UNIVERSITY OF THE

PACIFIC

McGeorge School of Law

ORIENTATION MATERIALS

AUGUST 11-15, 2008

Dear Incoming Student:

Welcome to the University of the Pacific, McGeorge School of Law. I hope you will find your time here richly rewarding. You are joining a profession of vital importance to our society. As one contribution to your entry into the profession, Pacific McGeorge's goal is to help you acquire not only the substance of the law but also professional habits of diligence and responsibility to others. When mixed with your intelligence, imagination, and the skills you will develop during your years at Pacific McGeorge, these habits will ensure that you represent your clients and serve the profession ethically, creatively, and, I hope, successfully. This Orientation is the first important step in your journey toward the goal of becoming an excellent lawyer.

You are embarking on a new and challenging endeavor, and it is inevitable that mixed with your excitement is some degree of trepidation. Because the world of legal training is an unknown to you, there is undoubtedly some uncertainty about the adventure ahead. Your Orientation has been planned to help ready you for the law school experience. This Booklet contains examples of the law, cases, excerpts from a statute, and model rules. It also contains explanations of some of the new skills you will need to acquire to facilitate your study of the law. Keep this Booklet handy and look at it occasionally throughout the year. As the year progresses, and your skills and knowledge increase, the content in the Booklet will become more and more meaningful to you.

Again, welcome to Pacific McGeorge and to the beginning of your journey to becoming an excellent, ethical attorney. I am very excited about the 2008-2009 academic year and to beginning your journey together with you.

With best regards,

Elizabeth

Elizabeth Rindskopf Parker
Dean

Welcome to the University of the Pacific, McGeorge School of Law

A prominent academic institution with distinguished graduates . . .

John Doolittle	1978D	U.S. Representative
Bill Lockyer	1986E	California State Treasurer
Mark Amodei	1983D	Nevada State Senate
Richard Gammick	1982E	District Attorney, Washoe County, Nevada
Judge Johnnie B. Rawlinson	1979D	U.S. Ninth Circuit Court of Appeals
Judge Consuelo M. Callahan	1975D	U.S. Ninth Circuit Court of Appeals
Judge Morrison C. England	1983E	U.S. District Court, California
Judge Edmond J. Garcia	1958D	U.S. District Court, California
Justice James Hardesty	1975D	Nevada Supreme Court
Justice John M. Gerrard	1981D	Nebraska Supreme Court
Justice Arthur G. Scotland	1974D	Court of Appeal, 3rd District, California
Justice Ronald Robie	1967E	Court of Appeal, 3rd District California
R. Mark Asmundson	1980D	Mayor, Bellingham, Washington
H. Craig Manson	1981D	Former Assistant Secretary, Dept. of the Interior
Scott D. Boras	1982E	Sports Attorney/Agent
James L. Lopes	1974D	Howard, Rice, Nemerovski, Canady, Falk & Rabkin, San Francisco
Steve Martini	1974E	Novelist
Birgit Fladager	1986	Chief Deputy District Attorney for Stanislaus County who prosecuted Scott Petersen; Pacific McGeorge Alumna of the Year for 2006
Andrea Wooten	1984	CEO, Experience Works, Inc., Virginia
Greg Aghazarian	1983	California Assembly
Fred Buenrostro	1980	CEO, CalPERS
Clay Calvert	1991	Professor, Penn State University
Tyrus Cobb	2002	Nevada Assembly

Ellen Corbett	1985	California State Senate
Richard Doyle	1979	City Attorney, San Jose
Noreen Evans	1981	California Assembly
Jack Fitzhenry	1976	Vice President, Altera Corp.
Joseph Fletcher	1980	City Attorney, Santa Ana
Chris Scott Graham	1984	Dechert, LLP, Managing Partner, Silicon Valley
Judge Gene Gomes	1972	Court of Appeal, 5th District, California
Andrea Hoch	1984	Legal Affairs Secretary, California
Justice Jeffery King	1976	Court of Appeal, 4th District, California
Herb Kuss	1975	City Attorney, Fairbanks, Alaska
Steve McGuire	1977	State Public Defender, Nevada
Justice Herbert I. Levy	1977	Court of Appeal, 5th District, California
Patrick McNicholas	1986	Plaintiff's Attorney, Los Angeles
Patrick McGrath	1981	District Attorney, Yuba County
Larry D. Morse II	1987	District Attorney, Merced County
Hayne R. Moyer	1975	Attorney, University Regent
Randy Paragary	1976	Restaurateur
Michael L. Ramsey	1977	District Attorney, Butte County
Jeff Reisig	1996	District Attorney, Yolo County
Todd Riebe	1990	District Attorney, Amador County
Robin Rivett	1975	President, Pacific Legal Foundation
Judge Dana Sabraw	1985	U.S. District Court, San Diego
Jeffrey Tuttle	1976	District Attorney, Calaveras County
Matt Wilber	1995	County Attorney, Pottawattamie County, Iowa
James P. Willett	1979	District Attorney, San Joaquin County
William Wunderlich	1972	Magistrate, U.S. District Court
Justice Kenneth Yegan	1972	Court of Appeal, 2nd District, California
Allan Zaremberg	1978D	CEO, California Chamber of Commerce

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INTRODUCTION

Welcome to Pacific McGeorge! On Monday, August 11, you may begin your semester with a raft trip, tour of Sacramento, a trip to the Federal District Courthouse and free lunch! Beginning on Tuesday, August 12, you may register for classes, have your picture taken for your I.D. card, and get information on financial aid. The Student Bar Association (SBA) will offer campus tours so you can begin to learn your way around. You can pick up a coupon at the Gazebo for a free lunch at the Student Center. The formal part of Orientation begins on Wednesday, August 13 at 6:30 p.m. with a brief program during which you will take the Law Student Oath of Professionalism and when the first-year faculty will be introduced. A dessert reception follows. This reception provides you the opportunity to begin to get to know your professors and classmates.

The core of the Orientation program begins on Thursday, August 14, and Friday, August 15, which consists of lectures and discussion of information that is important to your success in law school. Our goal is to introduce you to law school classes and assignments so they will not seem so intimidating when school begins. A detailed schedule is included in this book. Please note that some of the Orientation segments have reading assignments that need to be completed before you attend that segment.

Regular classes begin Monday, August 18. Most of your professors have posted reading assignments for these first class meetings. These assignments are posted on our Pacific McGeorge website, http://faculty.mcgeorge.edu/academic_hotline/index.htm and are available at the Faculty Support Office. Judging by page numbers alone, the assignments may seem extremely short. That impression is misleading. Reading, re-reading and briefing cases (which you will learn about and have a chance to practice during Orientation) is required for success in law school and, especially at the outset, is quite time consuming. Please do not be discouraged if you find yourself spending several hours on a ten-page assignment. You should plan to devote a significant amount of time during the weekend after Orientation to preparing for your first week of classes.

PACIFIC MCGEORGE ORIENTATION WEEK
DAY- AND EVENING-DIVISION STUDENTS

MONDAY, AUGUST 11, 2008

Time	Subject	Location
7:00 a.m. to Tuesday at noon	**Beyond McGeorge** Come spend some quality time with your fellow incoming students on an overnight whitewater rafting trip. Dinner with faculty and staff members on Monday night. Pre-registration is required!	Meet at Flag Poles
9:00 a.m. - 7:00 p.m.	**Student Bar Association (SBA) Campus Tours and Student Life Q&A** Meet student representatives from the SBA as they guide you on a tour of campus hot spots including the Career Development Office (CDO), Student Center, Dean of Students' Office, Library, and the Recreation Center.	Meet at Gazebo
9:00 a.m. - 12:00 p.m.	**Sacramento Live!** Take a bus tour of different Sacramento neighborhoods with fellow McGeorge students.	Meet at Gazebo Limited to 40
11:00 a.m. - 2:00 p.m.	**Free Lunch Coupons** Get an energy boost with a free lunch at the Student Center provided by ***LexisNexis***. Pick up your lunch coupon at the Gazebo.	Gazebo
2:00 p.m.	**State Capitol and Federal District Courthouse Tours** Take a bus with fellow McGeorge students to the State Capitol and Federal District Courthouse where you will be taken on a tour and have the opportunity to meet Judge Morrison England Jr., an '83 alumnus of Pacific McGeorge. Bring picture ID; no backpacks; business casual attire (no jeans, no shorts) Return by 5:30 p.m.	Meet at Gazebo Attendance Limited to 30

TUESDAY, AUGUST 12, 2008

Time	Subject	Location
8:30 a.m. - 6:30 p.m.	**Registration** Registration packets will be available in the Admissions Office starting today. Staff members will be present to assist with the registration process and answer questions. You will also have your photo taken for your ID card! Tuition is due at the time of registration. Please note the following times – 8:30-3:30pm: Last names beginning with ***A*** through ***N*** ONLY 3:30-6:30pm: Any incoming first-year student	Administration Building
10:00 a.m. – 11:00 a.m., 1:00 p.m. – 2:00 p.m., 3:00 p.m. – 4:00 p.m., **or** 6:00 p.m. – 7:00 p.m.	**Financial Aid Counseling Sessions** All students who receive federal student loans MUST attend an Entrance Counseling/Debt Management workshop BEFORE funds can be disbursed. You MUST attend **one** of the workshops at the times on the left before returning to the Admissions Office to complete the registration process. You may stop by the Financial Aid Office to check on the status of your student loans.	Classroom A
9:00 a.m. - 7:00 p.m.	**Student Bar Association (SBA) Campus Tours and Student Life Q&A** Meet student representatives from the SBA as they guide you on a tour of campus hot spots including the Career Development Office (CDO), Student Center, Dean of Student's Office, Library and the Recreation Center.	Meet at Gazebo
11:00 a.m. - 2:00 p.m.	**Free Lunch Coupons** Get an energy boost with a free lunch at the Student Center provided by ***Bar/Bri***. Pick up your lunch coupon at the Gazebo.	Gazebo
6:00 p.m.	**River Cats Baseball** Come join your fellow McGeorge students for a favorite Sacramento pastime: a River Cats baseball game. Tickets will include bus transportation, a "Senate" seat, and BBQ feast. Space is limited to 40 students so please make sure to RSVP to Ms. Emeline Abadie by email at eabadie@pacific.edu.	Meet at Gazebo

