

LINCOLN
LAW
SCHOOL
OF
SACRAMENTO

VOIR DIRE /

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2019

VOIR DIRE

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LETTER FROM THE *CO-EDITORS*

First and foremost, thank you for taking the time to read Lincoln's Voir Dire. Your support is greatly appreciated.

This year brought a lot of changes. Changes in the personal lives of the people we know, and changes on a global scale. When we look at the injustices that are happening, we are grateful to be in law school. As lawyers, we will have the power to defend those who can't defend themselves. We will be able to fight against legal injustice and make an impact in our communities.

This edition of the Voir Dire brings thoughtful insight and information into important issues both on a local and global level. Insight ranging from the halls of Lincoln to the halls of the White House. We are proud to showcase these authors' articles and hope you enjoy another thought provoking publication.

Your Co-Editors,
Tiffany Mathews | Class of 2020
Dillon Fleming | Class of 2019



GETTING INVOLVED: LINCOLN'S STUDENT ORGANIZATIONS



By Dillon Fleming | Class of 2019

Lincoln Law School is home to over 200 students within its 1L, 2L, 3L and 4L classes. One of the many things that make Lincoln unique are their students. Many students juggle full time jobs and families, in addition to a rigorous school schedule. Outside of the classroom, Lincoln presents students a myriad of opportunities to meet and benefit from other students, work alongside members of the legal community, and to mingle with the rest of the school. One of these opportunities is through joining one or several, of the Lincoln student organizations. Lincoln currently has eight student groups: Asian Pacific American Law Student Association (APALSA), Black Law Students Association (BLSA), Delta Theta Pi (DTP), Lambda, Latina/o Student Association (LLSA), Lincoln Law School Alumni Association, Student Bar Association, and Women's Justice Society (WJS).

Student Organizations provide a valuable component to the learning experience at Lincoln Law School. Among the numerous groups, it is hoped that each student may find that right fit, the groups that will provide support and opportunities to become involved with fellow classmates and the community at large. The following features include some insight to some of Lincoln's student organizations.

GETTING
INVOLVED:
LINCOLN'S
STUDENT
ORGANIZATIONS

APALSA

*Asian Pacific American
Law Student Association*

Crystal Huynh-Kim | APALSA President | Class of 2019

APALSA (Asian Pacific American Law Student Association) is a student organization which encourages and promotes the professional growth and advancement of our members by providing substantive professional development, mentoring, networking opportunities, and opportunities to develop leadership and public speaking skills. We promote the involvement of our members in the community by providing opportunities for leadership, community service, and by encouraging cooperation between other student and community organizations.

Last Fall, APALSA participated in a range of activities that benefit the students at Lincoln Law School. APALSA handed out care packages filled with free memberships to gyms, stress relief items and tea at the school's Mental Health Week. APALSA then conducted a Thanksgiving Gram fundraiser where students could write words of thanks to their fellow peers and/or professors. We sold and raised over \$97 grams and 100% of the proceeds went to support our long-time philanthropy, My Sister's House.

Ending the last year at Lincoln as a 4L student, it is bittersweet to soon pass the torch to the next board of APALSA in the spring of 2019. APALSA has changed throughout the years in reconstructing its purpose and mission on the Lincoln Law School campus. As part-time students, we understand that our colleagues have many other full-time obligations and duties. We provide each other the support benefitting us here on campus while considering competing priorities. After all, we all have a common goal here. One of the many perks of being a member of APALSA is the peer support, scholarship opportunities, social networking events, and much more. We are a team that supports each other as we work our way through law school at Lincoln. And of course, all students are welcomed to join. For more information regarding APALSA, contact LincolnAPALSA@gmail.com.

LLSA

[Victoria Fernandez | LLSA President | Class of 2021](#)

The Latinx Law Student Association (LLSA) is a not-for-profit 501(c)(3) organization serving as a conduit for Latinx law student voices. Founded on principles of social, ethnic, racial, gender and sexual equality, the LLSA is focused on advancing Latino/a students with academic success and commitment to community service. The LLSA is fueled by a progressive coalition-building approach to addressing the legal issues affecting Latinx around the nation.

This year, the LLSA has made a few significant changes to our organization including our name. Latino/a was replaced by Latinx as a gender-neutral term to promote fairness and inclusivity. In addition, the rebranding seeks to reflect the broader indigenous roots that are sometimes overseen. A person of Latin-American descent is an ethnicity, not a race, which identifies people who derive from Latin America and includes all races. The Latinx identity brings together people in North America, Central America, the Caribbean, and South America but is not defined by having Spanish-speaking ancestries, such as Brazil, Colombia, Perú, Honduras, Haití, El Salvador, and Cuba. The Latinx Indigeneity inclusive perspective acknowledges and includes indigenous people native to North America, such as the U.S., as well as migrants who arrived in the U.S. from other regions of Latin America. The term Latinx is not about taking away identity; it is about giving more identity to more people. "Latinx" is the perfect label for a group that is hard to define.

One of the most important goals that the LLSA focuses on is to encourage the retention and recruitment of Latinx students, in an effort to increase the diversity of Latinx in the legal field. Despite Latinx being 18 percent of the population in the U.S., we only comprise about 4 percent of U.S. lawyers. For Latinas, these numbers are even smaller. Latinas account for less than 2 percent of American lawyers.

