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Law Student Certification Program in Jeopardy

by Russ Cook

In 1970, the State Bar of California made provisions for law students, under the guidance of a lawyer, to engage in a variety of law practice related activities, pursuant to the state bar "Rules Governing the Practical Training of Law Students."

One of the activities that a law student could perform was the participation in trials and hearings before the court and administrative agencies.

Recently, however, the fourth division of the California Court of Appeals placed the student certification program in serious jeopardy. In the case of *People v Perez*, the court re-

versed the conviction of Carlos Perez, whom, it is alleged, was caught leaving the scene of a burglary with stolen items in his possession.

At Mr. Perez's felony jury trial, he was represented by a law student, Jack Loo, who was under the supervision of a Deputy Public Defender, Edward Zintner. The jury returned a verdict of guilty of second degree burglary against Perez.

The Appellate Court cited four reasons why Perez's conviction should not stand.

First, the court stated that the State Bar may adopt regulations necessary or advisable that would make effective the qualifications for admission to the practice of law. The court stated, however, "The State Bar is not authorized to admit persons to the practice of law." The court quoted the case of *In Re Levine*, 2 Cal 2d 324, saying, "It is generally conceded that the legislature may prescribe reasonable rules and regulations for admission to the bar which will be followed by the courts." The court then stated that the separation of powers doctrine precludes surrender to the State Bar rule making authority. "... Rule VI cannot authorize the practice of law by an unlicensed person."

Secondly, the court stated that Perez did not knowingly and intelligently sign a waiver that would allow Mr. Loo, the law student, to represent him at the trial. The court relied on the fact that Perez was Spanish speaking and an interpreter was needed throughout the course of the trial.

Thirdly, the court stated that the fact that Perez was represented by a law student in a felony jury trial was a violation of the defendant's sixth amendment right to adequate counsel.

The court stated that the unskilled law student may open doors to new fields of inquiry by the opponent, that a skilled practitioner would not have done; that the poor handling of a witness may have disastrous effects to the defendant's case; that the one moment in time may pass by unknowingly where the right question may win the defendant's case. "If that moment of opportunity passes, no amount of post ver-

Michigan Bar Examiners Reject SJCL Bid

The Michigan Committee of Bar Examiners has turned down San Joaquin's application to be a recognized school, which would have allowed our graduates to take Michigan's Bar Examination and practice law there. Dean Loomis stated that all parties are disappointed.

The three-page report gave favorable comments about the school overall, but part-time faculty and size of facilities resulted in not receiving approval. The report stated, "While the Board is favorably impressed, it could not approve at present."

Legal action is being considered.

Welcome Back!

by Greg Myers, President of the Student Association

Welcome back to all!!!!

Congratulations to those of you who have survived your first year of law school. To those of you who are beginning your law school career, you are beginning a long and arduous task—one which will have a profound impact on your life. The impact will vary, just as your personalities vary. One thing is certain though, at the end of this school year, you will have gained knowledge and a personal insight which will put you in a class above your contemporaries. To you, I wish you luck and the hope that you have the endurance to carry you through the next few months.

To those of you who are returning, once again, welcome back! While you were resting this summer, the student board was hard at work. They have had several meetings and have undertaken subjects which include the year's calendar of social events, the revision of the Association's Constitution, student scholarships, the DICTA and a counseling service which will be made available to all first year students. Time and space does not permit me to elaborate on the action taken on each of these subjects. If you have any questions, please address them to your class representatives, who will be reporting to you in a timely fashion. Because the first year class has no representatives, I will be reporting to you, myself.

I would like to take this time to introduce the student board. Their names and the offices that they hold are as follows:

John Shehady - Vice President
Nancy Winston - Secretary
Fran Wessel - Treasurer
Geri Brown - 4th Year Rep
Kathy Naiman - 4th Year Rep
Karen Brown - 3rd Year Rep
Bob Gorman - 3rd Year Rep
Kay Jagers - 2nd Year Rep
Bob Garabedian - 2nd Year Rep
Nancy Smith - Parliamentarian

Although the student board has accomplished much this summer, there remains much left to do. For instance, the DICTA needs staff writers and salespeople; there is also a great need for persons to help with the planning and coordination of all the social events. I encourage all students at the law school to get involved. We need your ideas, help, recommendations and suggestions.