WEDNESDAY, AUGUST 13, 2008

Time	Subject	Location
8:30 a.m. - 6:30 p.m.	**Registration** Registration packets will be available in the Admissions Office today. Staff members will be present to assist with the registration process and answer questions. You will also have your photo taken for your ID card! Tuition is due at the time of registration. Please note the following times – 8:30-12:30pm: Last name beginning with ***O*** through ***Z*** ONLY 12:30-6:30pm: Any incoming first-year student	Administration Building
10:00 a.m. – 11:00 a.m., 1:00 p.m. – 2:00 p.m., 3:00 p.m. – 4:00 p.m., **or** 5:00 p.m. – 6:00 p.m.	**Financial Aid Counseling Sessions** All students who receive federal student loans MUST attend an Entrance Counseling/Debt Management workshop BEFORE funds can be disbursed. You MUST attend **one** of the workshops at the times on the left before returning to the Admissions Office to complete the registration process. You may stop by the Financial Aid Office to check on the status of your student loans.	Classroom A
9:00 a.m. - 6:00 p.m.	**Student Bar Association (SBA) Campus Tours and Student Life Q&A** Meet student representatives from the SBA as they guide you on a tour of campus hot spots including the Career Development Office (CDO), Student Center, Dean of Student's Office, Library and the Recreation Center.	Meet at Gazebo
11:00 a.m. - 2:00 p.m.	**Free Lunch Coupons** Get an energy boost with a free lunch at the Student Center provided by ***Pacific McGeorge Alumni Association***. Pick up your lunch coupon at the Gazebo.	Gazebo
2:00 p.m. - 4:00 p.m.	**SBA Day on the Quad** Outdoor fun and games with fellow McGeorge students!	Meet on the Quad

Time	Subject	Location
6:30 p.m.	**Dean's Welcome, Law Student Oath of Professionalism, and Dessert Reception with your Professors**	Lecture Hall

DAY-DIVISION STUDENTS

THURSDAY, AUGUST 14, 2008

<table>
<tr><th>Time</th><th>Subject</th><th colspan="2">Location</th></tr>
<tr><td>9:00 - 10:30 a.m.</td><td>How to Read and Study Cases in Law School
Prof. Hether Macfarlane &
Prof. Stephanie Thompson</td><td colspan="2">Lecture Hall</td></tr>
<tr><td rowspan="5">10:45 - 11:45 a.m.</td><td rowspan="5">Small Group Discussions – Reading and Briefing Cases in Law School</td><td>Lecture Hall</td><td>Classroom G</td></tr>
<tr><td>Classroom A</td><td>Room S-2</td></tr>
<tr><td>Classroom B</td><td>Room S-3</td></tr>
<tr><td>Classroom D</td><td>Room S-18</td></tr>
<tr><td>Classroom E</td><td>Room S-19</td></tr>
<tr><td>11:45 - 1:00 p.m.</td><td>SBA Barbeque with Student Organization Fair
Enjoy some BBQ while you chat with various student organization members sponsored by Westlaw. This is your first opportunity to learn how to get involved with student organizations on campus!</td><td colspan="2">Gazebo</td></tr>
<tr><td rowspan="7">1:00 - 2:00 p.m.</td><td rowspan="7">Case Analysis
(<u>Tunkl v. Regents of the U. of Cal.</u>)
Learn the “secrets” to properly read, analyze, and outline a legal opinion before your classes begin.</td><td>Legal Process Section</td><td>Room</td></tr>
<tr><td>A-1</td><td>G</td></tr>
<tr><td>A-2</td><td>H</td></tr>
<tr><td>A-3</td><td>S-1</td></tr>
<tr><td>A-4</td><td>S-2</td></tr>
<tr><td>B-1</td><td>S-4</td></tr>
<tr><td>B-2</td><td>S-5</td></tr>
<tr><td rowspan="2">1:00 - 2:00 p.m.</td><td rowspan="2">Q & A with Administrators and Faculty
Come ask questions and get answers from those in the know about McGeorge campus culture and student life!</td><td>B-3, B-4, C-1</td><td>A</td></tr>
<tr><td>C-2, C-3, C-4</td><td>B</td></tr>
</table>

THURSDAY, AUGUST 14, 2008 (cont.)

<table>
<tr><th>Time</th><th>Subject</th><th colspan="2">Location</th></tr>
<tr><td rowspan="7">2:15 - 3:15 p.m.</td><td rowspan="7">Case Analysis
(<u>Tunkl v. Regents of the U. of Cal.</u>)
Learn the “secrets” to properly read, analyze, and outline a legal opinion before your classes begin.</td><td>Legal Process Group</td><td>Room</td></tr>
<tr><td>B-3</td><td>G</td></tr>
<tr><td>B-4</td><td>H</td></tr>
<tr><td>C-1</td><td>S-1</td></tr>
<tr><td>C-2</td><td>S-2</td></tr>
<tr><td>C-3</td><td>S-4</td></tr>
<tr><td>C-4</td><td>S-5</td></tr>
<tr><td rowspan="2">2:15 - 3:15 p.m.</td><td rowspan="2">Q & A with Administrators/Faculty/Students
Come ask questions and get answers from those in the know about McGeorge campus culture and student life!</td><td>A-1, A-2, A-3</td><td>A</td></tr>
<tr><td>A-4, B-1, B-2</td><td>B</td></tr>
<tr><td>3:15 - 4:30 p.m.</td><td>Ice Cream Social
Cool down with some yummy ice cream and meet more fellow McGeorge students at the Student Center!</td><td colspan="2">Student Center</td></tr>
<tr><td>5:00 - 5:45 p.m.</td><td>Health & Wellness Q&A
Come meet the Director of Cowell Wellness Center Health Services, Cathy Hunter, and listen to her discuss our new mandatory student health insurance policy. Ask questions about the Aetna insurance plan, mental health issues, stress management or just get general wellness information. It is very important that busy law students take good care of themselves and their health!</td><td colspan="2">Classroom G</td></tr>
</table>

FRIDAY, AUGUST 15, 2008

Time	Subject	Location
9:00 - 10:00 a.m.	**Professional and Academic Responsibility** Prof. John Sprankling	Lecture Hall
10:15 - 11:30 a.m.	**Case Synthesis**	Sec. A : Room A Sec. B: Room B Sec. C: Room G
11:30 -12:45 p.m.	**Box Lunch** Get an energy boost with a box lunch provided by ***Bar/Bri***.	Gazebo
12:45 - 1:30 p.m.	**The Law School Experience** Prof. Larry Levine	Lecture Hall
1:30 - 2:00 p.m.	**Academic Support** Principal Assistant Dean Tim Naccarato	Lecture Hall
2:00 - 2:30 p.m.	**People to Know** Assistant Dean Mary McGuire Dean McGuire will help you put a face to the name of many of the "important people" to know on campus!	Lecture Hall
2:45 - 3:15 p.m.	**Trial Advocacy Presentation** Prof. Jay Leach & Prof. Cary Bricker	Courtroom
3:30 - 4:15 p.m.	**Note Taking in Law School** Prof. Thom Main	Lecture Hall
4:15 - 5:00 p.m.	**A Student Perspective** Panel with Pacific McGeorge students	Sec. A: Room A Sec. B: Room B Sec. C: Room C

EVENING-DIVISION STUDENTS

THURSDAY, AUGUST 14, 2008

Time	Subject	Location
11:45 - 1:00 p.m. (Optional)	**SBA Barbeque with Student Organization Fair** Enjoy some BBQ while you chat with various student organization members sponsored by ***Westlaw***. This is your first opportunity to learn how to get involved with student organizations on campus!	Gazebo
3:15 - 4:45 p.m.	**Ice Cream Social** Cool down with some yummy ice cream and meet more fellow McGeorge students at the Student Center!	Student Center
4:45 – 5:45 p.m. 5:00 - 5:45 p.m.	**SBA Barbeque with Student Organization Fair** Enjoy some BBQ while you chat with various student organization members sponsored by ***Westlaw***. This is your first opportunity to learn how to get involved with student organizations on campus! **Health & Wellness Q&A** Come meet the Director of Cowell Wellness Center Health Services, Kathy Hunter, and listen to her discuss our new mandatory student health insurance policy. Ask questions about the Aetna insurance plan, mental health issues, stress management or just get general wellness information. It is very important that busy law students take good care of themselves and their health!	Gazebo Classroom G
6:00 - 6:45 p.m.	**The Law School Experience** Prof. Larry Levine	Classroom B
6:45 - 7:45 p.m.	**How to Read and Brief Cases in Law School** Prof. Hether Macfarlane & Prof. Stephanie Thompson	Classroom B
7:45 - 8:45 p.m.	**Small Group Discussions – Reading and Briefing Cases in Law School**	Classroom B Classroom A Classroom G Classroom H Classroom S-1
8:45 – 9:00 p.m.	**Academic Success** Principal Assistant Dean Tim Naccarato	Classroom B
9:00 – 9:30 p.m.	**Q & A with Administrators/Faculty/Students** Come ask questions and get answers from those in the know about McGeorge campus culture and student life!	Classroom B

FRIDAY, AUGUST 15, 2008

Time	Subject	Location
2:45 - 3:15 p.m.	**Trial Advocacy Presentation**	Courtroom
3:30 - 4:15 p.m.	**Note Taking in Law School** Prof. Thom Main	Lecture Hall
4:15 - 5:00 p.m.	**A Student Perspective** Panel with Pacific McGeorge students	Lecture Hall
5:00 - 6:00 p.m.	**Box Meal** Get an energy boost with a box lunch provided by ***Bar/Bri***.	Gazebo
6:00 - 6:45 p.m.	**Professional and Academic Responsibility** Prof. John Sprankling	Classroom A
6:45 - 7:15 p.m.	**People to Know** Assistant Dean Mary McGuire Dean McGuire will help you put a face to the name of many of the "important people" to know on campus!	Classroom A
7:30 - 9:30 p.m.	**Case Analysis and Synthesis** (Tunkl v. Regents of the U. of Cal. and Jones v. Dressel) Learn the "secrets" to properly read, analyze, and outline a legal opinion before your classes begin.	Legal Process Sections E-1, E-2, E-3 Classroom A Legal Process Sections E-4, E-5, E-6 Classroom B

1. ASSIGNMENTS FOR ORIENTATION CLASSES

Three of the Orientation classes have specific assignments:

(1) For the class on How to Read and Brief Cases in Law School, read the materials on pages 11-38.

(2) For the class(es) on Case Analysis and Case Synthesis: (a) review the materials on pages 11-38 and (b) use this information to read and brief the two cases on pages 39-48. Briefing these cases will take a substantial amount of time. Do not just say the words to yourself; instead, think actively and creatively about what you are reading (see below). Please bring your case briefs to class.

(3) For the class on Professional and Academic Responsibility, follow the instructions on page 49. Preparation for this class will also consume a substantial amount of time.

There are no assignments for the other presentations.

2. MATERIALS FOR CLASS ON HOW TO READ AND BRIEF CASES IN LAW SCHOOL

Please read the materials provided below:

(A) Getting in a Good Reading Grove, adapted from Ruth Ann McKinney's *Reading Like a Lawyer: Time-Saving Strategies for Reading Like an Expert, pages 12-16.*

(B) The Importance of Briefing Cases, page 17.

(C) Sample Case: <u>People v. Ravenscroft</u>, 198 Cal. App. 3d 639, 243 Cal. Rptr. 827 (2d Dist. 1988), pages 18-21.

(D) Preparing a Case Brief, pages 21-29.

(E) Examples of Case Briefs:

i. Introduction, pages 29-30.

ii. Five Sample Briefs (Good and Bad), pages 30-35.

iii. Discussion of Examples, pages 36-38.