Latinx Law Student Association

The LLSA has also implemented a great new program this year, the LLSA Alumni Network on a national level through NLLSA, as well as local, so that our coalition and networking continues after graduation from law school.

This year, the LLSA hosted a Fall Mixer, which included a celebration of diversity by the addition of our new LLSA advisor and Professor Fred Galves to the Lincoln Law School faculty. For our annual speaker, the LLSA was very honored to have the Honorable Emily Vasquez speak at Lincoln. Judge Vasquez was the first Latina attorney in San Joaquin County and the first Latina to be appointed as a Sacramento County Superior Court Judge. Judge Emily Vasquez is truly an inspiration.

In pursuit of justice through diversity and equality, the LLSA has grown by 30% this year, and is able to provide educational resources, community outreach opportunities, professional networking among Latinx law students and attorneys in the Sacramento area, and has become increasingly diverse in our membership, making our coalition stronger than ever before.

The LLSA thanks Lincoln Law School and the SBA for their support and encouragement for the activities and events we do throughout the year. LLSA invites and welcomes all students of all races and ethnicities to join our organization and attend our events in support of diversity and equality. For more information regarding LLSA, contact LLSA@lincolnlaw@gmail.com.

SBA

Student Bar Association

[Rafael Garcia | SBA President | Class of 2019](#)

This year, as your elected officers of the Student Bar Association (SBA), our goal is to maintain transparency between the SBA, students, and Lincoln staff. We want you to know that our ears are open to hear your concerns and comments. Likewise, we are here to be your voice to Lincoln's administration and community.

Our year started off in July at the Annual River Cats game. We reserved a large suite and had a great turnout with a mix of students, family and friends. We networked, watched the game, ate some food, drank some beer and had a great time!

Following the River Cats game was our annual SBA summer book sale. The book sale allows students to buy and sell gently used books at a discounted price while we, the SBA, handle the administrative piece. This year we were proud to be able to start accepting credit cards to facilitate the payment process. We were also able to create and manage a webpage to highlight our book inventory. Ultimately, because the summer book sale was such a huge success we will be hosting a spring book sale.

This year we also focused on collaborating with our other Lincoln organizations. We hosted multiple general meetings and extended an invitation to all student organizations. During the SBA's various meetings we discussed a wide range of topics and encouraged everyone's input. In one meeting, we decided to collaborate and host a Wellness Week and to table together at orientation in an effort to showcase the various organizations and inspire new Lincoln students.

At this year's orientation, not only did we table to provide Lincoln swag and demonstrate Lincoln pride but also to speak to students in an attempt to provide encouragement and advice.

As in the previous year, we were able to provide dinner for the first Friday Night Review session. This year it was delicious Beach Hut Deli sandwiches. The Friday Night review program provides students with review sessions focusing on weekly class content.

The "Wellness Week" mentioned earlier was hosted in October by other student organizations including the Women's Justice Society (WJS), Latino/Latina Law Student Association, Black Law Student Association, Asian Pacific American Law Student Association, and Delta Theta Phi. "Wellness Week" was focused on showing Lincoln students how to keep mentally healthy and consisted of activities such as yoga, zumba, mental health awareness workshops, pet therapy, and care package giveaways. Every student who attended the various activities was entered into a raffle for a gift card. We had such a great turnout that we are hoping this is the start of a new Lincoln tradition.

After midterms, WJS and SBA hosted the annual Fall Mixer at Antiquité in Sacramento. This was the first time using the venue but it will certainly not be the last. The event provided students and alumni an opportunity to network as well as bid on silent auction items. The silent auction included wine and cheese baskets, tickets to the Sacramento Kings and even dinner with a favorite professor. One lucky student walked away with several items. We received a lot of positive feedback and look forward to organizing the event again next year.

It was great to see students represent Lincoln Law School at Run to Feed the Hungry on Thanksgiving. Most recently, we updated the SBA bulletin board in the student lobby so that it is more visually appealing. Moving forward you will notice it will change with the seasons.

I want to thank the student body for giving us this opportunity and we look forward to representing you through the remainder of the year. Every student can attend meetings, provide feedback, or share your thoughts. I would like to give thanks to the Alexis Stewart, John Fronefield, Inga Holmquist, Thomas Johnson, and the class representatives. The year could not have been this great without you. For more information regarding SBA, contact LincolnLawSchoolSBA@gmail.com.

WJS

*Women's
Justice Society*

Karli Dillon | Class of 2020

Approaching its 5th year in existence, the Women's Justice Society (WJS) of Lincoln Law School has made a positive impact on students and the Sacramento community. Originally founded as a nonprofit organization to bring awareness to women's rights, its founding members viewed the organization as a way to provide support to female students at LLS, in a professional and personal capacity. WJS has largely remained connected with these values, while growing its impact. In the past, WJS participated in community events such as the Let's Roc 5K for Ovarian Cancer Research and fundraising for St. John's Program for Change. Last year, WJS spearheaded a fundraiser for 'She's the First' campaign that provides resources for young girls that are the first generation in their families to graduate high school. Also, a Spring Clothing Drive was held to collect business attire for Women's Empowerment that provides professional development for homeless women in Sacramento.

From a small group of eight women, WJS has grown to 36 members who recognize the importance of women's rights and the progress to be made. Going forward, our goal is to maximize fundraising efforts to provide even greater financial support to other nonprofits that provide resources to women in the Sacramento area.

