Hello! We have all experienced the mad dash to other buildings or 7-Eleven to get coffee and snacks to survive the

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TIPS FOR ONE-L OF A YEAR

By **Jacqueline Galeno-Escobedo**
For *The Advocate*

Ah, 1L year. Tell any attorney or upperclassman you're in your first year of law school and you will be met with one of two responses: a big empathetic sigh, or an anguished face indicating pain. 1L year is tough, but don't worry, you'll get through it. I will lay out some tips below to help you in your 1L journey, but please remember that you know yourself best and what works for some may not always work for others.

First and foremost, remember orientation. Remember how you were supposed to complete a learning styles assessment? If you already did that, good job, proceed to the next tip. If you didn't, get on it. Head over to [The VARK Questionnaire](#) and answer the questions, you might be surprised by what you find. Not only are you told what your dominant learning style is (visual, aural, read/write, or kinesthetic), but the site also tells you how highly you rank in other learning styles. Perhaps you are a kinesthetic learner, but you also rank high on the visual level, for example. Knowing your learning style is crucial because it dictates how best you retain information, information that you are not only going to need to remember for your law school exams, but information that you are going to need to apply, as well.

Second, get access to supplements. I know what you're thinking, you already paid some serious cash for your heavy and beautiful law books, but hear me out. Supplements help explain the black letter law in layperson terms. Not only that, but some books even have multiple choice problems where you can practice what you've just read. Having trouble understanding how to tell when a person or a corporation is a citizen of a state for subject matter jurisdiction purposes? Check out *The Glannon Guide to Civil*



Photo of anonymous 1L spotted in Heafey Procedure. While you're at it, check out the *Glannon Guide* series. I believe there is one for each first year course and beyond, and they are extremely helpful. Joseph Glannon is a godsend. You can purchase the supplements online or check them out from the ASP room or the law library.

Third, make sure to actually outline. Your outline does not have to be a traditional word document. It can be a giant poster in your room, or whatever makes you retain information. However, having your outline on a word processor helps you move things around as the end of the semester nears and you realize certain subjects fit better towards the end of the outline instead of the beginning. A “perfect outline” does not exist as there will always be room for improvement, so don't fixate on trying to reach this “perfect” document. You can put your outline to the test by printing it out and writing out some practice essays. The goal of your outline is help you remember the important elements of the topics you study in class (e.g. subject matter jurisdiction, personal jurisdiction, etc.). If you are having trouble

writing your outline, talk to your ASP fellow or your professors.

Fourth, go to office hours. Yes I know it can be intimidating, but if you are struggling professors can help clarify the subject matter for you. Set a goal for yourself. If your professors have office hours two days a week, do you want to go one out of the two days, or both days? Do you want to go by yourself or with a friend? Your professor will be happy to help; they wouldn't be in the teaching profession if they didn't like teaching. Fifth, don't be afraid to ask for help. If you are struggling talk to someone. Professors aren't the only ones you can go to. You can also make an appointment with law student services, with the Office of Academic & Bar Success, or with a counselor at the Cowell Health Center. All you need to do is reach out.

Sixth, practice, practice, practice. You can look on Emery and find old tests from your professors. Sit down with your outline and do them. Then do them without an outline by your side to simulate a real test. Make sure you attend the practice test sessions held by ASP in October. It will give you a better sense of the time constraints you will be working under.

That's it for now, good luck and don't worry, you can do this.

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day. The first floor of Charney Hall will have its own food and beverage counter that will operate throughout the law school's academic calendar.

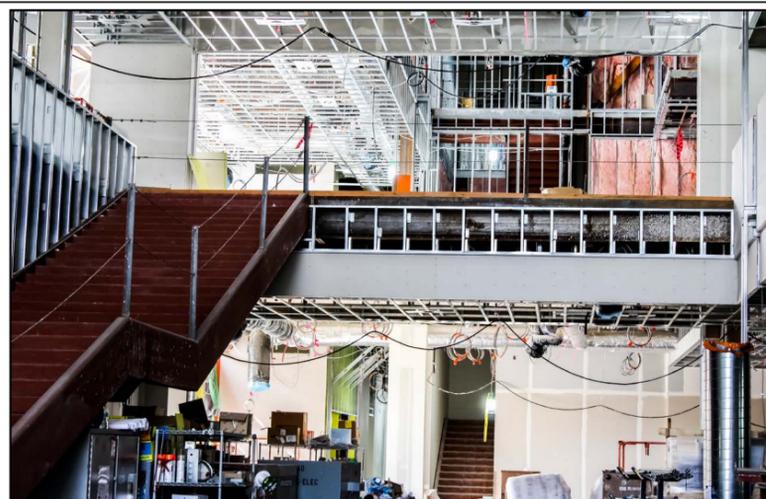
- **Student Organization Collaboration Room:** A section of the first-floor has been designated to all student organizations for use. The collaboration area will give organizations a centralized space to meet, plan, and prepare for events.