A. Getting in a Good Reading Groove

Legal reading is different than any other type of reading. It is very different than reading a political science or a history textbook that you try to memorize before finals or a Harry Potter book that you are reading for fun. Legal reading requires an intense comprehension and evaluation of every word of every case or of every statute or of any other legal document. You need to ask yourself what every word means and what its significance is to the legal material that you are reading and what its legal significance is to the purpose for which you are reading it.

Developing good legal reading habits takes conscious effort. The best way to develop healthy reading habits in law school is to force yourself to think consciously about what you are reading and how you are reading it. Attached is a Beginner's Reading Checklist. This checklist is designed to introduce you to all of the questions you should ask yourself when reading cases in law school. It is long and too long to use forever on every case you are reading. However, you should use it on at least one case a day in each of your classes for the first few weeks of law school until the questions raised in the Beginner's Reading Checklist are part of your daily reading habits.

Beginners' Reading Checklist[1]

1. Before You Read the Case:

My purpose for reading this case today is:

I have the following amount of time to complete my reading:

I have looked at many of the following external cues to provide me with context for the case:

____ Course Title
____ Table of Contents
____ Course Syllabus
____ Background Reading in Text
____ Section Heading & Sub-heading
____ Other cases in this cluster
____ Notes & Problems
____ Case Name & Citation with particular attention to:
    ____ Level of Court
    ____ Date of the decision
    ____ Jurisdiction of the Court
    ____ Location of the Court
____ Judge's Name & Stature

I am aware of the following internal cues/thoughts because:

____ I have prior knowledge about this area of the law
____ I have prior knowledge about the era or geographical location of decision
____ I have prior knowledge about these facts
____ I have some emotional reactions to this topic or the area or date of decision

1 Adapted from Ruth Ann McKinney, *Reading Like a Lawyer: Time-Saving Strategies for Reading Like an Expert* (Carolina Academic Press 2005).

2. <u>As You Read the Case</u>:

____ I marked sections that made no sense and decided whether to figure them out or move on. If I decided to figure them out, I did the following:

- ____ Made an inference from the content
- ____ Looked up a word in a legal dictionary
- ____ Asked a peer, an upperclass student, or my professor
- ____ Reread the section more carefully
- ____ Read ahead to see if there were cues later in the case
- ____ Paraphrased in my own words, using Plain English
- ____ I asked questions of the opinion's author (the judge) and/or responded to thoughts the judge expressed in the opinion
- ____ Other

____ I visualized the operative conflict facts in living color.

____ I can explain accurately to a layperson how this case wound through the courts.

____ I have modified or affirmed my original hypothesis about this case at various points.

____ I have made up at least one hypothetical to test what I think the rule is in this case.

____ I am still confused about:

____ I feel satisfied about:

____ If there were related "Notes & Problems," I read them and they caused me to also think about:

3. **<u>After Reading the Case</u>:**

I believe the main point of reading this case in the context of this course is to learn:

The main point this case contributes to my coursework is based on the following broader policy considerations or big-picture rationales (why is this result “fair” or a good idea):

If the decision had been mine to make at the time this case was decided, I would:

____ agree

____ disagree

Because:

If the decision was mine to make today (not when the case was decided), I (personally) would:

____ reach a similar result under similar facts

____ reach a different result

Because:

4. After Reading a Cluster of Related Cases and Text:

In addition to the casebook editor's choice of cases themselves, the editor's background information and related Notes & Problems caused me to speculate that the following are common themes in this area of law:

The specific issues/factors/elements are the kind of things a judge would consider if faced with a new conflict arising in this area of law:

Stated succinctly, the majority rule appears to be:

Stated succinctly, alternative rules (if applicable) appear to be:

Stated succinctly, the following exceptions or defenses appear to exist to this rule:

The big-picture policy/fairness reasons for the development of these rules appear to be:

These policy reasons should be balanced against the following potentially conflicting policy/fairness concerns:

B. THE IMPORTANCE OF BRIEFING CASES

What is a case brief? A case brief is your written summary of the facts, issue, rule, reasoning, holding, and the result of the case that you have read. When you brief a case, you need to read the case several times. Every reading brings new insight and understanding. As you read, take notes. Organize your notes into a case brief.

Why brief cases? Briefing allows students to participate fully in the classroom experience, to navigate through the class discussion, and to be prepared to discuss the particulars of an assigned case in detail. Specifically, briefing helps you in at least five ways. First, briefing clarifies your understanding of the case by breaking the case into its component parts. Second, briefs are indispensable in class. Professors often call on students to recite part or all of their briefs. Even if the professor does not ask you to “brief" the case, having a brief at your fingertips gives you the information you need to answer questions and follow the discussion. Third, the briefs you create over the course of the semester contribute to your global understanding of the course – the “big picture." Fourth, your briefs become vital components of the course outline you will compile as you study for final examinations. Fifth, briefing cases will help you develop critical reading, legal analysis, and writing skills: skills you will use throughout your legal career.

Briefing is quite difficult at first. Over time, it becomes easier. As it becomes easier, you will know that you are developing your legal skills. These skills are essential to realizing your potential as a law student and a lawyer. Thus, preparing untold numbers of written briefs can be the single most important learning tool available to you.

C. A SAMPLE CASE

Read the following case carefully.

THE PEOPLE, Plaintiff and Respondent,
v.
WILLIAM MARTIN RAVENSCROFT, Defendant and Appellant

Court of Appeals of California, Second Appellate District

198 Cal. App. 3d 639, 243 Cal. Rptr. 827

February 16, 1988

Overruled in part by *People v. Davis*, 18 Cal. 4th 712, 75 Cal. Rptr. 2d 77 (1998).

STONE, Presiding Justice.

[T]he court below convicted William Martin Ravenscroft of three counts of second degree burglary, among other crimes. Ravenscroft committed the burglaries by surreptitiously stealing and inserting the automatic teller machine (ATM) card of his traveling companion, Barbara Ann Lewis, in two ATM's and punching in her personal identification number, which he had previously noted, on the ATM keypads in order to withdraw funds from her account.

The sole issue on appeal is whether his insertion of Lewis's ATM card in the ATM's, mounted inside the banks and secured flush with the exterior walls of those banks, constitutes a sufficient entry of a building to support a conviction for burglary. We hold that it does and affirm the conviction.

DISCUSSION

It appears that this is a case of first impression. We are called upon to examine the scope of the terms "building" and "entry," for the purpose of California Penal Code section 459, which defines the crime of burglary in this state. Penal Code section 459 states that "[every] person who enters any . . . shop, . . . store, . . . or other building, . . . with intent to commit grand or petit larceny or any felony is guilty of burglary."

The enactment of Penal Code section 459 in 1872 marked the beginning of the liberalization of proof required to obtain a conviction for burglary. At common law, before 1850, conviction for burglary required proof of the breaking and entering of a dwelling house of another in the nighttime with the intent to commit a felony therein. (See Comment, Criminal Law -- Development of the Law of Burglary in California (1951) 25 So. Cal. L. Rev. 75 (hereafter Law of Burglary).) The enactment of Penal Code section 459, and subsequent amendments thereto, eliminated the need to prove all of the common law elements except entry into a building or other structure with larcenous intent. (See Law of Burglary, supra, at pp. 75-76.) Today, the essential definition of this crime in California is an unlawful entry into a building or other structure. (Id., at p. 76.) The meaning of these remaining elements has been broadly construed by the courts.

The requirement of entry into a building or structure

Ravenscroft contends the ATM's he used are not buildings and therefore cannot be the subject of a burglary. He argues they are merely machines which are not enclosed on all four sides and which do not have a roof. He points to *People v. Gibbons,* (1928) 206 Cal. 112 [273 P. 32], as authority for this argument. *Gibbons* is not persuasive.

In *Gibbons*, the defendant took some aluminum from a storage bin which was completely open on one side. The open side faced a fenced yard. (*People v. Gibbons,* supra, 206 Cal. at p. 113.) Even though ". . . in this state the statutory definition of burglary is much more comprehensive than . . . at common law . . . ,'" the majority held that this bin did not come within the purview of Penal Code section 459. (*Id*., at pp. 113-114.)

The *Gibbons* court contrasted that open storage bin with the burglary of a shoe store showcase in *People v. Franco,* (1926) 79 Cal. App. 682 [250 P. 698]. In *Franco*, the defendant broke into a shoe store showcase which lined the walls and sides of an open staircase which led from the sidewalk towards the store entrance. This showcase was outside the store proper and one could not enter it from inside the store. (Id., at p. 684.) The court deemed the entry into the showcase sufficient to support the burglary conviction since the showcase was under the roof of the shoe store and was therefore, in legal effect, a part of the store. (*Ibid*.; see also *People v. Jackson,* (1933) 131 Cal. App. 605, 606-607 [21 P.2d 968], in accord, involving a showcase inside of and attached to the building in which it was housed.)

These ATM's are analogous to the showcases in *Franco* and *Jackson*. They are firmly affixed and attached to the inside of the bank and are covered by the roofs of the banks. The fact that ATM panels contain slots for ATM cards does not render them completely open on one side, like an open storage bin. (See *People v. Gibbons,* supra, 206 Cal. 112.) This ATM panel constitutes a part of the wall of the bank, forming an enclosure far more impervious to entry than structures like telephone booths, which also may be the subject of a burglary. (See *People v. Miller,* (1950) 95 Cal. App.2d 631, 634 [213 P.2d 534]; *People v. Brooks,* (1982) 133 Cal. App.3d 200, 204-206 [183 Cal. Rptr. 773], and cases listed therein.)

The requirement of an entry

Ravenscroft further contends that although his insertion of an ATM card into these ATM's activated the process of obtaining money, it does not constitute an entry under Penal Code section 459 since he did not violate the air space of the bank buildings and because he had no control over the card while it was in the machines. We disagree.

The insertion of an ATM card to effectuate larcenous intent is no less an entry into the air space of a bank as would be the use of any other tool or instrument. Although the California Penal Code does not define "entry" for the purpose of burglary, the California courts have found that a burglary is complete upon the slightest partial entry of any kind, with the requisite intent, even if the intended larceny is neither committed nor even attempted. (*People v. Walters,* (1967) 249 Cal. App. 2d 547, 550-551, [57 Cal. Rptr. 484]; *People v. Osegueda,* (1984) 163 Cal. App. 3d Supp. 25, 31-32 [210 Cal. Rptr. 182]; also see 3 Wharton's Criminal Law (14th ed. 1980) § 334, p. 205.) By pushing Lewis's card into an ATM's slot, the defendant completed the crime. Further control of the card is unnecessary.

Ravenscroft argues that *Walters* and *Osegueda*, supra, should not apply to this case since they involve more traditional violations of air space with more traditional burglars' tools. In *Walters*, the police caught the defendants perched on the roof of a market next to a vent shaft whose lid had been pried off. The vent covered a shaft leading to a grille which was flush with the ceiling of the market's restroom. Various paraphernalia such as pliers, screwdrivers, a crowbar and rope were strewn about. (*People v. Walters,* supra, 249 Cal. App. 2d at p. 550.)