Our organization also hosts events that provide opportunities for its members to network and grow professionally. In conjunction with the Student Bar Association, WJS hosts every fall, the Student-Alumni Mixer that includes a silent auction. In the Spring, WJS hosts its annual luncheon to honor an outstanding female professional who will speak to members about their experience in the legal field. If you have not joined WJS, consider doing so. Not only will you help create change for women, you will gain a new cohort of resources that uplift and inspire you to be the best professional you can be! For more information regarding WJS, contact WJSLincoln@gmail.com.

ERA OF DISINFORMATION



By Tiffany Mathews | Class of 2020

Everything you see on the internet is there for a reason. The average American spends 11 hours each day consuming media. Google, Facebook, Instagram, YouTube, and Twitter willingly feed our incessant appetites in exchange for personal information. Our clicks and taps paint a picture of who we are- our interests, our insecurities, and our political views. The more that companies learn about us, the easier it is to manipulate our opinions.

Our digital reality is controlled through targeted ads, sponsored content, articles, and videos. In May, the House Intelligence Committee released 3,500 Facebook and Instagram ads purchased by "Russian trolls" to sway the 2016 presidential election. The Senate Intelligence Committee received new reports that detail how a Russia troll farm, the Internet Research Agency, (IRA), exacerbated racial tensions in the United States before and after the election. The IRA created fake accounts that posed as racial justice groups targeted towards the African American community. This included voter suppression efforts where the IRA posted memes condemning those who vote for Hillary Clinton or Donald Trump, calling them both oppressors. This type of messaging encouraged the African American community to not vote since neither candidate was an ideal choice.

Russian trolls targeted both sides of America's racial divide with messages such as; "cops are murderers" to "protect our police officers." The trolls inflamed racism in America's white community by posting anti-immigration and nationalist memes. These efforts may take form in a seemingly innocuous meme, but a meme can imprint a lasting message. These messages encouraged the white community to vote, which may have likely resulted in a Donald Trump presidency.

The daily exposure to messages on the internet shape our opinions and beliefs. We are subject to the agendas of those who control the information we are exposed to. There is currently no clear legal requirement for internet companies to effectively target and ban fake accounts. It is up to us as receivers of information to question everything we see and read before we form an opinion. Opinions turn into votes, and every vote counts.

REPORT TO DEPORT



By Celene Ambriz | Class of 2020

The current administration has not held back on their stance toward immigration. The intolerance is clear as show by the separation of families and having troops sent to the border in response to the migrant caravan. Such intolerance extends to the treatment of women and children fleeing domestic violence who seek asylum in the United States.

What is asylum?

The United States Citizenship and Immigration Services defines asylum as a form of protection available to those fleeing their home country who have been persecuted or have a reasonable fear of future persecution on account of race, religion, nationality, and/or membership in a particular social group or political opinion. Applicants must also establish that the state they are fleeing from is unable or unwilling to protect them.

In 2014, a decision from the Board of Immigration Appeals, Matter of A-R-C-G, established “married women in Guatemala who are unable to leave a relationship,” as a member of a particular social group. The case involved a Guatemalan woman who suffered decades of abuse by her husband, which included acid burns, punches to her belly while eight months pregnant, and a premature birth. Asylum seekers from Central America and around the world were able to use the precedent set in this decision to file a claim for asylum.

Jeff Sessions Overturns BIA decision regarding Domestic violence

On June 11, 2018, former Attorney General Jeff Sessions overturned the former ruling with Matter of A-B. Among the reasons for his decision, he holds that generally victims of domestic violence are the result of private crime and non governmental actors.

Immigration courts, including the Ninth U.S. Circuit Court of Appeals in San Francisco, have ruled that in certain countries, domestic violence is so pervasive that victims are a part of a social group for asylum when the government is unable or unwilling to protect them. Reports on the country conditions of El Salvador, Guatemala and Honduras, also known as the Northern Triangle, repeatedly rank these countries as holding the highest rate of gender based crime.

California Sues Jeff Sessions

On September 28, 2018, California, the District of Columbia, and 17 other states challenged Sessions’ decision. As part of the claim, they state the decision “stripped away an essential lifeline for victims of gender based harm.” The lawsuit also points out that the United Nations High Commissioner for Refugees considers domestic violence as a legitimate basis for refugee status.

Unless the decision is overturned by federal courts, Sessions’ decision remains binding on immigration judges. Those currently seeking asylum after fleeing domestic violence could be faced with a deportation if the decision is not overturned.

“ME TOO” INSPIRES PROGRESS



By Jennifer Gaffey | Class of 2020

Tarana Burke remembers a young girl trying to put words to the atrocities that her mother’s boyfriend was committing against her back at home. Burke had been overwhelmed by the confession, stopped the girl, and directed her to speak about it to someone else at the camp. “I watched her walk away from me as she tried to recapture her secrets and tuck them back into their hiding place. I watched her put her mask back on and go back into the world like she was all alone and I couldn’t even bring myself to whisper ... me too.” Burke said. It was 1996, and Burke was a youth camp counselor. It would take her 10 years to put the feelings to good use and start the Me Too movement to help young women of color who were survivors of sexual assault.

