

LINCOLN LAW SCHOOL OF SACRAMENTO

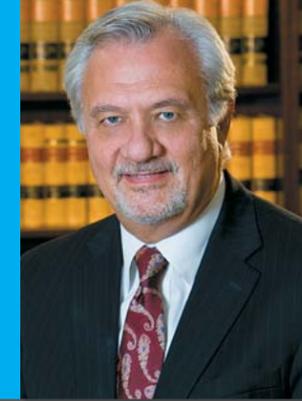
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VOIR DIRE

2016
FALL
EDITION

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A MESSAGE from DEAN SCHIAVENZA



Winter 2016'

Perhaps the most rewarding aspect of being dean is to see our students arrive with a dream, watch them progress through law school, and pass the bar examination. With this sentiment, on behalf of the faculty and administration, I welcome the class of 2020 to Lincoln Law School of Sacramento. We also congratulate all returning students. You should be justifiably proud of your accomplishments and continued success.

We also welcome back our esteemed faculty, who are the cornerstone and lifeblood of Lincoln Law School. Their abilities have been translated into the realization of our graduates of the dream of entering the legal field and of being successful in this most honorable of professions. Our faculty truly care about and are dedicated to the success of our students. We thank each and every one of them for all that they do.

It is important to recognize and thank our student groups, who enhance the Lincoln Law School learning environment. The time and effort our groups devote to the educational, social, and philanthropic endeavors of our students add significantly to the quality of education and enjoyment of school life.

By all accounts, the reputation of Lincoln students within the legal community is growing with each graduating class. I frequently hear from local practitioners and judges who observe our graduates and compliment them on the quality of their work and for the skills they bring to the legal community. Of course, we continually look for means by which we can improve the quality of your educational experience. I have an open-door policy, and if you have ideas or suggestions for how we can improve our program, or comments on what we are doing right, or if you just want to chat, please feel free to stop by.

Dealing with conflicting priorities of work, family, and a rigorous academic schedule is a difficult but doable task. In one sentence, I will give you the keys to success in law school: A significant amount of time, a patient and understanding family, and above all, hard work and dedication. To quote Abraham Lincoln, the namesake of our school, "Adhere to your purpose, and you will soon feel as well as you ever did. On the contrary, if you falter and give up, you will lose the power of keeping any resolution and will regret it for all your life." And when asked to oversee the legal education of a friend's son, Lincoln said, "If you are resolutely determined to make a lawyer of yourself, the thing is more than half done."

Please accept my best wishes for a successful and rewarding year.

Sincerely,

James M. Schiavenza, Dean

LETTER from THE EDITORS



Welcome back Class of 2017. You have made it to your last year of law school. Take a deep breath and keep going. You are months away from finishing your law school journey. Though the light is shining at the end of the tunnel, you have a significant hurdle to overcome. Take each opportunity and arduously prepare for that hurdle, because before you know, it you will be graduating and will be facing the California Bar Examination.

Welcome back Classes of 2018 and 2019. You have survived another year and are getting one step closer to reaching the end of your law school journey.

Welcome to Lincoln Law School, Class of 2020. We hope you are enjoying your first year. We are excited to have you on our campus and look forward to interacting with you all.

First, we thank Dean Schiavenza and Professor Gold for working tirelessly to make this edition of the Voir Dire possible. Secondly, we thank our writers for taking the time out of their busy schedules and supporting us through the process of putting together this Winter Edition of the Voir Dire. We truly feel honored to serve as this year's Voir Dire editors. One of the greatest strengths of Lincoln Law School is the faculty that pushes the students to explore and grow, while providing constant guidance and encouragement. We are humbled to have this opportunity to write for a publication that represents Lincoln Law School.

Our goal with the Voir Dire is to educate our readers as to prominent legal issues that not only our legal system faces today, but most importantly our community. We provide an objective view on these issues and aim to shed light on issues that will impact the legal community and the general public. For this year's edition, we decided to focus on a variety of interesting and practical topics.

We hope you enjoy this edition of the Voir Dire, and as always, thank you for reading this year's Winter Edition.

Sincerely,

James Pearson, *Class of 2017*, and Phillip Ung, *Class of 2019*

A LETTER FROM the SBA



At Lincoln Law School, the Student Bar Association (SBA) is the umbrella organization providing resources, events, and information to students. The overall objective of the SBA is to provide a supporting link and to be the voice of the students to both the administration and faculty, both professionally and socially. Throughout each school year, the SBA provides numerous opportunities for students to come together at different events. Most of these events include faculty, administration, and alumni attendees, in an effort to provide the networking connections to help each and every Lincoln Law School student become more successful throughout their law school endeavor and their legal careers.