- **Law School Lounge:** The new lounge, located on the second floor, will include indoor seating, microwaves, and refrigerators (similar to the current setup). The major attraction will be an outdoor balcony area where students can eat lunch and hang out. It should be noted that, unlike the current set up in Bannan, students and faculty will share the same lounge and kitchen areas in the new building.

- **Rooftop Terrace:** The third floor will include a terrace walkway. This area will be a lovely place for students to unwind and have a great view of the stadium and main gate.

- **Panelli Courtroom:** The new courtroom will encompass two classrooms, with a movable partition, allowing accommodation for up to 300 people.

- **Meditation Room:** We all know that law school is stressful. Sometimes students just need a place to get away from the hustle and bustle. To help facilitate the mental health of students and faculty the university created a meditation room to decompress.



- **Tranquility Room:** A private room will be available on the third floor for nursing mothers.

Charney Hall will serve as a great location and allowing future students to reach their highest potential at Santa Clara Law, while creating a sense of community and wellness through the new facilities.

Special thanks to Law Student Services, to Whit Alexander, and to the Devcon construction crew for allowing a student to join its tour group.

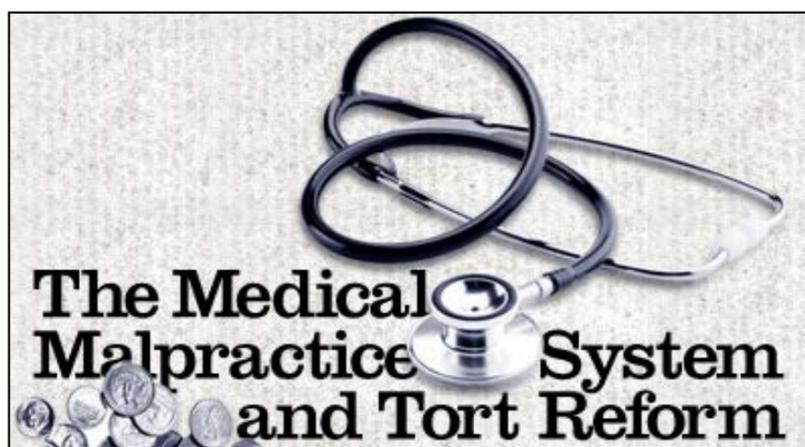
MEDICAL TORT LAW: ARE WE GOING IN THE RIGHT DIRECTION?

By Kerry Duncan*Senior Editor*

Healthcare reform has been a hot topic, focusing mostly on access and cost of healthcare. However, healthcare reform generally leaves out medical tort law, which includes medical malpractice and medical negligence. The reason this has been out of the most recent healthcare debate is that tort law is generally left to the states. Because it is a state issue, there is a wide variation of law among the states.

For instance, California has one of the most restrictive medical malpractice and medical negligence landscapes in the United States. In 1975, the Medical Injury Compensation Reform Act was signed into law altering how injured plaintiffs could seek remedy and how much they could receive. The law was also an attempt to lower medical malpractice insurance premiums by limiting liability of healthcare providers. This was done by capping noneconomic damages at \$250,000. Claims for pain and suffering, loss of consortium, and other claims that do not relate directly to economic losses are included in the noneconomic damages cap. This does not put a limit on the amount of money a plaintiff can receive for lost wages or past and future medical expenses.

Other states, like Missouri, take a completely different stance. While an attempt was made to create a law that capped noneconomic damages, the Missouri Supreme Court found that the cap



violated its state Constitution. Other states have umbrella caps that limit both economic and noneconomic damages. Some states even pay to cover part of the damages.

The wide variation of medical tort law is most likely a result of the many different stakeholders involved. The first, and arguably one of the most important groups of stakeholders, is the harmed patients and families. The interests of doctors, nurses, and hospitals as stakeholders are also significant as the interests of those who provide the public with health care must also be taken into account. The impact of a medical negligence lawsuit may force some of these individuals out of the healthcare profession, and possibly cause them to lose their jobs. Many healthcare providers have medical malpractice insurance, and increasing premiums in those plans contribute to the high costs of healthcare in the United States.

With the wide variety of interests that need to be balanced, perhaps the system should

be designed to address the wants and needs of those who have been injured. Often times, what these parties actually want is to understand what has happened to them, why it happened, to know it won't happen again, and to get an apology. If these are some of the most important aspects to these stakeholders, we must ask ourselves if lawsuits of medical malpractice and medical negligence get them what they want. In the court system, they are faced with the

expenses of a lawsuit and a lengthy process that can delay closure. While there is a likelihood of compensation through a lawsuit, perhaps there is a better way that addresses both the emotional and financial needs of patients and families.