In conclusion, I wish you all the best of luck this year.



Dean Loomis Sells Josephine to Mike Case

by Susan Cameron

Students at SJCL will be seeing less of Dean John Loomis on campus this year. Loomis, who has taught Contracts to first year students since the school began, will be leaving the classroom this year.

In a recent interview, Loomis gave two main reasons for giving up teaching for the time being. He stated that he has experienced frustration this past year at not having time to pursue school programs, and that he is still bothered by the back spasms which caused him to miss some classes last spring.

Loomis has not as yet formulated specific plans for keeping in contact with the students, but said that he will have office hours when he will be available to students on campus two or three times a month. He is also considering holding question and answer sessions with the various classes from time to time to keep the students informed about the administration's activities.

One of the issues that will probably be discussed at these sessions involves plans for the future of our campus. This month the Board will be discussing a definitive report on the subject. The report recommends that two courses of action be studied concurrently—the possibilities of expanding on the present campus, and also of exploring the possibilities for our own facilities.

Loomis stated that Drs. Janzen and Reimer of Pacific College are receptive to the idea of exploring our expanding on the present campus. Discussion with Pacific College will need to be stepped up, and the prospects look favorable except for some uncertainty within the Mennonite Brethren Church, which owns Pacific, about its own goals and plans for the college.

If San Joaquin is to remain on the Pacific campus, additional facilities will be needed. We are already in need of additional library and office space, and recent expansion plans by the Mennonite Brethren Biblical Seminary show the present Law Library to be the future Mennonite Brethren Historical Archives.

Since the uncertain plans of the Mennonite Brethren Conference may make the Pacific College Board hesitant to make long-term commitments, other property is being considered, but at the time of this interview Loomis was unable to disclose specifics.

Loomis also stated that he does intend to return to the classroom at some future time, but when and what course have not been decided. In the meantime, Mike Case, who taught Corporations last year and was voted Instructor of the Year by last year's graduating day class, will be teaching Contracts to the new first year class.

SJCL Instructors 78-79

In an effort to acquaint the first year class and the rest of the school with the teachers at San Joaquin College of Law, the following articles were submitted by Norman Fletcher, Michael Case and Bill Sieler, all first year teachers.

by Norman Fletcher

The study of the law presents challenges and opportunities for intellectual excitement and edification unknown perhaps to any other discipline. The rewards for a diligent application of oneself to its study are best viewed as the rewards inherent in the pursuit of any other truly academic endeavor. If one pursues the study of law solely as an opportunity to prepare oneself for a profession which traditionally has provided an above average income and life style, one misses a unique opportunity for intellectual stimulation and growth. Thus, the student who studies from so-called canned brief and commercial outlines will not only miss out on the best which law school has to offer, he or she will also increase dramatically the chances of failure in the final analysis.

It is expected that law students will be highly motivated, even without the weekly quiz or the monthly exam to which most college students have become accustomed. It will come as perhaps a surprise to most students that there are only two (2) exams during the entire year, with 90% of the grade being determined by the final examination alone. It is, therefore, imperative that students maintain a constantly current status in their studies, as it is physically impossible to "cram" a year of law study into a few long evenings just before exams. The motivation provided in college by frequent exams may in part be substituted in law school by small weekly sessions of several students writing practice exam questions together and then exchanging answers and studying them. It will be most enlightening to see how differently each mind will view the same set of facts from a legal standpoint.

Veterans may want to note that they may be eligible to obtain the services of a tutor. This service is paid by the Veterans Administration as part of the benefits that a veteran would receive. To see if you qualify, please contact the registrar.

The law is a jealous mistress, and there will be a greatly decreased amount of time available for one's usual activities. One must, however, ration time so that spouses and families are not excluded, or unfortunate problems may develop, particularly with married students. Finally, one must maintain some sort of physical exercise regimen, since there will be countless hours spent in a most sedentary position. A sound mind in a sound body will produce its rewards.

Thus, the best recipe for law school success involves proper class preparation, motivation, time budgeting, and physical exercise.

I look forward every year to meeting the new scholars, and to observing their developing legal minds. And scholars you are, for it is not Bachelors of Arts or Sciences you are now striving to become, but the original Doctors — the Doctors of Jurisprudence. Good luck to you all.

by Bill Seiler

I intend Legal Methods to be essentially a course on how to find the law applicable to clients' problems and how to present it in written form. I believe there is a simple basic approach to legal research that can and should be mastered by law students.