This year, the SBA is committed to ensuring the highest level of communication between students, staff, faculty, administration, and alumni. Our goal is simple, #WeAreOneLincoln. We hope to make every student feel welcome and feel a part of the Lincoln Law School community. We are here to help ensure everyone is made aware of school events, job opportunities, networking opportunities, and most of all, accessibility to the administration, if and when necessary. We strive to ensure that students' needs are met, and that students feel as though they are a part of the decision-making process.

So far this year, the SBA has been successful at communicating information with all students. We have created a Lincoln Law School SBA Instagram account and have become more active on our other social-media platforms such as Facebook and Twitter. SBA has welcomed all students to the SBA General Meetings and ensure students are aware of such events through postings on Populi.

This year, the SBA has hosted a successful end-of-the-year River Cats game with sold-out attendance. We then followed up with their orientation to the 1L class serving pizza and beverages. SBA then facilitated its first Pancake Breakfast for the 1L class on a Saturday morning prior to the start of their Legal Writing class. Most recently, SBA had one of the most successful and elegant Lincoln Law School Mixers thus far. The mixer, had over 100 attendees ranging from students, administration, and faculty, including judges, attorneys and more. The mixer was a "hit" with students and exceeded all expectations.

With many key SBA events behind us, there are more to come. Beginning with the Run-to-Feed-the-Hungry, where Lincoln students had a team that supported and helped to promote the awareness of the local food shortage at local food banks. We will kick off the spring semester with the ever-growing Staff vs. Student Basketball Game. Lastly, this year's Barristers Ball, to be held in March, is shaping up to be an amazing event for our students and alumni. We are looking forward to sharing the details of this event as we continue to finalize pertinent details.

This year's SBA will continue to promote awareness and communication paths between students, staff, faculty, administration and alumni. We welcome everyone to join us at our general meetings, and we wish everyone a successful academic year, as well as a happy holiday season! For more information or general inquiries, please email lincolnlawschoolsba@gmail.com.

Sincerely,

Chad Bowman, SBA President

A MESSAGE from DELTA THETA PHI



By Ellem Fawl | Class of 2017

Delta Theta Phi is a multi-national law fraternity and the only law fraternity at Lincoln Law School of Sacramento. At the local level, chapters are referred to as Senates. Lincoln Law School of Sacramento is proudly represented by the Earl Warren Senate. The mission of the Delta Theta Phi Law Fraternity is, "To foster lifelong friendships and professional affiliations through legal education, international networking, and mutual respect."

The Earl Warren Senate has found that the best means of serving the mission of Delta Theta Phi is by focusing on academic success. Through the fraternity, the highest-ranking students of each class year conduct reviews for members and non-members, for both midterms and finals, in an effort to ensure that each student is prepared for his or her exams. Those who excel in each course pass on their knowledge and strategies in review sessions as a means of mentoring fellow Lincoln Law School students.

The Earl Warren Senate has made a further commitment to its members by creating a network of students within the organization who are willing to provide one-on-one assistance to fellow members in specific academic topic areas. Members of the Delta Theta Phi Earl Warren Senate are always available to discuss legal theory, provide scholastic guidance, and to offer assistance whenever needed.

In addition to a focus on academics, the Earl Warren Senate is committed to helping the community. Last year, DTP and the Student Bar Association led the annual food drive and collected several thousand pounds of nonperishable canned food items. This generous offering from the Lincoln Law School's students was donated to the Sacramento Food Bank in order to provide for families in

need in Sacramento County. The fraternity is hopeful that this event will yield similar results when it is held this spring. This year, DTP has also supported APALSA in its Toy Drive.

The Earl Warren Senate sponsors several local events, such as the Annual Poker Tournament. This year it will be held in the spring semester. The Poker Tournament presents a unique experience, allowing students to interact with professors, students, and alumni outside of the academic structure. Historically, Professor Gold and Dean Schiavenza have been tough competitors in this event. In addition to a wide variety of prizes used to entice donations, participants will receive awards for eliminating Lincoln Law School faculty from the Tournament.

Delta Theta Phi publishes, at the national level, an annual law review, the Adelpia Law Journal, to which all members are encouraged to submit their writings. Delta Theta Phi is the only legal fraternity to publish its own law review.

For more information about Delta Theta Phi, you can email us personally at LincolnDTP@gmail.com, or you can ask questions of one of the many members here at Lincoln Law School.

Respectfully, Delta Theta Phi – Earl Warren Senate

CRISIS AT the CALIFORNIA STATE BAR



By Phillip Ung | Class of 2019

September 1, midnight. The California Legislature's figurative bell had rung. It was the end of the Legislature's 2015-2016 Session. Among the hundreds of bills that died throughout that session, one bill the State Senate refused to send to the Governor would later cause a crisis for the California State Bar and potentially leave attorneys and clients at great risk.