This thought process is not new. Many states are pushing alternative dispute resolution options to deal with medical malpractice and medical negligence. Even some healthcare institutions are looking at different ways to help patients get closure, instead of using the traditional "deny and defend" approach. It may be that we should continue this trend of prioritizing the wants and needs of those who have been hurt by addressing not only their financial wants but their need for closure.

DREAMERS WAIT OUT STANDSTILL ON DACA DEAL

By Elena Applebaum
Managing Editor

Thousands of Dreamers are worried they will lose their jobs, and no longer be able to take care of their families. These DACA (Deferred Action for Childhood Arrivals) recipients know that if they lose their work authorizations, they could also lose their health insurance. Even more pressing, Dreamers know that—if Congress doesn't pass a bill or make a deal with the President—they could be deported when DACA expires. Lynette Parker, Associate Clinical Professor of Law at the [Katharine & George Alexander Community Law Center](#), stressed that deportation is the most significant impact of revoking DACA, since it separates family members, “severely impacting the communities these professionals serve.”

On September 5, 2017, Attorney General Jeff Sessions instructed the Department of Homeland Security [to rescind the DACA program](#). It was a moment of disarray for Dreamers uncertain about their status, and DACA hopefuls worried about new applications. The Department of Homeland Security [clarified](#) that it would only process DACA applications submitted as of September 5, 2017, and renewals submitted by October 5, 2017 for those whose benefits expire between September 5, 2017 and March 5, 2018. But over the past few days, President Trump has been discussing a “deal” on DACA with Republicans and Democrats in Congress. On September 15, 2017, White House Press Secretary Sarah Sanders said Trump “wants to help American workers and families,” and “supports making an agreement on DACA, but that would have to include massive border security and interior enforcements.” This may not sit well with Democrats, as Sanders insisted the President is “still 100 percent committed to the wall. The White House was supposed to announce its priorities on immigration reform over

the next several days, however these priorities are still a unknown to the public.

“Until this year, immigration enforcement has focused on persons who have committed serious crimes, trafficked drugs and have been connected to terrorist activities,” said Parker. In 2012, President Obama signed an executive order that redirected prosecutorial discretion in removal proceedings to de-prioritize the removal of people who were eligible for DACA work authorizations. To be eligible, applicants had to meet stringent requirements. They



President Trump meets with Congress to discuss DACA legislation

had to arrive in the U.S. before the age of 16, have been in the U.S. since 2007, be under the age of 30, and either be enrolled in a school or GED program, have graduated from a high school or GED program, or be an honorably discharged veteran of the Coast Guard or Armed Forces. Further, they must not have had any felony convictions or significant misdemeanors, and not three or more misdemeanors.

Parker says DACA allowed beneficiaries to “come out of the shadows and live their lives without fear of being sent away from the country where they grew up, and to a country they barely know.” As a result, many began to work, study, and fully participate in society. “The idea is that many bright minds who could contribute to the economy and to the country were

being wasted because after getting an education, they could not work lawfully in the United States.”

This idea may have had some traction. The [2017 National DACA Study](#) by Tom K. Wong at U.C. San Diego surveyed 3,063 DACA recipients. Among them, 91% were currently employed, more than 52% were pursuing a bachelor's degree, and 13% were pursuing a master's degree. But one issue with DACA is that, since it was always temporary, it was also risky for applicants to give up their personal information. Parker noted that this problem “extends to their family members, some of whom are also undocumented, since if immigration comes to look for them one day that could put other family members at risk.”

Dreamers who responded to [Wong's study](#) were overwhelmingly young, hispanic immigrants; on average they were 25 years old, and 93% were latino. Parker explained that many of them “were brought to the U.S. by their parents, and so did not make an independent decision to come to the U.S., but have grown up here so they consider the U.S. to be their country.” This seems to be true, in fact about 80% of respondents to the [DACA study](#) came to the U.S. before they were 10 years old, while more than 46% came before they were five. Dreamers are so integrated in the communities they live, that more than 72% said they had a spouse, sibling, or child who was a U.S. citizen.

Expect more updates on “DACA Deal” negotiations with the President over the next few weeks, while lawmakers try to push forward different bills. Among these, [The Dream Act of 2017](#), [The BRIDGE Act](#), the [Recognizing America's Children Act](#), and the [American Hope Act of 2017](#), are competing for the chance to become law. At this point, the future of DACA and a potential path to citizenship for childhood arrivals are still undetermined, and Dreamers have no choice but to wait out the standstill. An uncomfortable truth for many whose livelihoods have been compromised.