It would take more than another 10 years for Me Too to become the widely recognized movement it is today. In October 2017 #MeToo went viral on social media. The movement began with young women of color who had survived sexual assault and morphed into the broader movement that spoke out against sexual harassment and sexual assault of men and women of all ages and ethnicities.

Around the time that Me Too was gaining traction, legal changes were already afoot. In 2017 California dropped its 10 year statute of limitations in response to the Bill Cosby accusations, as several of the victims could not bring charges because the assault happened more than ten years prior to the filing. A bit more befitting of the movement’s original intent, Michigan changed a state law that required survivors of child sexual abuse to report by their 19th birthday and extended the reporting period in response to the numerous reports of child sexual abuse by Larry Nassar. Pennsylvania is currently drafting a change to the statute of limitations for reporting child sexual abuse in response to reports that more than 1,000 children were sexually abused by priests over the past 70 years.

While some may feel that these changes are too little too late, they still represent progress. The changes in the statute of limitations for reporting finally acknowledge the difficulties of reporting. As one survivor from Pennsylvania put it, “Who would have believed me?” Since the tidal wave of the movement, there is hope that the doubt survivors have traditionally felt is drowned out by a flood of voices saying “me too”.

OFFICE HOURS



By Dillon Fleming | Class of 2019

There's no question that Lincoln Law School wouldn't be here without its students, but of course we couldn't do our part without the knowledge and guidance of our dedicated professors. Lincoln currently has 28 professors on staff, including six superior court judges, a federal district court judge, and an administrative law judge. Our professors are an integral part of the legal fabric of our Sacramento community and have given us students the invaluable opportunity to learn from them. This edition of Office Hours showcases Professor Colombo, who has been teaching at Lincoln since 2006, and Professor Cheong, who has been teaching at Lincoln since 2012.



Professor Harry Joseph Colombo

Courses Taught: Trial Advocacy, Moot Court, and Advanced Legal Research and Writing

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

"As a retired annuitant for the Attorney General's office, I get a daily e-mail describing case decisions and significant results in matters litigated by the office. I also read the Prosecutor's Brief, published several times a year by the California District Attorney's Association. Finally, because I still write briefs for the Attorney General's office, I am continuously confronting new issues presented on appeal as a result of recent legislation and/or court decisions."

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 enactment of various "criminal justice" reform initiatives has radically altered how criminal cases are adjudicated in both the trial and appellate courts. Before the enactment of Proposition 36, for example, defendants convicted of drug possession were offered diversion or deferred entry of judgment (usually as a result of attending a program under the auspices of the Drug Court) only if they were determined to be eligible. Pursuant to Proposition 36, however, the

determination of eligibility for diversion has been greatly relaxed. Moreover, with the recent enactment of Proposition 47, almost all simple possession of controlled substance cases are now classified as misdemeanors – so there is no great incentive to participate in a drug rehabilitation program in lieu of incarceration."

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

"Don't worry about finishing in the top ten percent of the class; keep working hard at learning the material and stay on task. Once you pass the Bar Exam and start your first legal job, class standing is irrelevant. (Who knows, you might even get hired to be an instructor at Lincoln.)"

Who is someone you admire, and why?

"I have always greatly admired now-retired Associate Justice Anthony M. Kennedy. Not only was he a great Constitutional Law instructor when I was in law school, but he was the "swing" vote in a great number of controversial Supreme Court cases. (And I should mention that he authored the majority opinion in *Harrington v. Richter*, blistering the Ninth U.S. Circuit Court of Appeals and reversing the grant of habeas corpus relief to a convicted robber-murderer.)"

Any book recommendations?

"My taste in reading material runs the gamut from the classics (*Les Misérables*, *The Count of Monte Cristo*, *A Tale of Two Cities*) to historical fiction (*Ken Follett's Pillars of the Earth* trilogy) to legal thrillers (anything written by Scott Turow) to nonfiction (anything written by David Halberstam or Joseph J. Ellis). I recently finished Jon Krakauer's book, *Missoula: Rape and the Justice System* in a College Town. An excellent work of investigative journalism told in an easy to digest style."

Do you have a favorite sports team or particular athlete?

"I am a lifelong Los Angeles Dodgers fan because of Sandy Koufax. I also love the Los Angeles Lakers (although I am having a hard time accepting LeBron James as a Laker) and, of course, my Pacific Tigers."

What has been your most memorable concert experience?

"1974, Elton John with Kiki Dee, the Cow Palace in San Francisco."

What is your favorite restaurant in the Sacramento area?

"Until it closed, it was the Distillery (greatest steak sandwich). Now, it's the Club Pheasant in West Sacramento, although Vince's Ristorante Italiano is a close second."

If you could have dinner with any person, alive or deceased, who would it be and why?

"Having read two biographies of Sandy Koufax, I would love to have dinner with him. As a teammate of Jackie Robinson, I would be interested in knowing how they related to one another and the rest of the team."

How do you unwind?

"By taking Roscoe (our dog) out to the park to play fetch or practicing the harmonica. I also like going to the movies with my wife and having dinner with friends."



Professor Jessica Cheong

Courses Taught: Legal Analysis. Professor Cheong is also Lincoln's Law Librarian.

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

"The Daily Recorder and HeinOnline, a legal research database."