Similarly, in *Osegueda*, the police interrupted the defendants' efforts to bore a hole in the wall of an electronics store after they had removed a section of an outer wall to a café bathroom. A hole saw, hacksaw and a crowbar were nearby (*People v. Osegueda,* supra, 163 Cal. App. 3d at Supp. p. 31.)

The fact that both *Walters* and *Osegueda* involve more traditional methods of burglary is of no moment. The gravamen of burglary is an act of entry, no matter how partial or slight it may be, with an instrument or tool which is appropriate for the particular instance, accompanied by the proper intent. (*People v. Walters,* supra, 249 Cal. App. 2d at pp. 550-551; *People v. Osegueda,* supra, 163 Cal. App. 3d at Supp. pp. 31-32.) One can commit burglary even though the instrument in question is used merely to facilitate entry rather than to complete the larceny. (*Ibid*.) The insertion of a fraudulently obtained ATM card effectuates an entry into a bank's ATM for larceny just as surely as does a crowbar when applied to a vent.

As there is a paucity of California cases which involve an entry analogous to the instant case, we turn to a federal case, *United States v. Gaudy,* (7th Cir. 1986) 792 F.2d 664, whose facts are sufficiently similar so as to be instructive here. In *Gaudy*, the defendant attempted to withdraw money from the account of another at a walk-up window facility located a block away from the main bank building by placing a check into the window of the remote facility. As here, Gaudy contended he did not enter the building within the meaning of the statute. The court rejected Gaudy's claim, holding that the statute's language reflected legislative intent to make it a crime to enter any part of a bank building with the intent to steal. (*United States v. Gaudy,* supra, 792 F.2d at p. 674.) That statute states, in pertinent part: "Whoever enters or attempts to enter any bank, credit union, or any savings and loan association, or any building used in whole or in part as a bank . . . , with intent to commit in such bank . . . or building, or part thereof, so used, any felony affecting such bank . . . or any larceny - [P] Shall be fined not more than $ 5,000 or imprisoned not more than twenty years, or both." (18 U.S.C. § 2113(a).) Ravenscroft asserts that although placing a check into a drive-up window violates the air space of a bank, the insertion of an ATM card into an ATM does not. We disagree. An ATM housed within a bank is, even more than a drive-up facility located a block from a bank, an arm of that bank building. The judgment is affirmed.

GILBERT and ABBE, JJ., concur.

D. PREPARING A CASE BRIEF

The following discussion of case briefing describes the process of creating a case brief using the *Ravenscroft* case you just read.

There are no hard and fast rules about the components of a case brief. Experience indicates, however, that most briefs contain the components discussed below. If your brief lacks one or more of these components, ask yourself why.

There is no "one and only one right way" to organize your brief. Some students put their conclusion first, and follow with the remaining components. Other students--probably the majority--organize their brief into six major sections in the following order: (1) citation, (2) the procedural history of the case, (3) statement of relevant facts, (4) the issue or issues, (5) the court's holding or holdings, and (6) the court's reasoning.

You are a newcomer to the language of the law. As you read cases, you will constantly encounter words you do not know. Don't worry; that's normal. In a year's time these words will be familiar old friends. For the time being, however, they are complete strangers.   Purchase a legal dictionary and keep it handy. Legal dictionaries are also available online. In *Ravenscroft*, for example, the court discusses the crime of burglary and states, "The gravamen of burglary is. . . . " Gravamen? What's that? Don't guess. Look it up. Learning the language of the law is an important part of your first year.

The Components of a Case Brief

The Case Citation

The citation of the case tells you where the case is published in law books called reporters. Armed with nothing more than the citation, you can walk into any law library in America and pull the case off the shelf. Moreover, the citation allows you to find a case online. In your brief, the case citation should include:

- Name of the case: *e.g., People v. Smith* (a criminal case) or *Timmins v. Union Pacific Railroad* (a civil case).

- Reporter information: The name of the reporter (book) in which the case is published; *e.g., Pacific Reporter* (abbreviated P.) or *North Western Reporter*, Second Series (abbreviated N.W.2d). You should include the volume of the reporter where the case appears, along with the page on which the case begins. (You should not include the ending page). The volume number precedes the name of the reporter, and the first page of the case follows the name of the reporter. For example: *State v. Powell*, 957 P.2d 595. *Powell* is in volume 957 of the *Pacific Reporter*, Second Series, beginning at page 595. Finally, you should include the year the case was decided and the court deciding the case. This information is often contained in parentheses at the end of the citation. For example: *State v. Powell*, 957 P.2d 595 (Utah 1998). *Powell* was decided in 1998 by the Utah Supreme Court. A slightly different example: *People v. Ravenscroft*, 198 Cal. App. 3d 639, 243 Cal. Rptr. 827 (2d Dist. 1988). *Ravenscroft* appears in two reporters: *California Appellate Reports*, Third Series, and the *California Reporter*. The name of the first reporter tells you what court decided the case, the appellate court, but it does not tell you which district of the appellate court decided the case. So, both the district of the appellate court and the date of the decision need to be included in the parentheses. You will master citation form in your Legal Process class.

- Include the page of your casebook on which the case begins so you can quickly locate the case in class and easily refer back to it at a later time.

Procedural History

Most of the cases you brief are decisions by appellate courts. Cases start out in trial courts and then are appealed to appellate courts. An appellate case is a decision by a state or federal appellate court such as a state supreme court or a federal circuit court of appeal. Judges of the appellate court decide whether the judge in the trial court made mistakes that require correction. Mistakes--usually called errors--can occur at several points in the procedural life of a case. In some cases, for example, a lawyer files a motion in the trial court *before* the trial begins. A motion is a formal request for a trial judge to decide a particular matter. If the judge decides the matter before a trial takes place, there may be an appeal from the judge's pretrial decision. In rare cases, a judge makes a decision in the midst of trial, and the trial is put on hold while an appeal is taken. However, most appeals are taken from final decisions following a trial.

Your brief should describe the procedural history of the case, including: Who is the plaintiff? Who is the defendant? What type of lawsuit is this? What is the plaintiff trying to accomplish? What action was taken at the trial level? What decision of the trial judge is being appealed? Consider, for example, a defamation lawsuit in which the trial judge grants the defendant's motion for summary judgment. The plaintiff appeals the trial judge's decision, claiming that the trial judge erred in granting summary judgment. In your brief, you might state the procedural history as: "Plaintiff brought suit for damages for defamation. Trial court granted defendant's motion for summary judgment, and plaintiff appeals."

Statement of Relevant Facts

Every court case arises out of an event: an auto accident, a bank robbery, a contract, a dispute over ownership of property. It is standard practice for the appellate judge preparing a decision to describe the "facts of the case." You too must describe the "facts of the case" in your brief. Although this sounds simple enough, it isn't. Correctly articulating the facts of the case is actually one of the most challenging aspects of briefing. The challenge comes in differentiating the facts that are important (relevant) to the outcome of the case from facts that are not. Your "Statement of Relevant Facts" should contain only the facts that played a role in deciding the case. You cannot simply copy the facts from the court's decision into your brief. Judges often embellish their decisions with facts that are not strictly relevant to the outcome of the case. There is no simple test to distinguish relevant from irrelevant facts. With each fact, ask yourself, "Would the case likely have come out differently if this fact were different?" If you answer "Yes," include the fact in your statement of facts. You may not always be correct, of course, especially at the beginning, but practice will improve your skill at distinguishing relevant from irrelevant facts. In *Ravenscroft*, for example, it may be interesting to know that the defendant and the owner of the ATM card were "traveling companions." That fact, however, is not relevant to the outcome of the case. The case would have come out the same way if the defendant and the owner of the card were complete strangers. That being so, your brief probably would not mention the relationship between the defendant and the card owner.

Stating the Issue or Issues on Appeal

At the trial court, the attorneys are responsible for pointing out errors they believe are made by the trial judge. For example, an attorney objects to evidence the attorney believes should not be allowed by the judge. At the end of a trial, the judge instructs the jury on the law the jury must apply to reach a decision. An attorney may object to one or more of the jury instructions. By objecting to evidence, jury instructions, or other matters, an attorney draws the judge's attention to the matter and, if the judge agrees with the lawyer, the judge corrects the error on the spot. If the judge disagrees with the lawyer, the lawyer's objection creates an ***issue*** that may be appealed if the case is decided adversely to the attorney's client.

The work of appellate judges consists largely of deciding ***issues*** that were raised in the trial court, *i.e.*, deciding whether the trial judge made errors that require review by the appellate court. In preparing your case brief, one of the most important tasks is to locate the issue or issues decided by the appellate court. Some cases contain a single issue; other cases contain multiple issues. Sometimes, the appellate court specifies the issue or issues on appeal. For example, the decision may state, "We are called upon to decide the issue of ________" or "The issue before us is __________." In *Ravenscroft*, the appellate court wrote, "The sole issue on appeal is whether his insertion of Lewis' ATM card in the ATM's, mounted inside the banks and secured flush with the exterior walls of those banks, constitutes a sufficient entry of a building to support a conviction of a burglary."

Although appellate judges often state the issue for decision, this is not always the issue the judges actually address or the only issue they address, and you sometimes have to read between the lines to find issues. In addition, what the judge says is “the sole issue" may be inaccurate or incomplete. For example, there were actually two issues in *Ravenscroft*. The first issue concerned whether an ATM machine could be considered "a building," and the second concerned whether inserting an ATM card into that machine could be considered "an entry."

To help locate issues, you may find it useful to complete the following sentence, "In this case the court considered whether _________." Whatever words you use to fill in the blank represent an issue. In *Ravenscroft*, for example, the foregoing statement becomes: "In *Ravenscroft*, the court considered whether <u>insertion of a ATM card into an ATM attached to the side of a bank constitutes an 'entry' for purposes of the crime of burglary</u>." You would follow the same steps to formulate the "building" issue.

Issues arise out of the facts of a case, and your issue statement should reflect those facts. This is not to say that your issue statement is a repetition of your "Statement of Relevant Facts." Rather, your issue statement should reflect the facts that give rise to the issue. Reread the *Ravenscroft* issue statement in the preceding paragraph. Do you see how the legal issue is cast in terms of the facts of the case?

Students who are new to briefing often state the issue too broadly. In *Ravenscroft*, for example, the issue statement: "Was the defendant guilty of burglary?" is too broad. So is, "Did the trial court err in finding defendant guilty of burglary?" The problem with such broad issue statements is that they provide no insight into the specific legal controversy decided by the appellate court. In *Ravenscroft*, for example, one specific issue is whether putting an ATM card in an ATM machine is an entry.