THE FUTURE OF THE FIRST AMENDMENT

By Grace Harriett
For *The Advocate*

The heavily publicized recent First Amendment cases beg the question of how courts apply the right to free speech when faced with the norms of today's society. When someone says something controversial, they often give the reasoning of “well, I have the right to free speech.” But, this fundamental right is not always fully understood.

A basic breakdown of the right to free speech is that it protects speech, allowing for public discourse, from restrictions by the government, unless the speech falls into an unprotected category. Speech in an unprotected category can be limited by the government because it is in the public's best interest to do so. An essential, but not an absolute, provision is that regulations based solely on content or viewpoint are First Amendment violations.

Sarah Palin's defamation case against the *New York Times* was dismissed last month, upholding the *New York Times v. Sullivan* ruling that “actual malice” is needed for a defamation case to be successful. Ms. Palin's case is about an article published in the *New York Times* following the Congressional baseball practice shooting that linked Palin to the shooting but was quickly corrected. In today's society, especially with social media, reporting is often done in the moment and distributed immediately. The holding from *New York Times v. Sullivan* that allows room for error without malicious intent is particularly relevant because of the speedy reporting techniques used through Twitter, news alerts on smartphones, and live

streaming. Without the “actual malice” element in defamation suits, the chilling effect the court in *New York Times v. Sullivan* was worried about could be realized and could curb the positive impacts of necessary and timely news reports.

The quick reporting technique via social media is likened to the immediacy of sending text messages. This summer, Michelle Carter was convicted of involuntary manslaughter for sending her boyfriend a series of text messages urging him to commit suicide. The court found that Ms. Carter displayed wanton and reckless conduct by failing in her duty to alleviate the substantial risk of harm she created through her text messages. The question posed after this verdict was whether the court's ruling restricted Ms. Carter's speech and is in violation of her First Amendment rights. The type of restriction through the court's ruling is based solely on the content of her words and would be unconstitutional unless Ms. Carter's text messages fit into an unprotected category of speech or survive strict scrutiny. The fact that Ms. Carter had not been physically present with her boyfriend makes this task difficult to achieve under traditional approaches. Text messages, in their immediate distribution, may cause a sense of urgency, and it could be argued that this would meet the imminent “time” requirement of an unprotected category like incitement. But, this would ask the court to approach unprotected categories in a new way or further update the test to reflect today's communication mediums.

Universities must balance protecting free speech and upholding their responsibilities

as institutions of higher learning. Harvard University rescinded incoming students' acceptances when they participated in a derogatory and harmful messaging group on social media, and Michigan State University refused to allow a white nationalist speaker at an event on campus citing public safety concerns. It clearly is difficult for higher education institutions to not only balance their legal obligations and educational responsibilities but also to balance promoting healthy dialogue with the potential impact of harm or violence. These two decisions, while facially different, are rooted not only in the similar backdrop of recent national events, but also in the tension universities face when balancing their responsibilities. The amount of criticism and support that stemmed from these decisions encourages a widespread discussion on the time, place, and manner of speech that higher education institutions may regulate.

Today's culture of immediate news, social media, and text messaging, can put a twist on the applicability of First Amendment rights. The First Amendment is a centuries-old idea that has, so far, stood the test of time. The discussion centering around the applicability of the categories, their tests, and the generally broad protection afforded, could result in changing the future of the right to free speech.

OFFICE HOURS UNWOUND



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1. What is your top source (news / journal / legal blog / other) for keeping current with the law?

I keep current with the law by reviewing the reported California appellate decisions posted daily at www.courts.ca.gov/opinions. And then I'll usually scan the Daily Journal, as well.

2. What do you consider to be the most important development in your field or the legal profession in general over the last 5 years?

The recent advancements in artificial intelligence technology. Basic A.I. is already widely used for some tasks that used to be done by lawyers (e.g., document review). But as the technology continues to advance, it raises some fascinating questions that are fundamental to how we think about the field of law: If an intelligent machine can be programmed to faithfully apply a statute or case authority to a set of facts to resolve an issue, do we need judges (or at least appellate judges, who do not resolve factual disputes)? If human error is a given whenever decisions are made by humans, wouldn't we be better served by a machine decision maker that will always make the "correct" decision? If not, why is a certain human element—and the inevitable errors that come along with that—desirable in judicial decisions?

3. If you could go back in time, what advice would you give to yourself in law school?

"You know you have to pay those loans back, right?"

4. Who is someone you admire, and why?

Rick Hoyt and his father Dick Hoyt. Rick was born with cerebral palsy and is unable to walk or speak. But together they have competed in hundreds of marathons and triathlons, with Dick pushing Rick in his wheelchair the whole way. They planned to make the 2013 Boston Marathon their last (Dick was 73 and Rick was 52). The terrorist bombing prevented them from finishing. So they came back and ran it the following year, as a tribute to

the bombing victims and to showcase American courage, which they exemplify. It's inspiring that such heroic people exist.