That bill was Senate Bill 846. On August 18, SB 846 was about California's Mental Health Services Act. But on August 19, the bill was gutted of its contents and replaced with provisions to reauthorize the State Bar's membership dues for 2017 and make huge reforms to how the Bar Association operates, manages its fiscal house, and other oversight requirements.

State law requires the annual membership fees paid to the State Bar to be ratified by the Legislature. Without the ratification, no Bar fees are required to be paid by the 257,000 members (as of March 2016) of the State Bar, sinking the Association into an existential crisis.

By now, you might be wondering, how did this saga even get to this point? Let's just say, the Bar Association is on the Legislature's naughty list and SB 846 was supposed to be the lump of coal, but instead the Bar got nothing. According to the Legislature's analysis, there have been a number of transgressions by the Association: 1) the Bar failed to investigate over 300 complaints of unauthorized practice of law for years; 2) the Bar took out a \$10 million loan to fund improvements and upgrades to the Association's San Francisco office and secured the loan by pledging future member Bar dues, thus tying the hands of future legislatures; 3) a report by the State Auditor found the Association pays larger-than-normal compensation to executives and high price upgrades to an executive suite.

On a more structural issue, the Legislature also attempted to change the governance structure of the Bar Association because of what is perceived as dual mandates that may conflict with one another. The Bar Association is responsible for attorney discipline,

which protects the public of bad lawyers and unlicensed practice, and the Bar also serves as a trade association protecting the interests of its members. The Legislature found that the Association's board spent too much time and resources on the trade association function at the expense of attorney discipline.

In that context, one would reasonably see why the Legislature was so eager to add reforms to the Bar Association's annual and mandatory fee ratification bill. By attaching reforms to the members' fee bill, the Legislature aimed to enact reforms believed to overhaul a quasi-public agency subject to legislative oversight, while recognizing the need for the Bar to collect fees and provide services as a quasi-trade association.

In the State Assembly analysis of SB 849, the Legislature states it has "given the Bar the opportunity to correct its longstanding and ongoing management and operational difficulties itself; and the Supreme Court has been able to provide the Bar with the needed guidance...However, the failure of both entities to reform the Bar leaves the Legislature little option but to step in and make reforms necessary to ensure that Bar can fulfill its paramount duty to protect the public."

Without the ratification of the membership fee bill, the Association and its 500 employees is expected to cease operations at the beginning of 2017. To prevent this scenario, the Bar has reached out to the California Supreme Court for a ruling to allow it to continue to collect dues in 2017. According to the Supreme Court's website: "The Supreme Court of California possesses the inherent constitutional power to regulate the practice of law, as well as the responsibility to impose an interim regulatory fee upon attorneys for the purpose of supporting an adequate, functioning attorney discipline system that protects clients and the public."

In mid-October, Chief Justice Tani G. Cantil-Sakauye appointed a special master to gather information and provide administrative support in relation to the Bar's request for funding. Associate Justice Elwood Lui of the Court of Appeal, Second Appellate District was appointed and is expected to report back to the court.

Throughout 2017, the State Bar will have to live under the oversight of the Court's special master and debate the reform proposals expected to be reintroduced at the start of the next Legislative session. As future attorneys, Lincoln students would do best to pay attention to the upcoming changes that will inevitably occur.

MANNA from HEAVEN: THE UNINSURED EMPLOYER'S BENEFIT TRUST FUND



By James Pearson | Class of 2017

What happens when an employee is injured on the job but the employer never purchased Workers' Compensation Insurance? The solution is the Uninsured Employer's Benefit Trust Fund (UEBTF). This fund was created in 1971 by the State of California to address the needs of workers who were injured while working for illegally uninsured employers. To the injured workers who would otherwise be without any temporary or permanent disability benefits or medical care for their injuries, the UEBTF is like manna from heaven.

In California it is state law that all employers must purchase Workers' Compensation insurance or be certified as permissibly self-insured. Claims can arise for specific injuries such as falling off a ladder at work or cumulative trauma such as gradual development of carpal tunnel in the wrists or osteoarthritis in the knees. Benefits include medical care, temporary disability benefits of 2/3 of past average weekly earnings for up to 2 years, and permanent disability benefits.

Who Pays For The UEBTF?

The UEBTF was initially funded by the California General Fund with plans of recouping losses by penalties against the employers. As time progressed, the State noticed that it was paying out much more money than it was able to recover from employers. Reforms were made to reduce benefit payouts to injured workers and increase penalties and fines against uninsured employers, but still this failed to eliminate the deficit. In 2004, the State reformed the UEBTF and is now funded by a surcharge on all the Workers' Compensation insurance carriers and permissibly self-insured employers.