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

"Technology in the law, including electronic discovery and data analytics. There are also important developments in the use of Artificial Intelligence in legal research. AI-powered software can review documents to see if they are relevant to a case. This software can also sort through documents faster than humans. In addition, there are AI tools, such as eBrevia, that help with contract review. A leading legal publisher, Thomson Reuters, recently collaborated with eBrevia, to supplement their contract remediation offerings, which is a sign of the development of AI in the legal profession."

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

"Make full use of all the available resources, and be willing to ask for help when you need it. Lincoln has so many professors and staff members who are willing to provide guidance and advice, so be sure to tap into this valuable resource!"

Who is someone you admire, and why?

"A close friend of the family was diagnosed with bone cancer. Despite his diagnosis, he remained so optimistic throughout his battle with cancer until he passed away in December. I admired his incredible strength and unwavering optimism in the face of adversity."

Any book recommendations?

"Lincoln's Last Trial."

Do you have a favorite sports team or particular athlete?

"Jordan Richards who plays for the Atlanta Falcons. I watched his team win the State Championship in 2010 when he was a student at Folsom High School."

What has been your most memorable concert experience?

"Michael Jackson performing in Johannesburg, South Africa"

What is your favorite restaurant in the Sacramento area?

"Veg Café on J Street."

If you could have dinner with any person, alive or deceased, who would it be and why?

"Nelson Mandela. I was living in South Africa while he was incarcerated, and when he was President. I would welcome the opportunity to learn how he was able to stay so humble and forgiving; and put the needs of his country first, by promoting reconciliation over violence."

How do you unwind?

"I enjoy hiking with my hyperactive dog!"

“STRIKE SUIT CRISIS”



By Jeff Jokerst | Class of 2020

A “Strike Suit” is a legal action brought by a person or a group of persons, for the purpose of gaining a private settlement that would be less than the cost of the defendant’s legal costs. The plaintiff initiates the lawsuit without any real intention of going to court and advocating their claim. Their intention is to push the defendants into an economic decision regarding settlement instead of a judicial decision. As a result, the opportunity for abuse is high.

The targets of strike suits are businesses and corporations. A lawsuit can be costly for a business, damaging to its reputation, and can take considerable time and energy away from its operations. Strike suit plaintiffs know this, and use it to their advantage. If a business is faced with litigating a frivolous issue or just cutting a check to settle the claim, it becomes a purely economic decision for them. The short term strategy of just paying to “make it go away” may be in the best interest for a business at the time, but for society in the long run, its harmful. This course of action rewards bad behavior and runs counter to judicial efficiency. Our justice system is a safe haven for the oppressed and those who need a remedy at law. For a plaintiff to receive even one dollar for a lawsuit that lacks merit, represents an unjust enrichment in our justice system which erodes judicial efficiency and the ability of the courts to achieve the best outcome for the collective citizenry. Businesses will become much more cautious in their hiring process as a result. A business owner will assess the level of “risk” in hiring

an employee who may want to bring a strike suit later if they happen to be rightfully terminated. A business will use the same analysis in deciding to create a new product or take on a new client. This adds an unnecessary layer of risk that encumbers productivity and works against economic growth.

The current remedy for filing a lawsuit lacking merit is Rule 11 sanctions. The “Safe Harbor” provision allows a plaintiff’s attorney to dismiss claims lacking merit before the defendant answers the complaint without facing any ramifications. This can create a “throw some mud at the wall and see what sticks” type of situation where an attorney can develop a strategy of crafting a meritless claim against a defendant business and gauge their reaction to determine if the lawsuit is worth pursuing. This allows the plaintiff’s attorney to “vet” lawsuits to see which defendants are the most vulnerable and will agree to settle quickly without a fight. With bigger corporations, this process can be even more impacting because the cost of discovery is much higher than it is for a small business. Large corporations have a vested interest in protecting information about their company from being “discoverable” and introduced at trial thereby becoming forever cemented in public record.

California may have a “Strike Suit Crisis” on its hands. Despite the high cost of running a business in California, the last thing business owners need is another reason to leave the state and do business elsewhere. Jobs and tax dollars follow businesses when they decide to set up shop in a different state. This runs against the economic interest of every person in the Golden State. One way to effectively combat more strike suits from being filed is for businesses and corporations to fight them. Plaintiffs do not want to litigate a meritless claim. Despite the higher cost a business might face for choosing to defend a claim, the long term result would be better. If a plaintiff’s attorney knew that a corporation would vigorously fight any claim against it, there would be no desire to file a claim lacking merit. Businesses could effectively “raise the bar” in California by fighting any claim against it and putting potential strike suit plaintiffs on notice that they will receive no compensation for filing a meritless claim.

The court is a sanctuary. The court is for lawsuits that have merit. It is a refuge for the oppressed and those who are seeking justice and a remedy at law. The more we promote justice and fight against those seeking to exploit it, the more fairness and equality we can achieve.



AVOIDING DAY

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By Richard Brush | Class of 2019

California has experienced droughts throughout its history, but none were as severe as the state’s most recent drought that began in 2011 and was declared over by Governor Jerry Brown in 2017. The drought, which according to various estimates, was either the worst drought since the 1400’s, or even as far back as the year 800. The 2011-2017 drought was so severe that it killed more than 100 million trees and caused the snow pack to be only 5% of its average in March 2015. Governor Brown imposed historic water controls requirements such as; cities and towns must reduce their water use by 25%, 50 million square feet of lawns throughout the state must be replaced by “drought tolerant landscapes”, and in partnership with local governments, university campuses, golf courses, and cemeteries must make “significant cuts” in water use. A \$10,000 possible daily fine for those of California’s 400 local water agencies who failed to meet the 25% target. Although the drought was over by 2017, given its severity, California’s propensity for low rainfalls, and growing threat of climate change, Governor Brown decided to make the water restrictions permanent regardless of whether California is in a drought.