The Court's Holding

The holding is the appellate court's adjudication of the specific issue or issues presented to the appellate court for decision. Generally, the holding is not a statement of general legal principle. Rather, the holding is the appellate court's ruling on the particular issue or issues in that case. In *Ravenscroft*, for example, the court's holding could be stated as follows: "Insertion of an ATM card in an ATM machine mounted inside a bank and secured flush with the exterior wall constitutes an entry for purposes of burglary." Thus, the holding is a case-specific statement of legal principle.

In addition to the holding, or holdings if there is more than one issue, an appellate court makes a specific disposition of the case. The disposition directs future legal action on the case. Most appellate decisions place the disposition at the end of the court's opinion. (If there are concurring or dissenting opinions, the court's disposition appears at the end of the majority opinion). The two most common dispositions made by appellate courts are to affirm the trial court's decision or to reverse the trial court's decision. Although you should note the appellate court's disposition in your brief, do not confuse the court's disposition with the court's holding. The holding is the case-specific legal rule articulated by the court; the disposition merely says what legal action was to occur next in the case.

Also, be careful not to confuse the case-specific holding of a case with the general legal principle employed by the court to *reach* the holding. Appellate court judges resolve issues by applying general legal principles to the facts of specific cases. In *Ravenscroft*, for example, the general legal principle is contained in Section 459 of the California Penal Code, which defines burglary: "Every person who enters any shop, store, or other building, with intent to commit grand or petit larceny or any felony is guilty of burglary." The court applied this general legal principle to the facts of the *Ravenscroft* case to decide whether an ATM machine is a "building" and whether insertion of an ATM card constitutes an "entry" for purposes of burglary. The holding is the court's adjudication of that specific issue.

General Legal Principle: The definition of burglary contained in Section 459 of the California Penal Code: "Every person who enters any shop, store, or other building, with intent to commit grand or petit larceny or any felony is guilty of burglary."

The *Ravenscroft* holdings:

An ATM machine that is mounted firmly to the wall of a bank and is covered by the roof of the bank is a *building* as that term is used in Section 459 of the California Penal Code.

Insertion of an ATM card in an ATM machine mounted inside a bank and secured flush with the exterior wall constitutes an *entry* as that term is used in Section 459 of the California Penal Code.

Ravenscroft stands for the principle that inserting an ATM card into an ATM machine is an entry as that term is used in the statutory definition of burglary. If another case comes along in which a defendant inserted an ATM card into an ATM machine with the intent to commit larceny, *Ravenscroft* will be cited for its *holding* that such conduct is an entry.

The Court's Reasoning

Not only do you need to know *what* the court held, you need to know *why*. What reasoning supports the court's holding? Thorough understanding of the court's reasoning is essential to your comprehension of the case and your ability to apply the court's holding to other fact situations. Suppose, for example, that the class is discussing *Ravenscroft*. The professor describes a hypothetical set of facts. Next, the professor calls on you and asks whether *Ravenscroft* controls the outcome of the hypothetical. Unless you understand how and why the *Ravenscroft* court reached its conclusion, you will be at a loss to respond to the professor's hypothetical. In some cases, the court thoroughly discusses the reasons for its decision. In other cases, the court's analysis is obscure, and you must piece together the court's reasoning and decide for yourself how and why the court arrived at its decision. Your brief needs to include a summary of the court's reasoning.

The Appellate Court's Reliance on Earlier Decisions. Appellate court decisions frequently cite earlier decisions from the same or other courts. Earlier decisions are cited to shed light on the proper resolution of issues and to support the court's reasoning and conclusion. In *Ravenscroft*, for example, the court discusses *People v. Walters* and *People v. Osegueda,* both of which state that a burglary is complete upon the slightest entry of a building.

Analogy. Analogy is defined as similarity in some ways between things that are otherwise different. No two cases are exactly alike, of course, because every case is based on unique facts. Thus, no two contract cases are identical any more than two burglary cases are identical. Despite differences, however, cases that deal with the same subject often share similarities. A judge, lawyer, or law student working to resolve a case draws support from analogous cases, *i.e.,* cases with similar reasoning and/or facts. In *Ravenscroft*, for example, the court supported its conclusion that inserting an ATM card in an ATM machine is an entry by citing *People v. Walters*, in which the *Walters* court ruled that applying a crowbar to a vent is an entry. An ATM card is not a crowbar, but the court found the facts of the two cases both factually and logically similar enough to support the conclusion that *Ravenscroft* should have the same result as *Walters*. During your first year of law school and beyond, you will hone your skill at using analogous cases to support your position.

Your brief does not have to discuss every case cited in the case you are briefing. Sometimes, however, a cited case is particularly important to the court's analysis and reasoning, and, thus, you should devote a sentence or two to summarizing the cited case. Paying attention to cited cases adds to your understanding of the case you are briefing, gives you practice in analogical reasoning, and prepares you in the event the professor asks you about a cited case.

Distinguishing cases. Just as some cases are sufficiently similar to support one another by analogy, other cases are sufficiently *dis*similar that they can be distinguished. A case is distinguishable if it is essentially irrelevant to the case under consideration. For example, the court in *Ravenscroft* distinguished *People v. Gibbons*, a case to which the appellant had tried to analogize his own case. Cases can be distinguished on the facts or the law. Suppose, for example, that you are working on the *Jones* case. Your opponent cites the *Smith* case to support her position in *Jones*. You may seek to distinguish *Smith* in one or both of two ways. First, you may argue that the facts of *Smith* differ so significantly from the facts of *Jones*, that *Smith* has no relevance to *Jones* and is therefore distinguishable. Alternatively, you may argue that, despite factual similarities, the law applicable in *Smith* is not the law applicable in *Jones*, thus distinguishing *Smith* from *Jones*. Which approach did the *Ravenscroft* court use to distinguish *Gibbons*?

Your brief does not have to distinguish every case cited in the decision you are briefing. Learning to distinguish cases is vitally important, however, and you are well advised to practice distinguishing cases on the facts or the law. Moreover, professors frequently ask students to distinguish cases.

Concurring and Dissenting Opinions

A case may include concurring or dissenting opinions, or sometimes both. Although these additional opinions are <u>not</u> law (only the majority opinion is actually the law), you should brief the concurring and dissenting opinions. In particular, document the reasoning employed by the concurring or dissenting judge. Decide whether you agree with the majority, the concurring judge, or the dissenter. Most importantly, be prepared to defend your position in class.

Your Opinion of the Case

Your brief should state whether and why you agree or disagree with the court's holding and reasoning. At this early stage of your legal career, you may wonder, "Isn't is a bit presumptuous of me to criticize the reasoning or conclusion of a group of appellate court judges?" A reasonable question, but our answer is "No." You are now a member of the legal profession, a lawyer in training. It is neither inappropriate nor presumptuous to challenge--in a respectful and courteous way, of course--the reasoning and conclusions of judges, attorneys, fellow students, and teachers. One day, clients will pay you to do just that. Indeed, one of your major goals in law school should be to maximize your skill in thinking clearly, rationally, and incisively about the reasoning and conclusions of others. The only goal more important than clear thinking about what others say is even clearer thinking about your *own* reasoning and conclusions. Get in the habit of critiquing yourself more rigorously than you critique others.

Changes in the law over time

If you were not completely persuaded by the court's reasoning in *Ravenscroft,* you were not alone. You may have noticed that the citation at the beginning of *Ravenscroft* on page 9 includes the words: "*overruled in part by* <u>People v. Davis</u>, 18 Cal. 4th 712, 958 P.2d 1083, 76 Cal. Rptr. 2d 770 (1998)." These words mean that the California Supreme Court decided ten years after *Ravenscroft* that part of the reasoning in *Ravenscroft,* and therefore one of the *Ravenscroft* holdings, was incorrect and should be changed.

In *Davis*, the state charged a man with burglary who had put a forged check into the chute at the walk-up window of a check-cashing business. The defendant appealed his conviction, arguing that his actions had not satisfied the requirements for an "entry." Eventually, the appeal reached the California Supreme Court. In arguing to the Court that the burglary statute applied to these facts, the lawyer for the State asserted that this case was very similar to *Ravenscroft*, and that *Ravenscroft*'s holding on the meaning of “entry" in the statute should therefore apply.

A majority of the Supreme Court disagreed. The Court endorsed *Ravenscroft*'s holding that an "entry" can be committed by using an instrument to violate the air space of a building even if no part of the alleged burglar's body enters the building. However, it rejected the more specific *Ravenscroft* holding that inserting an ATM card into an ATM machine could amount to such an "entry." The Court's decision grew from its view that the purpose of the burglary statute is to protect the occupants of the building from a potentially violent encounter inside that building. Because inserting an ATM card into an ATM outside a building, or putting a piece of paper into a chute that extends from the exterior wall of a building, does not promise a violent encounter inside the building, the Court overruled *Ravenscroft*'s holding that using an ATM card in an ATM machine satisfied the "entry" requirement of the burglary statute.

Davis is an example of how the law changes and develops over time. Different judges view similar sets of facts or the meaning of the same statute differently in different cases, and those different views can and do lead to different outcomes. For example, the decision in *Davis* reflected the view that the statute should not be interpreted so broadly as to cover acts that did not relate in any way to the purpose of the statute. In contrast, the reasoning in *Ravenscroft* began by setting out how the statute had expanded the meaning of burglary over the years to cover crimes that would not have satisfied the common law elements of the crime, which led to a broader interpretation of the terms of the statute.

Finally, if you found the reasoning in *Ravenscroft* to be both clear and persuasive, don't worry that you weren't necessarily critical enough in your initial evaluation of the case. Of the seven members of the California Supreme Court, four endorsed the new rule; however, three of the justices agreed with the reasoning in *Ravenscroft*. We know this because the three justices wrote a *dissenting* opinion, which also appears in the reporters.

Finally, what is very important to understand is that often "the answer" is that there is no one, clear, definititive answer. Instead, there are competing arguments to be made to a judge who will apply the reasoning of the majority opinion in a way that (you hope) benefits your client.

E. EXAMPLES OF CASE BRIEFS

i. Introduction

Here are five examples of briefs. The first two briefs are included to illustrate common errors we have seen in student briefs. The final three briefs were written by students. We have included them to show you that there is no one correct way to write a case brief and that beginning law students are capable of producing good briefs from the beginning of law school. Using the discussion of what should go in a case brief in the previous section as your guide, read over all five briefs. Decide which ones have problems and what those problems are. Think about what changes you would make in each of them to improve them.

Permit us a word about so-called "canned" briefs. In the Pacific McGeorge bookstore and other law school bookstores, you will find books that contain prepared briefs of the cases in your casebook. Although we cannot prevent you from purchasing canned briefs, we can say with conviction that you would be hard-pressed to make a more serious mistake than to rely on canned briefs. Remember that the purpose of briefing cases is not primarily to have a brief for class, the real value of briefing lies in the grueling work of *preparing* the brief, *not* in the finished product. Relying on someone else's brief virtually guarantees that you will achieve a lower level of understanding. A canned brief may prepare you to answer some basic questions during class discussion, but it cannot prepare you for exams, help you learn how to actually do legal analysis on your own, or prepare you for the vast amount of writing you will be called upon to do in law practice.

ii. Five Sample Briefs (Good and Bad)

A. **People v. Ravenscroft**, p. 13

Facts:

Defendant convicted 3 counts burglary. Took ATM card of traveling companion and PIN number and used card.