After the UEBTF is joined and pays benefits, the Department of Industrial Relations (DIR) sues the illegally uninsured employer by all available means, including court ordered liens and even non-judicial foreclosure of the employer's real property. The DIR has special legal rights to pierce the corporate veil and lien or foreclose on the employer's personal assets as well.

How Does The UEBTF Work?

When an injured worker files for Workers Compensation benefits, his attorney must research who the insurance carrier is or if the employer was permissibly self-insured. Upon discovering that the employer was illegally uninsured, there are several steps that must be carefully taken before the UEBTF can be joined for payment of benefits.

The first step is to complete a DWC-1 Claim form, which essentially names the injured worker, the employer, and describes the nature of the injury and date of injury. Next, the attorney files an Application for Adjudication with the Workers Compensation Appeals Board (WCAB) to establish jurisdiction over the claim. The Application must include a copy of the DWC-1, Special Notice of Lawsuit giving notice that this is a claim against an uninsured employer, Declaration of Readiness to Proceed to set a hearing, and Petition to join the UEBTF. One copy of this packet must be filed with the WCAB, and one must be personally served on the employer with proof of service. The proof of service must then be filed with the WCAB.

Once the UEBTF has been joined by a Workers' Compensation judge, the injured worker can be evaluated by a qualified medical examiner who will make a decision whether the injury is industrial, what degree of disability exists, and for what percentage of the injury the employer is liable.

Unique Challenges of UEBTF Claims

Perhaps the greatest challenge is the fact that most injured workers do not have any idea the UEBTF exists. Some injured workers know the employment situation was shady and assume there's no chance of filing for benefits. Additionally, many attorneys don't accept UEBTF cases because of the additional work involved in tracking down an uncooperative and sometimes bankrupt defendant, as well as jumping through the extra hoops to join the UEBTF. These cases involve extra work for the same fee, so many attorneys avoid them. These cases can be complex, but for the applicants who do find any attorney that handles UEBTF claims the benefits are a godsend.

INTERVIEW

with JUDGE
TROY NUNLEY



By April Harris | Class of 2019

The Honorable Troy Nunley may not have always known he was going to be an attorney, but his mother did. He was raised by a single mother who always told her children what they could be when they grew up. She told him he was going to be a lawyer. During the 1960's and 1970's, at a time when laws were being enacted to eliminate barriers in this country, Judge Nunley began to realize that he could be a part of that change and make a difference.

It was either that or be a professional football player.

It was surprising to learn that Judge Nunley did not pass the Bar Exam on his first attempt. It wasn't due to a lack of studying but rather a series of both positive and unfortunate events. On the first day of the Bar, he found out that his wife was pregnant. That same day, his car was stolen. Judge Nunley rode his bicycle to the Bar for the second and third days. Though his bike remained safe thereafter, he laughed when recalling that the young woman's bike parked next to his got stolen. And no, he never saw that car again.

Fastforward several years, past his notable work as a prosecutor, criminal defense attorney, deputy attorney general, state court judge, and presently to a seat on the federal District Court for the Eastern District of California. When asked what he loves most about his current assignment, aside from the fact that he has a great staff, Judge Nunley stated the issues he's confronted with are interesting and impactful to the nation and surrounding communities. He also expressed his appreciation for his interaction with his three law clerks. He said his law clerks have fresh ideas and are closer to society than he and his fellow judges. They are fun to be around, and he enjoys talking to them about the issues going on in their lives and listening to their divergent views.

It would seem natural for Judge Nunley to teach Criminal Law, Trial Advocacy, or Evidence. When former Dean Dicce had an opening in Corporations, however, Judge Nunley jumped at the opportunity. He considered the subject matter a challenge for him as it would stretch him intellectually. He has found the course to be fascinating. The first thing he did when he accepted the job? He outlined the entire book!

Judge Nunley has been a coach and he'd always wanted to teach, so it was a natural transition when he became a law professor. Judge Nunley believes he and the school are a good fit. "Lincoln is perfect. The students need me." Indeed, Judge Nunley is an open book, and he believes sharing his own experiences can help students. He believes in the students at Lincoln, and that anyone who comes through this school has a passion for the law and really wants to pass the Bar. He said he wants to help repeat Bar takers, even if it's just to pass along some friendly advice.

When asked if he considered teaching at other law schools, Judge Nunley candidly said that he's been courted by UC Davis for years but that he respectfully declines because he feels the students at Lincoln need him more.

Judge Nunley has this advice for those in his class: Do the reading. Although memorizing the law is important, the facts and analysis are much more important. You must be able to converse about the case and be active in class. Ask questions, because he enjoys good discussions!

For the 4Ls, remember to check in with Judge Nunley and let him know how you're doing. He truly cares about the progress of his students. And 3Ls, enjoy class and remember to read the textbook, where you're likely to find an exam question! Finally, 1Ls and 2Ls, don't be afraid to stop by Judge Nunley's classroom on Wednesday nights and introduce yourself. In Judge Nunley, you'll find a supportive and motivating mentor willing to provide guidance at every step of your legal career.