We will focus primarily on the contents and use of books essential to a working law library. I anticipate giving only passing attention at most to other sources which I consider to be of limited usefulness to attorneys generally. I am most concerned that students learn on thorough and consistent approach to legal research though there are no doubt many different and perhaps equally effective approaches.

We will focus also on how to write effectively to the Court, to clients and to other attorneys and not, as is often done, in appellate work, but instead at the trial court level. There will not be heavy emphasis on legal history, which will be covered only to the extent that it puts the study of law into perspective or is helpful in legal work. There will be regular assignments of problems to be researched outside of class.

Legal Methods will be my first regular teaching experience. I fully anticipate that I will expect either too much or too little from students and will therefore be receptive to constructive feedback. However, my operative philosophy is, as Newton might have put it off the record, that nothing moves but what is pushed.

by Michael Case

Having been first year law students ourselves, the faculty can recall the combination of anxiety, concern, enthusiasm, and challenge you may be feeling at this time. As a faculty member, I consider each new class of students with similar emotions. That is, the faculty is eager for each member of the class to do well, graduate, and to become a respected member of our profession. Our goal in this regard is the same as yours.

Rather than serve as an impediment to your reaching your present goal of obtaining a law degree, we want to foster your growth and encourage you to not only qualify for a degree from our institution but to become an excellent lawyer.

Unfortunately, some persons view their day to day existence in law school as only for the purpose of obtaining a degree. I encourage you to be interested in that subject, but of greater importance is learning all that you can so that you can be a meaningful member of our profession by furnishing legal services of highest excellence to the community you choose to serve. Law school is more than learning substantive rules of law. It's a time to develop habits which will follow you through your entire career. The careful, imaginative, inquiring student is likely to become a lawyer with the same attributes. The student that attempts to get by by simply scratching the surface and doing just enough to survive may find it very difficult to change that habit once in practice.

Many of you have chosen a difficult road in attempting to balance your employment and familial needs with the study of law. The load you carry here at San Joaquin will be much easier if you enjoy it. Dedicating yourself to learning what we have to offer for its own sake rather than merely to advance one more step towards a degree will probably make that a much more enjoyable process for you. There is little real satisfaction or growth in reciting principles of law from memory. Such comes from understanding these principles and fashioning the appropriate remedy.

I hope that if you have any questions of myself or any of the faculty during your time at San Joaquin that you will feel free to seek us out.

Reactions to Perez

by Russ Cook

Since 1970, it has been estimated by the Committee of Bar Examiners that over 11,000 law students have participated in the Certified Law Student program.

In Fresno County, certified law students from San Joaquin College of Law have been used by both private practitioners and by governmental lawyers. For example, Melvin Nitz, Fresno County Public Defender has used five students per year for many years.

Mr. Nitz stated that the program was very valuable to both the lawyer who was overseeing the student and the student himself.

William Smith, Fresno County District Attorney, who also has used a number of certified law students, stated that the certification program fills a vacuum that law school leaves in students legal training. He stated that the program was a real success for the District Attorney's office and the law student who would work in such a capacity.

As to the impact that the case of *People v Perez* would have on the District Attorney and the Public Defender, both Smith and Nitz stated that as a result of Proposition 13 and other budgeting problems, they currently do not have any law clerks working in the criminal field.

Both stated that one of the most valuable things that has come out of the law student certification program is that the law clerks are able to try cases and to get courtroom experience.

Mr. Nitz stated, "To have the students in the stacks is not

enough." He further stated that it is good experience for a law clerk to sit at the counsel table, but "the bottom line is where the student is the one who is required to ask the questions."

In *Perez*, the law student defended in a case where the defendant was charged with a felony. Mr. Smith stated that the District Attorney's Office has used a law student in the past to prosecute in a felony jury trial.

Mr. Nitz, on the other hand, stated that the Public Defender's Office used law students only in misdemeanor cases. He stated "It's wrong to take a law student and put him into a felony trial. The consequences of a felony are too severe, whereas, the consequences of a misdemeanor are not as significant." Mr. Nitz further stated that many misdemeanor cases may be as complicated legally as felony cases.