5. Do you have any book recommendations?

How Judges Think, by Richard Posner. *The Unwinding: An Inner History of the New America*, by George Packer.

6. What was a memorable experience in your legal career?

There are so many. So many interesting clients, fascinating stories, big wins, crushing defeats. But one of the best was arguing—and winning—a pro bono civil rights case in the 9th Circuit Court of Appeals, representing a federal prison inmate. It was a gorgeous sunny day in Pasadena. The argument went well, I felt like I did a good job in a difficult case, and the court's decision provided the satisfying sense that justice had been achieved. It is not often that all the stars align like that. But they did that day.

7. What is your favorite restaurant in the bay area?

Smoking Pig, for sure.

8. What do you enjoy most about being a law school professor?

The opportunity to be helpful to my students, and hopefully have a positive effect on their lives. Particularly being able to do that at Santa Clara, which has had such a positive effect on mine.

9. What is a subject (legal or non-legal) you would like to learn more about?

Cognitive science. How and why our brains work the way they do.

10. How do you unwind?

Relaxing at Tahoe with my family. During hockey season, going to Sharks games.

1. What is your top source (news / journal / legal blog / other) for keeping current with the law?

The Daily Journal, The New York Times, and the Santa Clara County criminal defense lawyers list serve. I also discuss developments in the law frequently, with my law teacher colleagues.

2. What do you consider to be the most important development in your field or the legal profession in general over the last 5 years?

The continuing diversity in law students: the broadening and enriching of our profession here in California, by increasing inclusion of many, many ethnic groups, and children of immigrants who are making the face of California lawyers more representative of our state's population.

The Second Most Important Development: Justice Anthony Kennedy continuing to write decisions, such as *Obergefell v. Hodges*, which open up rights and opportunities in American society to groups and folks who should have been included long ago.

3. If you could go back in time, what advice would you give to yourself in law school?

Dude: realize how important the first year of law school is: learn how to outline each law school subject, and learn how to write top—quality answers to law exams, and top—quality legal writing in general.

4. Who is someone you admire, and why?

Cesar Chavez and Ernesto Galarza: Latino pioneers in "La Lucha" (Ernesto Galarza was a great latino educator—he lived and worked in San Jose)

5. Do you have any book recommendations?

Gideon's Trumpet, by Anthony Lewis, *Desert Solitaire* by Edward Abbey (the conservationist—not the playwright; the playwright is Albee). *Wilderness Warrior: Theodore Roosevelt and the Battle for America* by Douglas Brinkley (Roosevelt preserved Grand Canyon for all time; during his presidency, he set aside an area of land in national parks and monuments, equivalent to the size of Texas). *The Man Who*

Walked Through Time by Colin Fletcher, *Walden* by Henry David Thoreau.

6. What was a memorable experience in your legal career?

On several occasions, my indigent clients were acquitted of all criminal charges against them, and it became clear they were factually innocent — no crime was committed.

In one memorable case, an 11-year-old girl was testifying to a claim of child molest which never occurred: she was put up to it by her drug-addicted mother (who had broken up with my client after a relationship of several years). In addition, I won a case in the California Supreme Court in 1984, *People v. Laiwa*.

7. What is your favorite restaurant in the bay area?

Not really one in particular: I go out to "hole-in-the-wall" family-owned-and-run restaurants.

8. What do you enjoy most about being a law school professor?

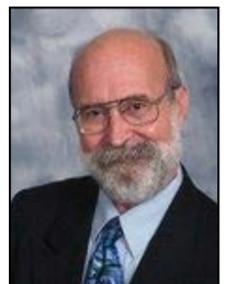
Interacting with young women and men who are living their dream: Getting ready to be lawyers, hopefully the type of lawyers who remember where they came from, and "walk the streets with the people". I have been in the classroom almost all my adult life — I can't imagine a more exciting thing to do!

9. What is a subject (legal or non-legal) you would like to learn more about?

Buddhist meditation, Yoga, mindfulness

10. How do you unwind?

I am a hiker - I walk mountain trails and canyon trails all over the West. I spend time in Santa Fe, New Mexico every year -- the tempo is slower, the food is terrific, people are real friendly; the natural setting is as beautiful as any place on earth. I go to Taos. I am a practicing Quaker



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RUMOR MILL - RESULTS OF THE STUDENT ENGAGEMENT SURVEY

By Susan Erwin

Senior Assistant Dean

Welcome to the new school year! We've made it through orientation, add/drop, and four weeks of school! Student orgs and faculty committees are meeting again and things are happening! I hope you are having a great semester so far and if you aren't stop by and tell me why not.