A PRESIDENTIAL TRANSITION



By Rafael Garcia | Class of 2019

After November passes, the smell of Election Day will linger for some time. The President-elect will victoriously get ready to assume office. Some will see behind the scenes action, while most will see nothing more than the illusion of a flawless transition. A Presidential interregnum is the period of time when a candidate is elected and the President-Elect is inaugurated. Previously inauguration was on March 4, but after 1933 the date changed to January 20.

A flawless Presidential interregnum is always sought, but over the course of history, it cannot be said that transitions have been perfect. For about 166 years the U.S. survived without any law regarding presidential transitions. During the years with no interregnum legislation, we saw a transition between President Buchanan to President Lincoln. The Chicago tribune reported that President Buchanan "sat passively as state after state seceded". During the Presidential interregnum of 1932-1933 according to Time, Herbert Hoover publicly made negative statements of Franklin Delano Roosevelt and tried to force him to also agree to legislation.

Even with turmoil, we as a country have been able to transfer power between opposing parties time and time again. Examples have occurred in other countries where the party holding power will remain in power, not leave office, or ensure an election will have a favorable outcome. Nevertheless, the President of the United States will leave office due to either a four-year term constitutional mandate under Article II of the U.S Constitution or a two term limit placed by the 22nd Amendment.

In 1963 Congress enacted the Presidential Transition Act of 1963. The Act itself promises "to promote the orderly transfer of the executive power" and grants the President-Elect, along with its constituents suitable office space, compensation, and allowances. Since then, the Act has been through several revisions; successively the Act has been revised by the Presidential Effectiveness Act of 1988, Presidential Transition Act of 2000, and Pre-Election Presidential Transition Act of 2010. Each subsequent Act modifying or clarifying ambiguous terms or clearly outlining processes to ensure an orderly transfer.

As the subsequent laws were enacted, each added a new flavor to the arena. The revision in 1988 increased appropriations and added rules on vacancy provisions. In 2000, the Act authorized payment for trainings as well as granted power for a formation of a committee to conduct a study to improve financial disclosure of nominees. In 2010, the Act increased importance of the Administrator of General Services' role to aid in the facilitation of the transition of President to President-Elect. More specifically the Administrator "shall offer information and other assistance to eligible candidates on an equal basis and without regard to political affiliation".

Modernly transitions continue to have rocky starts, but with a neutral Administrator the Presidential interregnum is expected to have a seamless transition. According to the New York Times, the interregnum from President Clinton and to President Bush consisted of several thousand dollars' worth of damages and replacement equipment. CNN reported the transition between President Bush and President Obama was "seamless" indicating the transition process is improving significantly.

During the current election cycle both Hillary Clinton and Donald Trump have "opened formal transition offices" according to Fox News. President Obama has also asserted his authority as president by issuing an executive order on May 6, 2016 to create "Executive Order-Facilitation of a Presidential Transition". In this executive order President Obama establishes the White House Transition Coordinating Council and officials/directors while informing them to follow all applicable laws. In the executive order, President Obama refers to the Act of 1963 which means that it will be followed by the Council. Such an early start for plans of a transition appears to be the beginning of a seamless transition. Whether the transition for this election is seamless will depend on how both parties interact with each other. What can be said is both President Barack Obama and the Presidential candidates are off to a good start.

SUCCESS ON THE BAR: INTERVIEW with 2016 BAR PASSERS



By James Pearson | Class of 2017

We all want to pass the Bar. One of the best sources of information on what to expect and what it looks like to be successful on the Bar is to talk to people who recently passed the Bar. Below is an interview with Nichole Dickinson, Helen Louie, and Dominick Welch, 2016 Lincoln graduates who achieved success on the Bar.

1. Did you work during your Bar prep?

Nichole: Partly. I worked full-time until five weeks prior to the Bar.

Helen: No, luckily I was able to take two months off work.

Dominick: I resigned the day prior to graduation. I had a savings, which would pay rent and gas while I studied. My wife also supported me. It was not easy, no purchases, no vacations since January, saving every penny. I moved back in with my parents since could not afford rent.

2. How long before the bar did you start studying?

Nichole: August 14, 2012 – my first day at Lincoln.

Helen: About six months before. We used the Themis Early Start Program during ALR/Semantics and learned how to write Performance Tests during Legal Analysis. However, I did not officially start studying until my Bar prep program started, at the end of May.

Dominick: I began studying the week after graduation. I took a 7-day vacation but did not go anywhere for vacation - simply slept, ate healthy, exercised, and cleaned my office area in preparation to study.

3. Did you use a Bar prep program?

Nichole: Themis and Adaptibar.