Governor Brown signed two laws that restrict water use; SB 606 and AB 1668. Under these new laws, each urban water provider will be required to come up with a target for water use by 2022. These targets must be approved by the State Water Resources Control Board and will vary by city and by county. Standards will be based on a formula made up of three main factors: an allowance of 55 gallons per person per day for indoor use – which would be dropped to 50 gallons by 2030, an amount that remains to be determined for residual outdoor use that will vary depending on regional climates, and a standard for water loss due to leak rates in water system pipes.

SB 606 and AB 1668 make it likely that the water agencies will offer more rebates for homeowners and business owners who replace lawns with drought-tolerant plants and who purchase water efficient appliances. The agencies could also limit the hours and days of lawn watering, even when the state is not in drought. Although the new laws appear to be strict, they are actually somewhat of a compromise as they are a response to complaints from some water agencies that the targets put in place during the drought were too inflexible and did not take into account local water supplies, population growth, and other factors. These new water laws have attracted both support and criticism.

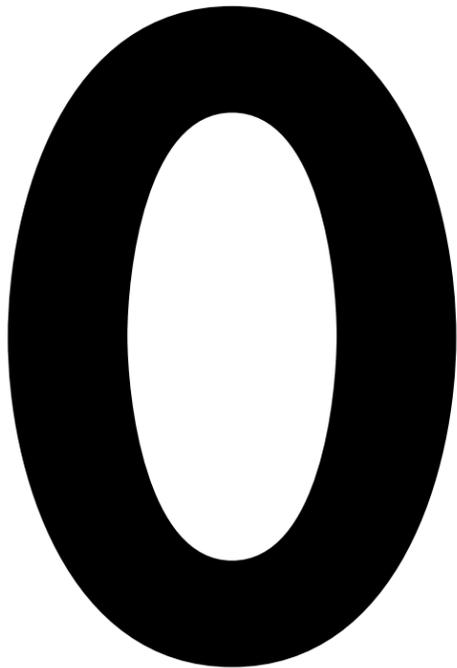
Organizations who support the new laws have stated that it makes sense to reduce demand as the state’s population grows, and allow each local area flexibility for devising their own plan while California continues to develop new supplies from recycled water and storm water to capture new reservoirs. Supporters of the new law include business groups, water agencies, and environmental groups. Tracy Quinn, water conservation director of the Natural Resources Defense Council, stated that the framework of the laws strikes the right balance between local control and necessary state oversight, and that most cities and water districts in California are already close to, or under, a standard of 55 gallons per person for indoor use.

Not all environmental groups support the new laws. The Sierra Club opposes the new laws as not going far enough because of a compromise asserted in the bill that allowed cities and water districts to get 15 percent credit on their water use totals if they produce certain types of recycled water. Some water districts, such as the Alameda County Water District, Kern County Water Agency, and San Diego County Water Authority amongst others, opposed the laws on the general argument that Sacramento should not be telling local government what to do. Quinn stated that

every local water agency supports conservation and has a responsibility to make its users water efficient. He asserted that this issue was not about whether conservation should be pursued, but how it should be pursued.

Critics of SB 606 and AB 1668 also point out that imposing a 55 gallon per person per day indoor water consumption limit would mean that many homes would have to be retrofitted in order to meet this limit. This would cost quite a bit of money as the average cost to do so would be around \$7,500 per person. \$3,000 alone is spent on a tankless water heater or circulation system for activities that people in wealthy countries like to do; wash their hands, shave, wash dishes, and shower. The total cost for all homeowners would be \$37.5 billion. Additionally, water utilities would also have to install indoor/outdoor meters on around 10 million households. Assuming that the cost to install the meters and conduct site visits to assign individual outdoor “water budgets” is \$1,000 per household, this would add \$10 billion to the cost of implementing AB 1668, bringing the total cost up to \$47.5 billion.

A V O I D - I N G D A Y Z E R O



Critics further argue that if Californians were to reduce their daily consumption from 62 gallons per day to 50 gallons, only 537,000 acre feet per year would be saved, which is less than 1% of California's total water diversions for environmental, agricultural, and urban uses. Critics contend that market incentives could reduce water scarcity in California, such as allowing farmers to sell their water allotments at market rates without losing their vested rights, or permitting utilities to engage in mild price hikes that encourage people to use less water. There are other water infrastructure projects that include desalinating 1.0 million acre feet of seawater and reusing 2.0 million acre feet of sewage. These projects, among others, would cost \$32.7 billion, less than the cost to implement these laws. Drought and water restrictions have not only occurred in California, but they also have occurred in other parts of the world.