Mr. Smith stated, "I don't know why this case should apply to prosecutors. Perez's defense was a denial of adequate counsel." If anything, Smith stated that the defendant would probably want a law student prosecutor if they actually would be unable to conduct themselves competently in court. He felt, however, that the students that he has had in the past conducted themselves very well.

Mr. Nitz stated, "I, contrary to the decision in *Perez*, don't think they (the accused) were deprived of any constitutional right. If we would have thought for a minute that they were being deprived, we would not have had the program."

Perez (Cont. From Pg. 1)

dict advice to or critique of the law student's performance will give solace to a defendant in prison."

Fourthly, the court stated that in order for a law student to become certified, they need not take a professional responsibilities examination, nor do they need to even take a course in the subject. The bench and bar is totally uninformed as to how much of a working knowledge the law student has in the area of legal ethics. The court cited the case of *Huckelbury v State* (Fla) 337 So. 2d 400, for the proposition that not only is the defendant given the right to be

represented by quality counsel, he is also given the right to be represented by counsel who lives up to certain moral standards. Since the certification process does not look at certain moral attributes of the persons to be certified, there is no guarantee to the defendant of this right.

Because of the foregoing reasons, the court reversed the conviction of Carlos Perez, and placed the student certification program in serious jeopardy.

(Editor's Note: On August 16, 1978, the Supreme Court of California granted a hearing in the case of *People v Perez*.)

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The DICTA encourages all those who would consider themselves thwarted writers to submit articles that they would consider of interest to the editorial staff, or just deliver the articles to one in charge at the library.

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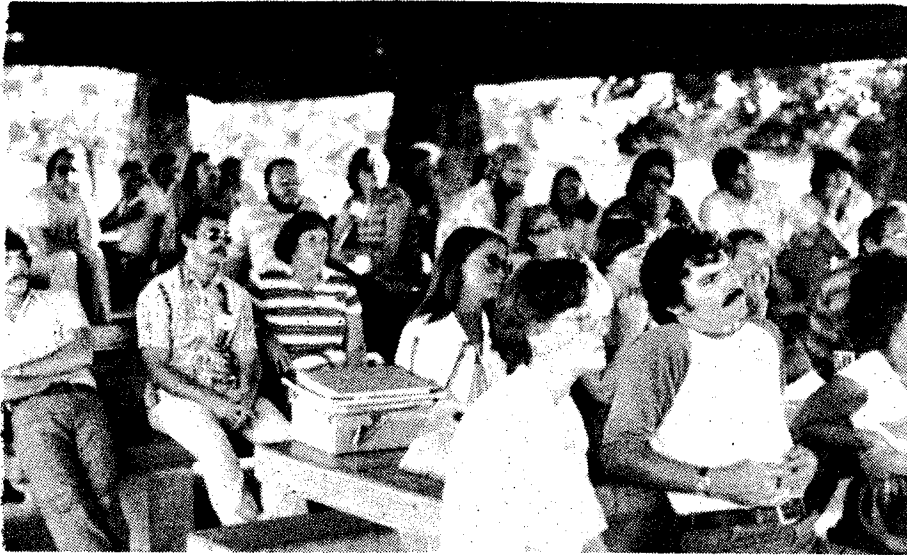
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Orientation 1978



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**ALL PARTY
OCT 7**

The annual fall party is scheduled for Oct. 7, 1978. This date is still tentative as it may conflict with the Professional Responsibility Exam. The activities that day will begin at 1:00 p.m. at Kearney Park. The fall picnic is planned with the hope that the continuing students of SJCL will have a chance to get to know the new students and vice versa. This year we would also like to make the picnic a chance for the families and friends of the law students to get involved with others who have a law student to contend with to exchange advice.

A potluck picnic has been planned, with the Student Association providing the soft drinks and hot dogs, with each class being responsible for a portion of the meal. Softball and volleyball are also on the agenda.

Anyone interested in helping with the final details of the picnic please contact Karen Brown, 226-2190 or 431-6300. We hope to see you all there.

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Dean's Corner

By John Loomis

Students, both those of you who are returning and those who are joining us for the first time, welcome and best wishes for the upcoming academic year. You new students, of course, have listened with apprehension to the orientation program and remarks of the returning upperclasspersons. I suppose you should say to yourself, "If they were able to make it, I should be able as well."