Helen: Yes, I used Barbri.

Dominick: I used Barbri. I found the in-person classes to be critical to keeping myself focused and engaged. I took copious notes while at lecture. I did not use the “workbook,” which has you follow along and fill in the blanks. That was completely useless, as its not actively engaging you to think. Instead, I took outline notes on each item discussed, went home, then reduced that outline to a single page for each subject.

4. Did you break your Bar prep time down into stages?

Nichole: I adhered to the schedule that was provided by Themis. After I completed my assigned daily percentage, I would focus on rote memorization and Adaptibar.

Helen: Not really. I followed the Barbri schedule and incorporated Adaptibar and Performance Tests into it.

Dominick: Stage 1 – Lectures and outlines. Stage 2 – Reduced all outlines to 1 page. Stage 3 – Write all outlines 500-800 times each. Stage 4 – Do all previous Bar exam questions, outlining only. Stage 5 – 1500 MBE’s woven throughout this process.

5. How did you get to the point where you felt confident in each area of law before the Bar?

Nichole: Ha. I don’t know if “confident” is the appropriate word to use. The Bar exam is designed to test more knowledge than you can retain. I did not develop an overall sense of confidence at any point. Going into Bar study, I identified my weakest areas of law and devoted more time to studying those than the areas I knew I historically performed better in.

Helen: I actually did not get to the point where I felt confident in each area of law before the Bar. I felt like I had a general overview of each area and hoped for the best.

Dominick: Never. The minute you are confident and stop worrying and studying, you’re done. The better question is this: At what point do you stop caring you pass or not? For me, that was 2 weeks prior to the exam. I did all I could do, and at that point, it was no help to fret, so I just continually outlined Bar exam questions and wrote my outlines out once an hour (6-8 times per day at this point).

6. How many days per week did you study? Did you take breaks?

Nichole: I studied seven days a week. I took time off on Saturday or Sunday afternoons to spend it with my boyfriend and dog. It isn’t pleasurable taking breaks - you spend the time fretting about the Bar - but it is mentally necessary to do so.

Helen: During Bar prep, I studied seven days a week. I took a day or two off only during Memorial Day weekend. I took breaks during the day when I felt tired or when I felt like I couldn’t study anymore.

Dominick: For 6 days a week, no breaks. It was important for me to not overload. I slept in, starting around 9-10, finishing by 6 when my wife came home and spent time with her.

7. How was the first day of the Bar exam for you?

Nichole: The first day is what you expect it to be. You’re full of anxiety, you’re trying to retain everything you’ve studied, and you have adrenaline pushing you through the process. The last day is the day to prepare for. By the end of the Bar, you are struggling to hang in, fighting to finish.

Helen: It was ok. I tried to stay calm during the exam because I did not want to burn out. I regretted not studying more on the areas of law we were tested on for the essays, but I just did what I could.

Dominick: Exactly how I felt during the first law school exam, except with 1,000 people instead of 100.

8. On the essays, did you feel like you were rushed, or did you have plenty of time?

Nichole: I felt like I could have spent several hours on each of the essays. I forced myself to end the three essay session with five minutes left so I could spell check and format each of the essays.

Helen: I felt rushed.

Dominick: 1) I looked at subject; 2) I wrote the entire 1-page outline; 3) I highlighted every subject area even tangentially related to the question; 4) I wrote out all the black letter law on my essay; 5) I wrote out my analysis and conclusion. I finished every essay this way.

9. When it was done, how did you feel? Did you feel like you did well?

Nichole: Exhausted. I knew I had done the best I could do under the circumstances and that I had tried my hardest.

Helen: I felt relieved that I was done. I did not feel like I failed, but I did not feel like I passed either.

Dominick: Pointless to think about it after the fact.

10. How would you compare the Bar exam essays to taking law school finals?

Nichole: Obviously, when you are taking a law school final, you know the topic matter and are able to study appropriately. With the Bar, you have to be prepared and versed in matters you are unable to predict.

Helen: It was very different. In law school, you study one subject and kind of have an idea of what the professor will test on. The Bar, you study fourteen subjects and have no idea what, within each subject, the Bar examiners will test on or whether they will test on that subject. My exams during law school were better and more complete than the exams I wrote for the Bar.

Dominick: Identical.

11. Was there anything that caught you off guard? How did you handle that?

Nichole: There is a lot of hurry-up-and-wait with the exam. There is quite a bit of downtime waiting for instructions, for all the applicants to all be prepared, and for the exams to be distributed or collected. It was very unnerving sitting in a room full of stressed people at the end of the day who just wanted to go home.

Helen: One of the essay questions covered California Civil Procedure which is a testable subject but the Bar examiners had never tested on it before. I was expecting California Civil Procedure to be on the exam, but I did not study it a lot. During the essay, I kept my cool, made stuff up, and hoped for the best.