Issue:

Did defendant commit burglary?

Holding:

Yes.

Reasoning:

Burglary rule: "[every] person who enters any . . . shop, . . . store, . . . or other building, . . . with intent to commit grand or petit larceny or any felony is guilty of burglary."

Case like People v. Franco and People v. Jackson: ATM like showcases. Case not like People v. Gibbons: ATM not like storage bin. Therefore ATM a building.

Case like People v. Walters and People v. Osegueda: ATM card like burglar's tools such as crowbars, pliers, and hacksaws. Also like US v. Gaudy: ATM card like check in check-cashing chute. Therefore using ATM card an entry.

B. **The People v. William Martin Ravenscroft**, Court of Appeals of California, Second Appellate District, 198 Cal. App. 3d 639, 243 Cal. Rptr. 827, February 16, 1988.

Procedural history: Defendant convicted of three counts of second degree burglary, among other crimes.

Relevant facts: Defendant committed the burglaries by surreptitiously stealing and inserting the ATM card of a friend in two ATM's and punching in her PIN, which he had previously noted, to withdraw funds from her account.

Issue: Whether defendant's insertion of the ATM card in the ATMs mounted inside the banks and secured flush with the exterior walls of those banks, constitutes a sufficient entry of a building to support a conviction for burglary.

Holding: Yes. Disposition: Affirmed.

Reasoning: A case of first impression. Penal Code section 459 states that "every person who enters any . . . shop, . . .store, . . . or other building, . . . with intent to commit grand or petit larceny or any felony is guilty of burglary."

Building: Defendant argued ATMs not buildings. Relied on People v. Gibbons about a storage bin that open on one side, which not a building. People v. Franco: shoe store showcase that outside store - court said it under store roof and therefore part of store. People v. Jackson: showcase inside of and attached to the building in which it was housed. ATMs analogous to showcases. They are firmly affixed and attached to the inside of the bank and are covered by the roofs of the banks. ATM slots do not render ATMs completely open on one side, like an open storage bin. ATM panel constitutes a part of the wall of the bank, which also may be the subject of burglary.

Entry: Defendant argued putting ATM card in not entry because he did not violate the air space of the banks and because he had no control over the card while it was in the machines. Court disagrees. Insertion of ATM card to effectuate larcenous intent no less an entry into air space of bank than would be use of any other tool or instrument. Burglary is complete upon the slightest partial entry of any kind, with the requisite intent, even if the intended larceny is neither committed nor even attempted. Pushing card into ATM slot completed crime and no further control of card necessary. Defendant argued card not like traditional burglary tools (pliers, screwdrivers, crowbar, rope, hole saw, hacksaw, etc. - People v. Walters, People v. Osegueda). The gravamen of burglary is an act of entry, no matter how partial or slight it may be, with an instrument or tool which is appropriate for the particular instance. Can commit burglary even though instrument used merely to facilitate entry rather than to complete the larceny. Insertion of a fraudulently obtained ATM card effectuates an entry into a bank's ATM for larceny just as surely as does a crowbar when applied to a vent. Court looked at federal case, US v. Gaudy - defendant attempted to w/draw money from someone else's account at a walk-up window facility a block from main bank building by placing check into window of remote facility. Statute made it crime to enter any part of bank building with intent to steal. Ravenscroft argued that, while placing a check into a drive-up window may have violated the air space of the bank, putting an ATM card into an ATM doesn't. Court disagreed: An ATM housed within a bank is, even more than a drive-up facility located a block from the bank, an arm of that bank building.

C. <u>People v. Ravenscroft</u>, 198 Cal. App. 3d 639, 243 Cal. Rptr. 827 (2d Dist. Ct. App. 1988). <u>Facts</u>: Ravenscroft uses traveling companion's ATM card to w/draw money from her acct. He had previously noted her PIN. <u>P.H.</u>: Trial ct. convicted D of 3 counts of 2nd degree burglary <u>Holding #1</u>: Where D accesses money in bank via ATM machine, which was attached to the building and shared a common roof, the ATM machine was sufficiently attached to the bank to constitute a part of the "building" for purposes of the code. <u>Analysis</u>: Court analogizes ATM to showcases in <u>Franco</u> & <u>Jackson</u> because ATM is, like showcases, firmly attached to inside of bank and it shares the same roof as bank. Contrasts w/ open storage bin in <u>Gibbons</u>; ATM card slot does not constitute opening on one side. ATM machine more a part of the enclosed structure than telephone booths, which may be the subject of burglary. <u>Holding #2</u>: Where D used an ATM card to fraudulently access money of his traveling companion, such use constituted entry for purposes of the penal code because it violated the airspace of the bank and D had no control over card once it was inserted into slot. <u>Analysis</u>: Case law holds that even the slightest partial entry constitutes entry, regardless of whether act completed; placing the card into the ATM is sufficient to complete crime. Ct. rejects D's argument that use of card is not "traditional burglar's tool"; as long as tool appropriate for crime and facilitates entry, burglary has occurred. Ct. cites <u>Gaudy</u>, a federal case in which ct. held that D guilty of burglary where he attempted to w/draw $ from victim's acct. at a walk-up window one block from bank.	[This side is used for class notes on the case].

D. People v. Ravenscroft

198 Cal. App. 3d 639; 243 Cal. Rptr. 827
(2d Dist. Ct. App. 1988)

Procedural History: Convicted of second degree burglary.

Significant Facts: Inserted stolen ATM card into two ATM machines to withdraw funds from account. ATM mounted inside the bank and secured flush with the exterior walls of the bank.

Issue: Whether inserting an ATM card into the ATM constitutes 1) a sufficient **entry** and whether 2) an ATM is a **building** or portion thereof sufficient to support a conviction for burglary, where entry into a building is a required element of the crime.

Holding: Inserting an ATM card into an ATM which is mounted inside a bank and secured flush with the exterior walls of the bank is a sufficient entry of a building to support a conviction for burglary.

Statute/Law: CA Penal Code 459 – "every person who **enters** any . . . shop, . . . store, . . . or other **building**, . . . with intent to commit grand or petit larceny or any felony is guilty of burglary."

Rule(s):
Building: People v. Franco - Since showcase was under roof of shoe store it was, in legal effect, a part of the store. People v. Gibbons: Storage bin which is completely open on one side does not constitute a building for purposes of section 459.
Entry: People v. Walters, People v. Osegueda: Burglary is complete upon the slightest partial entry of any kind, with an appropriate tool or instrument, and with the requisite intent. Once that is accomplished, the intended crime need not be committed nor even attempted. US v. Gaudy: Actual physical entry into the bank is unnecessary to constitute a burglary, insertion of a check into a remote window is sufficient.

Analysis:
Building? Analogizes ATMs to showcases and distinguishes them from open storage bins. Firmly affixed and attached to insides of banks and covered by their roofs. Part of the bank's wall, thus part of structure. A slot for insertion of cards does not render it open.
Entry? Analogizes insertion of ATM card to use of tools, checks and other instruments. Insertion of any instrument which is appropriate to aid in either the entry, the commission of the intended crime, or both, is sufficient to constitute an entry.

E. **People v. Ravenscroft**, Cal. App., 1988, p. ______ (fill in casebook page) (Use of stolen ATM card leads to burglary charge.

Facts: D Ravenscroft stole friend's ATM card and used it to w/draw $ on two occasions at ATM machine on banks' exterior wall.

Issues: Whether the insertion of a stolen ATM card in an ATM, mounted inside the banks and secured flush w/ the exterior walls of those banks, constitutes a sufficient entry of a building to support a burglary conviction.

1) Whether ATM attached to bank's wall is building

2) Whether placing ATM card into ATM slot constitutes entry

Rules: Building under burglary statute includes anything firmly affixed and attached to a building that is under the building's roof. The slightest partial entry of any kind by anything designed to facilitate entry is enough.

Analysis: California statute defines burglary broadly -- requiring intent, entry, and building. Legislative intent for broad definition of the crime.

<u>Building</u>: D argued no building because a ATM open on one side. Relied on <u>Gibbons</u> where storage bin open on one side was determined not to be a building. Ct. relies on <u>Franco</u> & <u>Jackson</u> for proposition that where under a building's roof and affixed to the building, you have a structure that constitutes a building.

<u>Entry</u>: D contended no entry because only had ATM card go into machine -- did not violate bank's airspace and wasn't under D's control while in ATM. Court rejects noting entry committed by partial entry of any kind. Relies on <u>Walters</u> and <u>Osegueda</u> where D's use of burglar tools enough for entry. Court states that anything used to facilitate entry is enough to be partial entry. Analogizes to fed. case -- <u>Gaudy</u> (D places check into drive-up window = entry) -- for broad definition of entry.

Conclusion/Holding: D properly convicted of burglary as there was both a building and an entry.

iii. Discussion of Sample Briefs

The first example, A, shows a brief that is too brief. It is both imprecise in its language and incomplete in its coverage of the case it is briefing. The Issue statement is imprecise. The issues in this case involved whether the facts of the case met the building and entry elements of the burglary statute. If the facts met the elements, then the defendant would have committed burglary, but that bottom-line question was not the precise issue in the case.

In the reasoning section of the brief, the writer does an excellent job of beginning with the language of the statute that applied in the case. However, the brief would have been even better in this respect if the writer had noted that this language is statutory language, which means neither the defendant nor the court can vary the language in any way. Overall, the writer understands that the court reasoned by analogy, but the brief isn't complete in its restatement of the court's reasoning. Using the names of the cases cited by the court as a form of short hand for the reasoning of those cases is not a way to save time when briefing a case. Although the writer may remember the facts of those cases if asked to recite in class the following day, he or she won't be able to remember either the facts or the reasoning of those cases in a week or two when using this brief to prepare an outline. Learning how to draw complete analogies between decided cases and a new case is one of the most important skills you will learn this year, and it can't be learned in a "shorthand" manner. Finally, this kind of analogy is an example of reasoning on a law school exam that is likely to draw the comment "Conclusory" from the professor and a low grade on the exam.

At first glance, the second example, B, appears to solve all of the problems noted in example A. The Issue is precise in highlighting both the entry and building elements of the statute. In the reasoning section, the writer both quotes the Penal Code and notes that the rule is statutory. And the rest of the reasoning seems to be a complete statement of every step of the court's reasoning.

However, example B is an example of a different problem that is common to many first-year law students. If you compare this brief with the language of the case itself, you will see that the brief basically simply copies the words of the case. At this rate, it's a wonder the "brief" is any briefer than the case itself. More importantly, this brief shows that the writer recognizes what language conveys important information in the case, but it doesn't show that the writer understands why that information is important or what it really means. Law students often copy large parts of cases into their briefs because they don't trust their own ability to re-state the case in their own words and keep the meaning the same. The problem is that, unless you can put the case into your words, you don't truly understand it, and you won't be able to use the case as the basis for your own analysis of analogous or dissimilar facts on exams and in law practice. You should resist the temptation to copy from cases, unless you are copying the words of the rule of law the court is applying to the facts of the case.