As is my tradition every September, this column will be dedicated to all of the rumors in the annual LSSSE survey that need to be dispelled.

First, let me say one more time: THERE. IS. NOT. A. SCHOLARSHIP. SECTION. There never was, there never will be and no matter how many times someone says it, it still won't be true. Fake news.

LSSSE is the Law School Survey of Student Engagement. It is a national survey that attempts to measure how much you are/aren't engaged with your school. The link for results from last year and previous years is on the Current Students page. The Assessment Committee, Committee on Diversity and Inclusion and Student Affairs Committee will be reviewing the statistical results. In this column, I will be focusing on the rumors contained in the oh-so-painful-to-read student comment section.

There are the classic conflicting comments: Too many emails and notifications/Not enough information and notifications; Too many IP classes/Not enough IP; Too much focus on the bar exam/Not enough focus on the bar exam. Many of you make excellent points on both sides of the discussions, not sure we are ever going to please either side. But we will keep trying!

There were a couple of comments from part time students regarding the different experiences for exclusively evening students. At some level, this is always going to be true. You all work all day, go to class all night, read all weekend, have families, and have lives . . . I'm not sure there will ever be room to make all of the day events accessible to you in a way that is convenient for you. Your PT SBA reps sent out a survey to ask when you would be available to attend events, we will share the results with the law student orgs and the staff and faculty. One rumor that we can stop is the one about administrative offices never being open for part timers. The Student Services Office has been open until 6 pm on Mondays and Thursdays for at least the last 20 years that I have been here. The Office of Academic and Bar Success, the Externship Office and the Office of Career Management are all open late on Mondays and Thursdays as well. Stop by and say Hi!

A few students complained about the cheating that happens at the law school and the fact that we do nothing about it. I

am the one who follows up on allegations of cheating, so I'm kind of the subject matter expert on what happens when students are accused. Problem number one is that frequently the folks complaining about the cheating never actually saw it happen. They are pretty sure it happened because their roommate's friend clearly heard it from that girl in LARAW last semester and I should just do something about it.

Problem number two is that when I actually find someone who actually saw it happen, they don't want to get involved. They tell me about it and want me to do something about it, but request that I don't use their name and refuse to participate in the conduct hearing process. If I don't find some other source of actual facts that I can use, there is not much that I can do. I will call the accused in and try to scare them straight. (I can be scary, but I'm pretty sure that all I accomplish is to make them more careful when they cheat in the future.) Problem number three is that even when folks see the cheating and agree to participate in the process and we sanction the student, many feel that anything short of expulsion and public tar-and-feathering is not punishment enough. I would argue that getting a grade of F in a 3 unit class (and having to pay for and take 3 more units in order to graduate) and getting reported to the bar is pretty serious punishment.

We recently had a speaker here who represents folks in front of the bar and she said repeatedly that, in her opinion, if you are caught cheating in law school, you will never be an attorney in California. I feel like that would be a very serious consequence. At the end of the day, we like to think that all of our students have the honesty and integrity we expect of them. We trust . . . and will continue to verify.

The last set of complaints are to be expected in our current political climate – Too much focus on diversity/Not enough focus on diversity/Too much politics in the classroom/Too liberal/Too conservative/different groups not feeling welcome. I don't think anyone feels comfortable these days and we are not going to be able to avoid the issues. The Committee for Diversity and Inclusion, having completed [the Diversity Plan](#) last semester, is now working on some of the action items included in the plan which touch on many of these complaints. They are:

1. Integrate cultural competence, diversity issues, and the Law School's values of inclusion and social justice into the core academic curriculum. Specifically tie these values to the Law School's adopted competency model. Develop modules addressing diversity and inclusion issues that can be integrated into doctrinal and

experiential courses.

2. Reexamine offering a Winter Break or Summer Bridge-type program for new admits with higher academic and/or acculturation needs to smooth their transition to Santa Clara. Engage faculty, alumni, and upper-division students as mentors for incoming first-generation students.

3. In classroom discussions, faculty should rigorously separate methodologies and critiques of reasoning from political positions or ends. Professors should elicit and/or provide multiple sides of an argument, and employ techniques to safely allow students to share dissenting viewpoints. Provide training for faculty on facilitating difficult discussions.

4. Analyze, improve, and intensify Law School recruiting practices for qualified and interested racial and ethnic minority applicants. Engage potential applicants through early outreach programs at colleges, high schools, after school programs, and community organizations. Engage in strategic recruitment programming at Historically Black Colleges and Universities and Hispanic-Service Institutions. Capitalize on the 2+2+3 partnership as a strategic recruitment tool. Reexamine offering a Summer Bridge-type program for new admits with higher academic and/or acculturation needs to smooth their transition to Santa Clara.