Dominick: Lunch breaks. In reality, you only get about 30 minutes because you have to leave the Convention Center (slowly, through only one exit door), and all food places were jam-packed. Then, you rush back. To combat this, I rented a hotel, and my wife stayed with me. She came home from work at lunch before me and brought me lunch. I would return to the hotel quickly, eat, nap for 25 minutes, then head back refreshed with some tea.

12. What is your best advice for the class of 2017 Bar takers?

Nichole: Start studying now. Review your outlines from prior years and start condensing them. You already know the rules, so don’t try to relearn them during Bar study. Set a weekly goal for practice MBEs and force yourself to complete it. The Bar is worthy of overpreparing for.

Helen: Good luck and start studying early. If you struggle with an area of law during law school, try to relearn that area of law before Bar prep starts. Bar prep is very intense and does not teach you an area of law; it really is like a review.

Dominick: Exactly what Kelly McNertney tells you every Saturday in first year, and we all look at her like its impossible: WRITE THE OUTLINE OUT BEFORE YOU START THE ESSAY.

THE UNSURE UNINSURED AUTO-INSURANCE CONUNDRUM



By Anthony Wallen | Class of 2019

I work as a paralegal for a personal injury firm and often speak with folks regarding their potential claims. If the injury arises from an auto accident, an elementary inquiry is determining whether the parties had auto insurance. When I ask a potential client whether they had auto insurance, the answer is almost always—yes. My next question is what their coverage is. The answer is usually “I don’t know” or “I have full coverage.” The later response invariably refers to property damage and does not reveal much. Out of the hundreds of individuals with whom I have spoken who had been in an auto accident, I could count on one hand the number of people who definitively knew what their bodily injury or bodily injury uninsured motorist limits were on their auto insurance policies. In fact, I did not ask and answer this question for myself until about a year after working for the firm.

I took this approach and asked many family members and friends what their bodily injury or bodily injury uninsured motorist limits were. Somewhat unsurprisingly, no one, except for my aunt who is an insurance agent, could confidently give me an answer. How could this be?

On a daily basis, we Californians freely subject ourselves to the dangers and unpredictability of traveling adjacent to hunks of metal that weigh anywhere from 1,000 to 80,000 pounds—at 65+ miles per hour. For those of us who have been in an auto accident and for those of you who will be, it does not take a budding lawyer to figure out the high probability of being injured in an auto accident.

Under basic tort theory, we were taught that the person who either negligently or intentional caused a harm could be liable for damages. This rose colored view of damage recovery should only be reserved for the classroom. The real world is filled with indigent, illegally impaired, uninsured, and underinsured drivers. In California, one in eight drivers on the road is uninsured. Even more so, many drivers are underinsured.

Uninsured motorist coverage protects you if you are in an accident with an at-fault driver who does not carry liability insurance. Underinsured motorist coverage, however, comes into play when you are in an accident with an at-fault driver whose liability limits are too low to cover your damages.

Imagine the unfortunate day when you are involved in an auto accident that is not your fault and you sustain \$50,000 in economic damages. Most people think that the at-fault driver’s insurance company will pay you for all of the medical costs and lost wages you suffered. Unfortunately, that is not the case. California only requires drivers to carry

\$15,000 worth of bodily injury liability insurance. If the adverse driver only has \$15,000 to compensate you for your loss, where is the other \$35,000 going to come from? You guessed it, look in the mirror. Forget about recovering any non-economic damages. Besides, it would be a waste of time to receive a judgment from a penniless party.

With so many uninsured and underinsured drivers on the road, the only way to protect one’s self is to have uninsured and underinsured motorist coverage. The importance of having uninsured motorist coverage cannot be stressed enough. The concern has been elevated to a level where nineteen state legislatures have made it mandatory for drivers to carry said coverage. California, however, does not.

What if a hit-and-run driver struck you and you sustained injuries? Do not expect your auto insurance carrier to put on its cape and come to your rescue without the appropriate coverage.

In the competitive world of selling auto insurance, the main selling point is often the cheapest policy rather than the specifics of what the policy covers. Can adding uninsured and underinsured motorist coverage on your policy really be that expensive?