From 2014-2017, a combination of climate change, Amazonian deforestation, water mismanagement, and the expansion of cities left little greenspace and led to the worst drought in southeastern Brazil in 80 years, with the most populous Brazilian city, Sao Paulo being especially affected. This led to water shortages, which led to food prices increasing, and businesses struggling

to adapt. Authorities responded by rationing water, and even considered severe draconian cuts. After blaming the local government for the problem, the residents of Sao Paulo responded in a variety of ways; many restaurants in Sao Paulo used disposable plates and cutlery, and many apartment buildings in the city drilled for water, and others trucked in water at great cost. At its worst, the main reservoir for Sao Paulo, dipped to 3 percent of capacity; however extreme water restrictions, short-term technical fixes, and rainfall from El Nino in 2015 and 2016, helped to put an end to the Brazilian drought. However, experts warn that another water crisis is possible in Sao Paulo as there has not been investment in forests and water treatment, Sao Paulo is still growing, and deforestation is still occurring.

Another country that experienced drought was South Africa, and specifically Cape Town. South Africa first began to experience an El Nino-triggered drought two years ago in 2016 that disrupted agricultural production and economic growth throughout South Africa. Cape Town was particularly hit hard with inadequate rainfall making the water shortages worse. The drought became so severe that the South African government declared a national state of disaster in March 2018 and Cape Town became the first city to ever be threatened to have its taps run completely dry, an event known as

"Day Zero." Residents responded by halving their use of water from 1.2 billion liters of water per day to just over 500 million liters of water per day, enforcing suburban restriction of 50 liters a day per person, which is much less than the global average of 185 liters a day per person. Authorities combined behavioral nudges and public praise with draconian surveillance and dire warnings, as residents made sacrifices such as taking 60 second showers, judiciously flushing the toilet, letting their cars get dirty, and their lawns go brown. As a result of their efforts, and help from above average rainfall during the South African winter, the South African government lifted their declaration of a natural disaster, with Day Zero being pushed back to 2019; although others such as the South African Tourist board have stated that Day Zero would not arrive in Cape Town neither this year nor next year.

In conclusion, only time will tell whether SB 606 and AB 1668 will be effective; however the one thing that is certain is that California- with its dry Mediterranean climate, ever growing population, and the continuing effects of climate change, will be struggling with this issue for the foreseeable future.

HOPE FOR DREAMERS

By Victoria Fernandez | Class of 2021



THERE IS STILL HOME FOR DREAMERS

The DREAM Act (Development, Relief, and Education for Alien Minors Act) was first introduced to the Senate in 2001, but it failed to pass many times. The situation was at a critical state when President Obama took matters into his own hands by issuing the executive order for DACA. On June 15, 2012, President Obama announced that his administration would stop deporting undocumented immigrants who matched certain criteria included in the proposed DREAM Act.

Illegal immigration has been a problem since the birth of the United States. Unlawful presence in the U.S. is not a crime, but a civil violation that provides for penalties to violators. Those here unlawfully who seek lawful status encounter penalties that make obtaining lawful status difficult, if not impossible. Historically, presidents of both parties have agreed that there are labor and human need implications to any immigration resolution. During the George W. Bush and Ronald Reagan presidential debate held on April 4, 1980, then-candidate George W. Bush stated, "We are creating a whole society of really honorable, decent, family-loving people that are in violation of the law by making it illegal for undocumented people to work in the USA."

Ronald Reagan agreed, responding that legalizing immigrants' ability to work while here unlawfully would enable those workers to pay taxes in the U.S. Reagan further proposed an open border policy that allowed Mexican workers to cross back and forth between the U.S. and Mexico to facilitate working legally in the U.S. and living in Mexico. The open border proposal was not a new idea. In fact, the U.S. implemented a similar program in 1942, called the Bracero program, which allowed Mexican workers to enter the U.S. lawfully in order to provide labor to the U.S. during agricultural labor shortages. The Bracero program, terminated in 1964, leading to the birth of the H-2A visa in use today.

After Reagan was elected as the 40th President of the U.S., he signed the Immigration Reform and Control Act (IRCA) in 1986. This amnesty bill provided a pathway to citizenship by making 2.7 million qualified undocumented immigrants Legal Permanent Residents (LPR). Qualifications for the amnesty program included presence in the U.S. prior to 1982 and no criminal record. Unfortunately, no derivative amnesty was provided for the minor children of the adults participating in the amnesty program. President Reagan rectified this omission by Executive action in 1986.

HOPE
FOR
DREAMERS

DACA is a similar program that grants legal status to immigrants by deferring removal or deportation proceedings for minors who were brought to the U.S. unlawfully before their 16th birthdays. DACA, however, does not provide a pathway to LPR or citizenship. It was intended to be a temporary injunction to stop the deportation of Dreamers, until permanent and comprehensive measures could be adopted by Congress.

President Donald Trump has continuously maintained that DACA is an illegal executive order that defies federal law and the Constitution. However, as history has shown, different forms of amnesty have been granted through Congress and Executive Orders. President Trump attempted to terminate DACA on September 5, 2017. The fight continues.

Two U.S. courts have successfully stopped the government's termination of DACA requiring that DACA renewal applications continue to be processed. Only DACA applications that were granted prior to September 5, 2017, are allowed renewal after their two-year expiration.

A third U.S. court has ordered that the government follow its original policy of not sharing or otherwise using the information furnished by Dreamers pursuant to the DACA program for purposes of immigration enforcement, except as provided solely for purposes of the DACA program. A fourth U.S. district court in the District of Columbia has ordered that the original DACA program be reinstated, denying termination of the program.