In any event, I especially want the new students to be aware that our aim is to do everything within our power and ability to help you succeed in the study of law. You are now engaged in an educational program quite different from anything you have experienced before. There indeed will be periods of frustration and perhaps despair before the year is over. I firmly believe, however, that a year from now most of you will look back on this year as not only a year of hard work, but also as a most rewarding intellectual and educational experience.

I am grateful to the DICTA for the chance to communicate periodically through this column and to discuss with you from time to time matters of mutual interest.

Money is an obvious matter of mutual interest. At this point of paying and collecting tuition, money is of a great deal of interest, but in different ways, to you and to the school. Your Editor suggested that a discussion of the tuition charges of the school as it relates to these mutual interests of ours would be an appropriate way to open the new year. After all, you have just parted with a substantial sum and understandably you wonder what the basis is for the charge.

I know the upperclassperson compares the amount of tuition payment made this fall with the amount which he or she paid a year ago, or two years ago, or in the case of a handful of you, three years ago. It has increased about one-third and admittedly, such an increase is substantial.

In fixing tuition for this year, the Board of Trustees recognized that the school had not increased tuition in the preceding three years, and at the same time, operating costs of the school had, along with most other costs, followed the Consumer Price Index in the relentless climb over this time period which we have all witnessed. The Board noted that for the fiscal year ending in 1978, the school would be operating close to a break-even point. (In fact, since that time, it appears that the school will show a slight loss for the year.) It is elementary that the school must have a sufficient cash flow in to meet the cash flow out. With increase in tuition, a small budgetary surplus is projected for the upcoming year. This is needed to insure the continued financial well-being of the institution.

The Board was also concerned at the time the tuition increase was considered, whether our costs were in line with comparable schools in the State of California. The administration made a study of law schools and found that except for the tax supported institutions, tuition charges at the other schools were uniformly substantially higher than at San Joaquin. Obviously, this list included many schools offering far less than San Joaquin as reflected in the California State Bar Examination results.

I am glad to say, and I hope will continue to be able to say in the future that San Joaquin's tuition is and will continue to be substantially below the state average for accredited law schools. I also am pleased that I may say, and I hope I will be able to continue to say, that with the dedication and quality of your instructors and supporting staff, San Joaquin College does and will continue to provide a quality legal education for its students.

I know that it is a popular student pastime to fret about what it is costing him or her and to assume that charges are higher than they need be. I hope I may alleviate these concerns, at least in part, and that this issue — if it be one — may be put to rest.

BRC, plus Sum and Substance and LAW, have arrived in Fresno.

For additional information about all of the law study aids available through the Josephson Center for Creative Educational Services, call Nancy Currier at 266-0004, 3rd year BRC representative.

Classified Ads

Don't let your law practice become a "LIABILITY"; let us make it an "ASSET."
D & J Bookkeeping Service:
Donna Meeks, 226-6758;
Juanita Bertling, 439-0399.

The DICTA is offering to all attorneys free classified space to those who wish to advertise for law clerks.

Editor's Corner

In it's eighth year of publication, the DICTA staff have their work cut out for them. During the upcoming year, the DICTA will be published five times. It will be mailed to all of the attorneys and judges in Fresno County, as well as to all of the San Joaquin College of Law alumni.