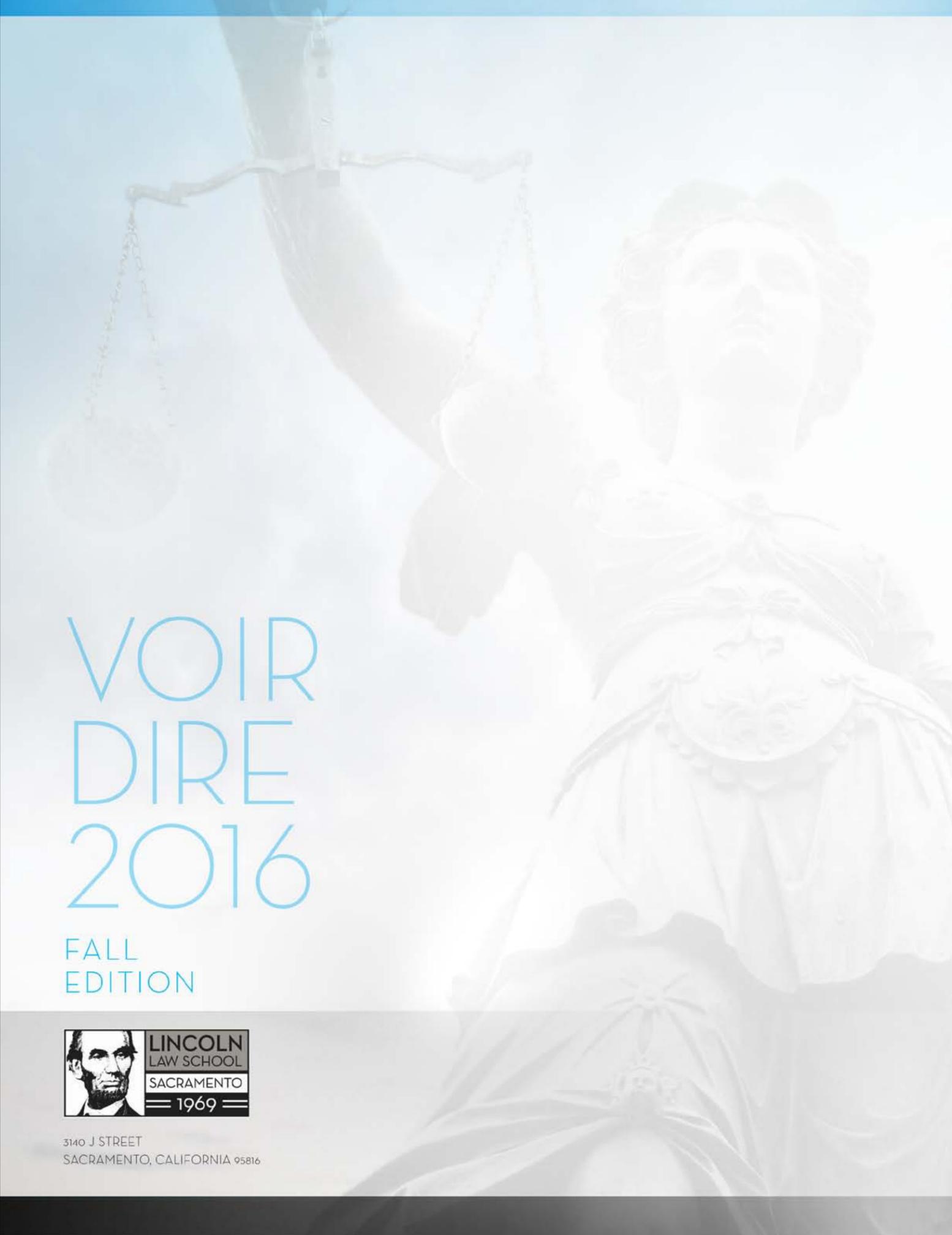
The average annual auto insurance premium in California with a 100,000/300,000 bodily injury limits policy that does not include uninsured and underinsured

motorist coverage is \$1,181. The average annual auto insurance premium in California with a 100,000/300,000 bodily injury limits policy that does include uninsured and underinsured motorist coverage is \$1,288—for a difference of \$107 per year. That is approximately \$9 per month. This is not much of an extra financial burden considering that most people have no problem shelling out an extra \$10 in any given month for exceeding their data plan.

Fear mongering aside, deciding whether or not to carry uninsured and underinsured motorist coverage should not be a conundrum. In reality, we should carry as much insurance as reasonably necessary and as much as we can reasonably afford because there will not always be a reachable tortfeasor out there. Lastly, it should not matter how much one’s vehicle is worth when analyzing how much bodily injury coverage to carry. A vehicle can be replaced. We, on the other hand, cannot.

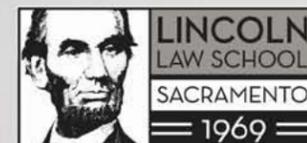
IF YOU ARE RESOLUTELY
DETERMINED TO MAKE A
LAWYER OF YOURSELF,
THE THING IS MORE THAN
HALF DONE ALREADY...
GET THE BOOKS AND READ
AND STUDY THEM TILL YOU
UNDERSTAND THEM IN
THEIR PRINCIPLES; THAT IS
THE MAIN THING.

Abraham Lincoln,
writing to Isham Reavis,
a young law student, in 1855



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