Examples C, D, and E are all good student briefs. None of them is perfect, but each is a good basis for both class discussion and outlining, and each shows the writer understands the reasoning of the court. Example C is an example of one format for writing a case brief. Leaving space in one column for class notes is an easy way to make sure that you benefit from class discussion. Often, students find that, although they thought they understood the case while reading it, the class discussion increases their understanding or shows them where they misinterpreted the case. Having a space in which to include class notes immediately next to the pertinent part of the brief encourages you to take good notes in class and to think after class about how your understanding of the case has changed and grown because of that discussion.

As for the substance of C, one weakness is that the brief does not contain a statement of the issues in the case. Being able to spot an issue and phrase it is a vital skill that you will be developing this year, so be sure to include an issue statement in each brief you write. On the other hand, notice that the writer includes not just the names of the cases that the court cited in the analysis of the "building" element of the statute, but also the reason why the "buildings" in those cases are like the ATM in this case. The writer will understand the analysis in this case whenever he or she comes back to review the brief and will not have to consult the case again for that purpose. In fact, the brief could omit the names of the cases cited without any loss of clarity. You will rarely, if ever, need to know the name of a case cited in a case in your text; indeed, you will rarely, if ever, need to remember the name of the case in your text itself, so long as you remember the analysis of those facts and can apply that analysis to a completely different set of facts.

In both examples D and E, the writers do a good job of recognizing in the Issue section that there were two elements of the crime at issue, not just one. The court needed to find that both elements of the statute had been met in order to affirm the decision of the trial court; had the court held that the ATM was not a building or inserting the card was not an entry, it would have had to reverse the decision below. Therefore, these two briefs are very useful because they incorporate the two elements as separate elements, both of which needed to be met.

Example D is superior to example E because D quotes the statute; however, E is superior to D because, alone of all the briefs, E includes the court's opening analysis that the statute is meant to be construed broadly. As we noted above, this belief that the statute was to be construed broadly was not shared by the later Davis court, which led to the partial overruling of Ravenscroft. Both D and E include enough of the court's reasoning for the writer to be able to apply that reasoning to a new set of facts. The fact that example D includes the names of the cases cited in Ravenscroft and example E does not include them makes no difference; each of the briefs includes the analogous facts and the reasoning of the Ravenscroft court. Therefore, if including the names of cases cited in the case you are briefing helps you remember the facts and reasoning, by all means include those names. On the other hand, if you can remember the facts of the cited cases without the case names, don't take the time to include them.

Compare the holdings given in both D and E. Here is one place where D is superior to E. The holding stated in D relates the law to the specific facts of the case, which is what a holding should do. In contrast, the holding stated in E is less complete and concentrates more on the bottom-line question of burglary, which is not useful. The writer of D can take this statement of the holdings in the case and can use that statement as the basis for the principles of law for which Ravenscroft stands. Being able to derive a principle of law from a case is one of the primary skills that lawyers must possess, so it pays to begin developing that skill with your very first briefs and to continue to develop it throughout the year in all of your briefs.

One final word about these briefs. An element of a good brief that is missing from all of them is the grounds on which the loser in the court below appealed that decision. This element is missing because the judge who wrote Ravenscroft did not include the grounds for appeal in the opinion. You should always look carefully to find the grounds for the appellant's appeal because the grounds for appeal affect the court's analysis and, ultimately, the principle of law for which that case stands. Almost all the cases you will read this year are appellate cases in which appellate courts have reviewed the actions of trial courts. All appeals are based on arguments that the trial court judge committed some error of law. Perhaps the judge admitted evidence that the defendant believes should not have been admitted. The analysis of the case will revolve around that one piece of evidence, not about the verdict against the defendant, and the principle for which the case will stand will be a principle of evidence. Perhaps the judge granted a motion for summary judgment, but the losing party believes there were unresolved questions of fact that should have prevented the judge from granting the motion. The analysis of the case will revolve around those specific questions of fact, not about whether the plaintiff or the defendant should win the case. The principle of law for which the case stands will tell you something about what facts do or do not satisfy a particular element of the law. Thus, knowing the grounds for the appeal is vital to understanding how and why the court reasoned as it did and to determining the precise principle of law for which a case stands.

Remember, these cases (and briefs) will become your tools, your arguments, to analyze future cases and hypothetical situations. You will be expected to be able to analyze future issues, both on law school exams and in practice, using the same legal principles used and developed in the cases. This kind of analysis is very technical, so do not make the mistake of reading these cases as though they were simply literature.

3. CASES TO BE BRIEFED FOR CLASSES ON CASE ANALYSIS AND CASE SYNTHESIS

A. Olga TUNKL, as Executrix of the Estate of Hugo Tunkl, Deceased, Plaintiff and Appellant, v. The REGENTS OF the UNIVERSITY OF CALIFORNIA, Defendant and Respondent.

Supreme Court of California, In Bank.
60 Cal. 2d 92, 383 P.2d 441, 32 Cal. Rptr. 33

July 9, 1963.

TOBRINER, Justice.

This case concerns the validity of a release from liability for future negligence imposed as a condition for admission to a charitable research hospital. For the reasons we hereinafter specify, we have concluded that an agreement between a hospital and an entering patient affects the public interest and that, in consequence, the exculpatory provision included within it must be invalid under Civil Code section 1668.

Hugo Tunkl brought this action to recover damages for personal injuries alleged to have resulted from the negligence of two physicians in the employ of the University of California Los Angeles Medical Center, a hospital operated and maintained by the Regents of the University of California as a nonprofit charitable institution. Mr. Tunkl died after suit was brought, and his surviving wife, as executrix, was substituted as plaintiff.

The University of California at Los Angeles Medical Center admitted Tunkl as a patient on June 11, 1956. The Regents maintain the hospital for the primary purpose of aiding and developing a program of research and education in the field of medicine; patients are selected and admitted if the study and treatment of their condition would tend to achieve these purposes. Upon his entry to the hospital, Tunkl signed a document setting forth certain "Conditions of Admission." The crucial condition number six reads as follows: "RELEASE: The hospital is a nonprofit, charitable institution. In consideration of the hospital and allied services to be rendered and the rates charged therefor, the patient or his legal representative agrees to and hereby releases The Regents of the University of California, and the hospital from any and all liability for the negligent or wrongful acts or omissions of its employees, if the hospital has used due care in selecting its employees."

Plaintiff stipulated that the hospital had selected its employees with due care. The trial court ordered that the issue of the validity of the exculpatory clause be first submitted to the jury and that, if the jury found that the provision did not bind plaintiff, a second jury try the issue of alleged malpractice. When, on the preliminary issue, the jury returned a verdict sustaining the validity of the executed release, the court entered judgment in favor of the Regents. [FN1] Plaintiff appeals from the judgment.

> FN1. Plaintiff at the time of signing the release was in great pain, under sedation, and probably unable to read. At trial plaintiff contended that the release was invalid, asserting that a release does not bind the releasor if at the time of its execution he suffered from so weak a mental condition that he was unable to comprehend the effect of his act. The jury, however, found against plaintiff on this issue. Since the verdict of the jury established that plaintiff either knew or should have known the significance of the release, this appeal raises the sole question of whether the release can stand as a matter of law.

We shall first set out the basis for our prime ruling that the exculpatory provision of the hospital's contract fell under the proscription of Civil Code section 1668; we then dispose of two answering arguments of defendant.

We begin with the dictate of the relevant Civil Code section 1668. The section states: "All contracts which have for their object, directly or indirectly, to exempt anyone from responsibility for his own fraud, or willful injury to the person or property of another, or violation of law, whether willful or negligent, are against the policy of the law."

The course of section 1668, however, has been a troubled one. Although, as we shall explain, the decisions uniformly uphold its prohibitory impact in one circumstance, the courts' interpretations of it have been diverse. Some of the cases have applied the statute strictly, invalidating any contract for exemption from liability for negligence. The recent case of Mills v. Ruppert (1959) 167 Cal. App. 2d 58, 62-63, 333 P.2d 818; however, apparently limits "(N)egligent * * * violation of law" exclusively to statutory law. Other cases hold that the statute prohibits the exculpation of gross negligence only; still another case states that the section forbids exemption from active as contrasted with passive negligence.

In one respect, as we have said, the decisions are uniform. The cases have consistently held that the exculpatory provision may stand only if it does not involve "the public interest." [FN2]

> FN2. The view that the exculpatory contract is valid only if the public interest is not involved represents the majority holding in the United States. Only New Hampshire, in definite opposition to the "public interest" test, categorically refuses to enforce exculpatory provisions.

If, then, the exculpatory clause which affects the public interest cannot stand, we must ascertain those factors or characteristics which constitute the public interest. The social forces that have led to such characterization are volatile and dynamic. No definition of the concept of public interest can be contained within the four corners of a formula. The concept, always the subject of great debate, has ranged over the whole course of the common law; rather than attempt to prescribe its nature, we can only designate the situations in which it has been applied. We can determine whether the instant contract does or does not manifest the characteristics which have been held to stamp a contract as one affected with a public interest.

In placing particular contracts within or without the category of those affected with a public interest, the courts have revealed a rough outline of that type of transaction in which exculpatory provisions will be held invalid. Thus the attempted but invalid exemption involves a transaction which exhibits some or all of the following characteristics. It concerns a business of a type generally thought suitable for public regulation. The party seeking exculpation is engaged in performing a service of great importance to the public, which is often a matter of practical necessity for some members of the public. The party holds himself out as willing to perform this service for any member of the public who seeks it, or at least for any member coming within certain established standards. As a result of the essential nature of the service, in the economic setting of the transaction, the party invoking exculpation possesses a decisive advantage of bargaining strength against any member of the public who seeks his services. In exercising a superior bargaining power the party confronts the public with a standardized adhesion contract of exculpation, and makes no provision whereby a purchaser may pay additional reasonable fees and obtain protection against negligence. Finally, as a result of the transaction, the person or property of the purchaser is placed under the control of the seller, subject to the risk of carelessness by the seller or his agents.

While obviously no public policy opposes private, voluntary transactions in which one party, for a consideration, agrees to shoulder a risk which the law would otherwise have placed upon the other party, the above circumstances pose a different situation. In this situation the releasing party does not really acquiesce voluntarily in the contractual shifting of the risk, nor can we be reasonably certain that he receives an adequate consideration for the transfer. Since the service is one which each member of the public, presently or potentially, may find essential to him, he faces, despite his economic inability to do so, the prospect of a compulsory assumption of the risk of another's negligence. The public policy of this state has been, in substance, to posit the risk of negligence upon the actor; in instances in which this policy has been abandoned, it has generally been to allow or require that the risk shift to another party better or equally able to bear it, not to shift the risk to the weak bargainer.