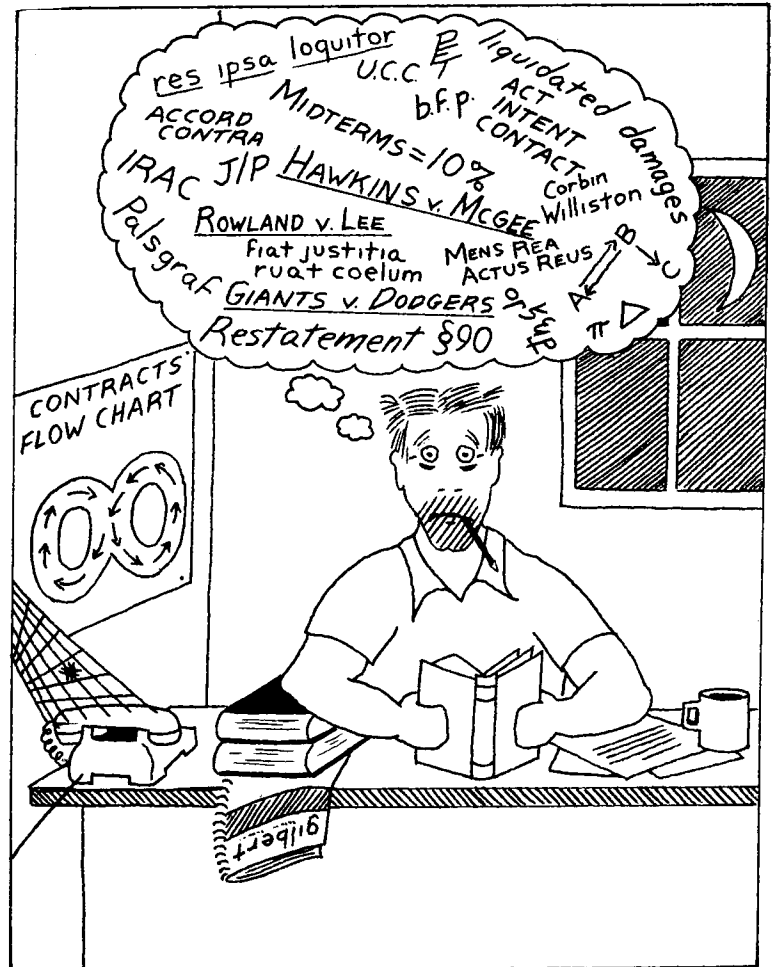
During the upcoming year, we at the DICTA wish to make the paper one that will serve three purposes.

First of all, the DICTA is to be a medium in which the students at SJCL may voice their views. This may be accomplished by either contacting a member of the editorial staff; by mailing an item that you would wish to submit to DICTA, San Joaquin College of Law, 1717 S. Chestnut Ave., Fresno, CA 93702; or by leaving items on the bulletin board in the library.

Secondly, the DICTA is to inform the legal community of events that are happening at the law school. In this regard, I would like to sincerely thank Chris Rokas and the Fresno County Bar Association for their help in distributing the DICTA to all of the members of the Fresno County Bar Association. Without their help, the distribution to the legal community would be an extremely difficult task.

Thirdly, the DICTA is to be a watchdog, reporting those items that are currently of interest to the students at SJCL and to the legal community. We will publish with each issue an article of legal importance that would have bearing to us as law students both while students and after we enter into the legal community.

My sincere best wishes to all of you in the coming year.



WOMEN & THE LAW

Theme

The theme this year is "Women Inspirit.*"

[*Inspirit: to put spirit into, give life or courage to; cheer; exhilarate.]

What

The Far West Regional Conference on Women and the Law is an annual conference organized by law students to promote the equality of women through workshops and more.

Where & When

Western State University College of Law,
1333 Front Street, San Diego, California, 92101.
October 27-29, 1978. Telephone 232-2636.

On September 23 and 24, 1978, the Hastings Gay Law Students Association and the American Bar Association Law Student Division will co-sponsor the Gay Rights Under the Law Symposium. This intensive series of lectures and panel discussions conducted by the nation's leading authorities on gay rights will be held at Hastings in San Francisco. It is free to students.

Anyone interested in attending or who would like more information, please contact Nancy Currier, 3rd year student, at 266-0004.

CALENDAR OF EVENTS

- September 17 Student Association Meeting
- October 7 Fall Picnic
- October 15 Student Association Meeting
- November 1 Leon S. Peters Scholarship and
Oliver and Susan Wanger Scholarship
Applications Due
- November 17-18. Moot Court Competition
- November 19. Student Association Meeting
- November 22 Thanksgiving
- December 10-14. Midterm Examinations
- January 2 Instruction Begins
- January 2-4. Registration
- January 21. Student Association Meeting
- February 1 State Graduate Fellowship
Applications Due
- February 18. Student Association Meeting
- March 18. Student Association Meeting
- March 31. Easter Vacation Begins
- April 7-8. Second Annual SJCL
Tennis Tournament
- April 15. Student Association Meeting
- April 21. Spring Banquet
- May 1 San Joaquin College of Law
Scholarship and Bruce J. Diaso
Memorial Fund Applications Due
- May 12-13. Final Examinations
- May 30 Graduation

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BAR REVIEW

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