5. Support creation of a First Generation Professionals Program to provide students with the opportunity to support each other, address the isolation of being first-generation, and celebrate their achievements. Incorporate aspects of academic, professional, financial, and social support, as well as addressing the intersectional identity issues presented by low-income, first-generation students.

If you have thoughts on any of these, please let us know! This year, CDI members are Professors Hammond, Hsieh, Kinyon, Pina, Ridolfi and Russell; Deans Horne and Erwin; Karla De La Torre; Students Kaval Ali, Jessica Atwood, Julian, Castillo, Iris Chiu, Shaudee Dehghan, Amisha De Young-Dominguez, Daniela Dunham, Alexis Glasgow, Eric Hagle, Nichol Hathorn, Joshua Metayer, Alice Moy, Tay Nguyen, Kelli Nishimori, Amanda Saber, Samantha Sales, Maria Sokova, and Maya Younes.

For more info, check out the LSSSE Survey online or send me a note – serwin@scu.edu.

RALLYING FOR FREE SPEECH: THE DANGERS OF A CULTURE SHIFT FROM INCONSISTENT PRINCIPLES

By Christina Faliero

Senior Editor

On March 11, 2016, I navigated through energized crowds of politicians with my roommate on a chilly day in Chicago, Illinois. Donald Trump was hosting a campaign rally, so protesters and supporters alike swarmed the University of Illinois at Chicago Pavilion like ants on a sugar cube. Frustrated with the polarization of our political climate, we wanted to witness first-hand the dynamic between political parties that was being plastered in the media.

Protesters stood passionate, chanting phrases like, “Not my President!” and “Equality For All!” We took photographs with a man who held a sign that read, “Trump puts ketchup on his hotdog.” On the sidewalk outside the stadium, discussions were healthy. There was anger, but there was also an underlying focus on having a productive conversation. We passed an amused herd of police officers on horses as we made our way from a protester gathering to the event line. It was in this transition that our country broke my heart.

Large groups of young men in matching pastel short-shorts chanted incessantly to anyone passing by, “Go back to your f*cking country,” “MERICA! MERICA! MERICA!” and “F&#* Muslims!” During the campaign these phrases electrified many Trump supporters. But rather than subside and dissipate, such phrases have encouraged tangible violence in places like Charlottesville, Virginia. While the quotes listed above were selected from a laundry-list of both positive and negative comments from that day, they tend to reflect the general attitude from each side we observed.

Sinead McCarron, my roommate and fellow law student, reflected on some of the most heart-wrenching moments of our experience. “For the most part, there was little conflict between parties in the queue line. But once inside the stadium, the aura could only be described as apocalyptic. A monotone voice echoed through the speakers every five minutes or so, commanding people to surround attendees that were not visibly Pro-Trump, hold a MAGA sign over their head, and chant, ‘Trump! Trump! Trump!’ until a security guard could come physically remove them.”

There were hardly any protesters inside the stadium, most of whom were standing silently in disbelief. We saw handfuls of people aggressively removed for no apparent reason. We witnessed angry men throw sucker-punches at those being carried out without any sign of fear of punishment—they were safe, they had a “Make America Great Again” hat. I was called numerous expletives, including the ‘C-word,’ for “looking like a Hillary supporter.” Though I was planning on voting for John Kasich, no one paused to ask before spewing their abhorrence.

At the end of the night, Trump decided to cancel his rally due to safety concerns. Unfortunately, the rhetoric that infected the populous that day



has persisted and is increasing cultural tolerance of hateful behavior. First Amendment protections are limited to government action, yet the ethical justifications that underlie the concept of free speech are being abused, and there seems to be a cultural shift toward creating a paradigm of tolerance for racism, misogyny, and bigotry. Sinead attended a prior event in Millennium Park on Election Night in 2008 when Barack Obama won the presidential race, and she notes that “the attitude of the supporters of Trump at UIC’s stadium in March 2016 were a stark contrast to the hope that gleamed through Millennium Park in November 2008.” It doesn’t matter if President Obama was the right choice or the wrong choice; what matters is the sharp pivot from celebrating democracy to virulent violence and toxic animosity.

Chris Crandall, a professor of Psychology at the University of Kansas, was recently interviewed on an NPR podcast titled “Hidden Brain.” He discussed his recent research experiment, which was inspired by a racist video of the Sigma Alpha Epsilon fraternity at the University of Oklahoma singing “There will never be a N@%#@ in SAE!” that surfaced on Facebook and employed a free speech defense. Consequently, Professor Crandall wanted to know if people who endorse free speech arguments do so consistently. He found that the more people had negative attitudes toward African-Americans, the stronger they endorsed free speech as a justification for why a person should be able to make racially charged comments without being fired from a job. Also, the more a person had negative attitudes toward African-Americans, the less they employed the free speech defense when words expressed were anti-police. More interestingly, people low in racial prejudice were just as inconsistent in applying the First Amendment as a defense; rather, those with

low racial prejudice would employ a free speech justification for someone being fired because of sheer aggressive comments toward customers, but abandon the same defense when the hypothetical involves race. This study exemplifies the notion that people are more concerned with justifying the content of speech, than they are about defending the ultimate principle of free speech; and everyone is inconsistent with its employment.