On January 9, 2018, Judge William Alsup of the U.S. District Court for the Northern District of California issued a preliminary injunction requiring the federal government to maintain the DACA program on a nationwide basis by continuing to allow DACA renewal applications (Regents of the University of California, et al. v. Department of Homeland Security, et al.) although this injunction was appealable through the 9th Circuit Court of Appeals. The government elected to skip this step and go straight to the Supreme Court requesting certiorari. The Supreme Court denied the request for certiorari and therefore any appeal to this order must go through the 9th Circuit Court of Appeals before a request for certiorari can be brought to the U.S. Supreme Court.

On Feb. 13, 2018, a U.S. District Court in Brooklyn, New York, issued a second preliminary injunction requiring U.S. Citizens and Immigration Services to accept DACA renewals as well. Batalla Vidal, et al. v. Nielsen, et al., and State of New York, et al. v. Trump, et al. The government has appealed the decision to the Second Circuit Court of Appeals and that appeal is currently being litigated.

On March 5, 2018, the U.S. District Court for the District of Maryland granted a preliminary injunction protecting DACA applicants' private information from being used by the federal government in any way including enforcement actions without first obtaining leave from the court to review the confidential information. CASA de Maryland, et al. v. Dept. of Homeland Security, et al.

On April 24, 2018, the U.S. District Court for the District of Columbia issued an order, applicable to two cases, NAACP v. Trump and Princeton v. Trump to reinstate the status quo of the original DACA program prior to its termination on September 5, 2017. The order was subsequently stayed for 90 days to allow the government to file a motion for reconsideration which was subsequently denied on August 3, 2018. The government also filed a motion for reconsideration in their case in the U.S. District Court of DC which was also subsequently denied, affirming its order to reinstate the original DACA program and allow initial applications to be adjudicated, not only renewals. This order was also partially stayed, so it is not yet in effect.

On May 1, 2018, Texas and six other states joined in a lawsuit requesting an injunction that would stop the USCIS from adjudicating any DACA applications pending the decision on the constitutionality of the DACA program itself. Texas, et al. v. Nielsen, et al. The U.S. District Court for the Southern District of Texas denied their request to halt DACA applications, which came as a surprise since this is the same court that initially thwarted the expansion of DACA in 2014. That expansion would have made relief available to more people through the Deferred Action of Parents of Americans and Lawful Permanent Residents program (DAPA), and affirmed by the Fifth Circuit Court of Appeals by a 4-4 split decision of the US Supreme Court.

Due to multiple appeals around the nation opposing injunctions against federal government termination of DACA, and requiring the federal government to continue accepting and adjudicating DACA renewal applications, DACA may end up before the U.S. Supreme Court.

To add another layer of suspense and hope for Dreamers, the movement continues through a small bipartisan group of over 25 Republican and 25 Democratic representatives who are attempting to pass legislation that would grant amnesty to 3.2 million immigrants here illegally, Uniting and Securing America USA Act H.R. 4796, written by representatives , Will Hurd, Republican and Pete Aguilar, Democrat. This bill provides a pathway to law permanent resident states and citizenship for immigrants who entered the U.S. as minors. The bill addresses border security as well as immigration courts and securing the northern triangle.

For the moment, DACA is not dead nor dying. Dreamers continue to have hope as the fight continues on behalf of the millions of immigrants unlawfully brought to the U.S. as minors. In the meantime, the U.S. will be able to continue to enjoy the eight billion dollars in tax revenue generated by Dreamers.

WORKERS' COMP & HOW IT'S BROKEN



By Nick Wilcox | Class of 2020

Plenty of people think they know what would happen if they get injured at work. "Oh, I report the injury to my boss, and then my employer will pay for my treatment." If only it worked that way.

What most, if not all, workers who find themselves injured on the job realize is that the workers' compensation system is designed in such a way that their employer, or their employer's insurance company, can easily deny them what is often vital medical care.

When a worker finds themselves injured and going through the workers' comp system, they learn that in order to get the care they need, they must first go to a doctor who will accept their employer's insurance. This insurance pays at a much lower rate than what a typical insurance company pays, and that doctor has to put all of their care through what is known as utilization review and independent medical review. The doctor has to write a report for the insurance company that will go to their utilization review; people who will look at it and determine if the care is medically necessary or not. If they deny the care, then either the worker or the worker's attorney, if they have one, can request for independent medical review. However, independent medical review has a nasty habit of

just rubber-stamping whatever utilization review has determined, which can leave the injured worker without the medical care they need.

It wasn't always like this. Prior to a relatively recent change in the laws; if the insurance company felt that the requested treatment was unreasonable, they had to go before the Workers' Compensation Appeals Board in order to deny it. While that may be tilted in favor of the employee, that does not mean that it is a worse system than what we have now. The purpose of workers' compensation should be to help injured workers either get back to the point where they were before their injury or as close to it as possible. Instead, the current system has a tendency to leave an injured employee worse than they started because they can't get the medical care they need.

The workers' comp system as it currently works is broken. The way the system worked previously may have also been a broken system, but at least it was a system where people were able to get medical treatment that they needed with relative ease. Maybe there's a way to balance the needs of the employees and the insurance companies, but until such a system is developed, the workers' comp system should be weighed in favor of the employee.

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