Melissa Murray, a professor of law at U.C. Berkeley who was recently interviewed on a New Yorker Radio Hour Podcast, touched on the philosophical problem that underlines Professor Crandall’s study: whether the principles of free speech can be used to cloak discrimination and bigotry. She highlights the dangers of personalizing blanket statements about politics, and believes that as a professor, “it’s really important that a student be able to say, ‘you know what, I have questions about this, I don’t agree with that position.’” She adds that when free speech tips into violence (or the threat of violence), an administration should step in to ensure public safety. She offers a simple answer to the question of why free speech is being used to cloak discrimination and bigotry by stating simply, “we haven’t reconciled our past.”

While there are legislative and judicial fixes to current First Amendment issues, the more important problem to focus on is the one deeply rooted within our culture. We must begin to become comfortable with the uncomfortable. We must begin to look out for our vulnerable communities in more explicit ways. And we must begin to feel brave enough to tell the stories of those who are ruthless and hate-filled. We must, as a nation, gather the gumption to fight for the principles that matter, and stop defending or merely observing the actions of the malevolent. Let’s flip the script.

GETTING TO KNOW THE CLASS OF 2020

By Katie McCallum
For The Advocate

With the start of a new school year inevitably comes new members of the Santa Clara Law community. To get a feel for all the new faces in Bannan Hall, several 1L students shared a bit about themselves, including their hopes, dreams, and aspirations for the future.

Tell me about yourself in 20 seconds.

I'm Shadi Kaileh. My mom, dad, and younger sister are my life, but I miss my two dogs most when I'm away from home. I was born and raised in the Bay Area, but I lived in L.A. for a few years. One of the most difficult things in my life I overcame was battling a very serious form of autoimmune pancreatitis for almost a year in 2013; it changed my perspective on life and brought me much closer to my family. On a lighter note, I love football and hip hop.

I'm Cory Culver. I'm a highly motivated individual and I feel very passionate about what I do in life, both personally and professionally. I went to college at Sweet Briar College in Virginia. After, I completed an M.A. in counter-terrorism through American Military University and I hope to be able to use law to work in a counter-terrorism or anti-terrorism field.

Why did you choose Santa Clara Law?

Shadi: Santa Clara was one of my top choices for law school. I knew I wanted to practice law in the Bay Area and Santa Clara has

an outstanding reputation in the region.

Cory: I chose Santa Clara for two reasons. First, I love the feel of a smaller school; being able to get to know my professors and classmates is an amazing feeling. Second, the opportunities for international study are incredible and I look forward to pursuing those options!

What has a typical week looked like for you in this first month of law school?

Shadi: I'm typically awake by 5:30-6am. I like to do my reading first thing in the morning when my brain is fresh, and on days that permit, get a morning workout in. I'm at school and in the library almost all day after. When I get home, I decompress, catch up on Sports Center (of course), then go to bed and do it all over again. Most weekends, since I'm close to my family, I'll drive to my parents' house for my mom's cooking and to spend time with my dogs.

Cory: I live in Sacramento and commute, so the typical week is spending a lot of time on the train studying, which I do appreciate because it keeps me focused. Outside of that, I am lucky to have morning classes so that I can ride my horses during the week in the afternoons. Also, I try to spend some time with my boyfriend whenever our schedules allow. So far, law school has been an overwhelming experience, however, I cannot help but want to continue to learn and get better.

If you could get any job on the planet, what would it be?

Shadi: My dream job would be to serve as General Counsel for the San Francisco 49ers or the Golden State Warriors.

Cory: I would enjoy being a U.S. Senator at some point, particularly if I could work on foreign policy issues. However, I have a lot of learning and growing to do before I could achieve such a goal!

Finally, if you could leave a legacy on campus, what would it be?

Shadi: I would love to start a Sports & Entertainment mentorship program to connect Santa Clara students with working professionals in those industries.

Cory: I would want people to know that, no matter what, you can make law school work if you want to. There are always going to be issues, but everything is worth it in the end. I realize, though, that I am only at the beginning.

Alongside these students are 182 more full-time 1Ls passing through Bannan Hall every day, each one excited at the prospect of learning the law and fostering new friendships. Take the time to get to know the new faces and personalities hiding behind Contracts and Torts books.



Shadi Kaileh



Cory Culver