In the light of the decisions, we think that the hospital-patient contract clearly falls within the category of agreements affecting the public interest. To meet that test, the agreement need only fulfill some of the characteristics above outlined; here, the relationship fulfills all of them. Thus the contract of exculpation involves an institution suitable for, and a subject of, public regulation. That the services of the hospital to those members of the public who are in special need of the particular skill of its staff and facilities constitute a practical and crucial necessity is hardly open to question.

The hospital, likewise, holds itself out as willing to perform its services for those members of the public who qualify for its research and training facilities. While it is true that the hospital is selective as to the patients it will accept, such selectivity does not negate its public aspect or the public interest in it. The hospital is selective only in the sense that it accepts from the public at large certain types of cases which qualify for the research and training in which it specializes. But the hospital does hold itself out to the public as an institution which performs such services for those members of the public who can qualify for them.

In insisting that the patient accept the provision of waiver in the contract, the hospital certainly exercises a decisive advantage in bargaining. The would-be patient is in no position to reject the proffered agreement, to bargain with the hospital, or in lieu of agreement to find another hospital. The admission room of a hospital contains no bargaining table where, as in a private business transaction, the parties can debate the terms of their contract. As a result, we cannot but conclude that the instant agreement manifested the characteristics of the so-called adhesion contract. Finally, when the patient signed the contract, he completely placed himself in the control of the hospital; he subjected himself to the risk of its carelessness.

In brief, the patient here sought the services which the hospital offered to a selective portion of the public; the patient, as the price of admission and as a result of his inferior bargaining position, accepted a clause in a contract of adhesion waiving the hospital's negligence; the patient thereby subjected himself to control of the hospital and the possible infliction of the negligence which he had thus been compelled to waive. The hospital, under such circumstances, occupied a status different than a mere private party; its contract with the patient affected the public interest. We see no cogent current reason for according to the patron of the inn a greater protection than the patient of the hospital; we cannot hold the innkeeper's performance affords a greater public service than that of the hospital.

We turn to a consideration of the two arguments urged by defendant to save the exemptive clause. Defendant first contends that while the public interest may possibly invalidate the exculpatory provision as to the paying patient, it certainly cannot do so as to the charitable one. Defendant secondly argues that even if the hospital cannot obtain exemption as to its "own" negligence it should be in a position to do so as to that of its employees. We have found neither proposition persuasive.

As to the first, we see no distinction in the hospital's duty of due care between the paying and nonpaying patient. The duty, emanating not merely from contract but also tort, imports no discrimination based upon economic status. To immunize the hospital from negligence as to the charitable patient because he does not pay would be as abhorrent to medical ethics as it is to legal principle.

Defendant's second attempted distinction, the differentiation between its own and vicarious liability, strikes a similar discordant note. In form defendant is a corporation. In everything it does, including the selection of its employees, it necessarily acts through agents. A legion of decisions involving contracts between common carriers and their customers, public utilities and their customers, bailees and bailors, and the like, have drawn no distinction between the corporation's "own" liability and vicarious liability resulting from negligence of agents. We see no reason to initiate so far-reaching a distinction now.

We must note, finally, that the integrated and specialized society of today, structured upon mutual dependency, cannot rigidly narrow the concept of the public interest. From the observance of simple standards of due care in the driving of a car to the performance of the high standards of hospital practice, the individual citizen must be completely dependent upon the responsibility of others. The fabric of this pattern is so closely woven that the snarling of a single thread affects the whole. We cannot lightly accept a sought immunity from careless failure to provide the hospital service upon which many must depend. Even if the hospital's doors are open only to those in a specialized category, the hospital cannot claim isolated immunity in the interdependent community of our time. It, too, is part of the social fabric, and prearranged exculpation from its negligence must partly rend the pattern and necessarily affect the public interest.

The judgment is reversed.

GIBSON, C. J., and TRAYNOR, SCHAUER, McCOMB, PETERS, and PEEK, JJ., concur.

B. **William Michael JONES, Petitioner,**

v.

Cecil D. DRESSEL, Zita A. Dressel, Robert L. Clark, Flightcraft, Inc., and Free Flight Sport Aviation, Inc., Respondents.

Supreme Court of Colorado, En Banc
623 P.2d 370

Jan. 5, 1981.
As Modified on Denial of Rehearing Feb. 23, 1981.

ERICKSON, Justice.

We granted certiorari to review the decision in Jones v. Dressel, 40 Colo. App. 459, 582 P.2d 1057 (1978). In an action for damages by the plaintiff for personal injuries sustained in an airplane crash, the trial court granted the defendants' motion for partial summary judgment. Summary judgment was based upon the execution of an exculpatory agreement which the court held insulated the defendants from liability for simple negligence involving the crash of an airplane. A claim alleging willful and wanton negligence is at issue in the trial court. The court of appeals affirmed. We affirm the court of appeals.

On November 17, 1973, the plaintiff, William Michael Jones, who was then seventeen years old, signed a contract with the defendant, Free Flight Sport Aviation, Inc. (Free Flight). The contract allowed Jones to use Free Flight's recreational skydiving facilities, which included use of an airplane to ferry skydivers to the parachute jumping site. A covenant not to sue and a clause exempting Free Flight from liability were included in the contract:

"2A. EXEMPTION FROM LIABILITY. The (plaintiff) exempts and releases the Corporation, its, owners, officers, agents, servants, employees, and lessors from any and all liability, claims, demands or actions or causes of action whatsoever arising out of any damage, loss or injury to the (plaintiff) or the (plaintiff's) property while upon the premises or aircraft of the Corporation or while participating in any of the activities contemplated by this Agreement, whether such loss, damage, or injury results from the negligence of the Corporation, its officers, agents, servants, employees, or lessors or from some other cause."

On December 28, 1973, Jones attained the age of eighteen. Ten months later, on October 19, 1974, he suffered serious personal injuries in an airplane crash which occurred shortly after takeoff from Littleton Airport. Free Flight furnished the airplane as part of its skydiving operation.

On November 21, 1975, nearly two years after attaining his majority, Jones filed suit against Free Flight alleging negligence and willful and wanton misconduct as the cause of the airplane crash. The defendants included the owners and operators of the airplane, the airport, and Free Flight. Based upon the exculpatory agreement, the trial court granted summary judgment in favor of the defendants. The court of appeals affirmed the trial court.

Jones asserts that the exculpatory agreement is void as a matter of public policy.

I.
Summary Judgment

Summary judgment is only granted if the pleadings, admissions, depositions, answers to interrogatories, and affidavits establish that no genuine issue exists as to any material fact and judgment should be entered as a matter of law. C.R.C.P. 56(c). It is, however, a drastic remedy, and should only be granted upon a clear showing that there is no genuine issue as to any material fact. Ginter v. Palmer and Company, 196 Colo. 203, 585 P.2d 583 (1978). In determining whether summary judgment is proper, the trial court must resolve all doubts as to whether an issue of fact exists against the moving party. United States v. Diebold, 369 U.S. 654, 82 S. Ct. 993, 8 L. Ed.2d 176 (1962); Ginter v. Palmer, supra. However, the existence of a difficult or complicated question of law, when there is no issue as to the facts, is not a bar to summary judgment. Ammons v. Franklin Life Insurance Company, 348 F.2d 414 (5th Cir. 1965).

Consequently, our review of the order granting summary judgment necessarily involves a determination of whether a genuine issue as to any material fact exists which would foreclose the defendants from obtaining summary judgment as a matter of law.

***

III.
The Contract

Jones' assertion that his contract with Free Flight is void as a matter of public policy, raises two issues: (A) whether the contract with Free Flight is an adhesion contract; and (B) the validity of the exculpatory provisions of the contract. Our consideration of the two issues necessarily involves a determination, as a matter of law, whether summary judgment was properly granted based upon the undisputed facts in this case.

A.
Adhesion Contract

An adhesion contract is a contract drafted unilaterally by a business enterprise and forced upon an unwilling and often unknowing public for services that cannot readily be obtained elsewhere. See Chandler v. Aero Mayflower Transit Company, 374 F.2d 129 (1967); A. Ehrenzweig, Adhesion Contracts in the Conflict of Laws, 53 Col. L. Rev. 1072. An adhesion contract is generally not bargained for, but is imposed on the public for a necessary service on a take or leave it basis. See generally Clinic Masters v. District Court, 192 Colo. 120, 556 P.2d 473 (1976).

In Clinic Masters v. District Court, supra, this Court stated that even though a contract is a printed form and offered on a "take-it-or-leave-it" basis, those facts alone do not cause it to be an adhesion contract. There must be a showing "that the parties were greatly disparate in bargaining power, that there was no opportunity for negotiation, or that (the) services could not be obtained elsewhere." Id. at 124, 556 P.2d 473.

We conclude that the record in the instant case supports the trial court's determination that the contract between Jones and Free Flight was not an adhesion contract as a matter of law.

We also agree with the court of appeals' conclusion that nothing in the record establishes a disparity in bargaining power, or that the services provided by Free Flight could not be obtained elsewhere.

B.
The Exculpatory Provisions

Jones asserts that the exculpatory agreement is void as a matter of public policy. We disagree. The defendants contend that Barker v. Colorado Region, 35 Colo. App. 73, 532 P.2d 372 (1974), is dispositive of the issue of the validity of the exculpatory agreement. In Barker, the court of appeals held that an exculpatory clause in a contract relating to recreational activities will be given effect where the intention of the parties is expressed in sufficiently clear and unequivocal language and does not fall within any of the categories where the public interest is directly involved.

Jones, however, claims that summary judgment should not have been granted * * * because exculpatory agreements must be strictly construed against the party seeking exemption, the agreement here does not insulate the defendants from liability for negligence in connection with a crash that occurred prior to the time that Jones made a parachute jump. * * *

The determination of the sufficiency and validity of an exculpatory agreement is a question of law for the court to determine. Product Research Association v. Pacific Tel. & Tel. Company, 16 Cal. App. 3d 651, 94 Cal. Rptr. 216 (1971). Generally, an issue relating to the validity of an exculpatory agreement does not preclude the entry of summary judgment.

An exculpatory agreement, which attempts to insulate a party from liability from his own negligence, must be closely scrutinized, and in no event will such an agreement provide a shield against a claim for willful and wanton negligence. Barker v. Colorado Region, supra. In determining whether an exculpatory agreement is valid, there are four factors which a court must consider: (1) the existence of a duty to the public; (2) the nature of the service performed; (3) whether the contract was fairly entered into; and (4) whether the intention of the parties is expressed in clear and unambiguous language. See Rosen v. LTV Recreational Development, Inc., 569 F.2d 1117 (10th Cir. 1978).

Measured against the four factors which determine the validity of an exculpatory agreement, we conclude that the trial court correctly held, as a matter of law, that the exculpatory agreement was valid. Therefore, the granting of defendants' motion for summary judgment was not error.

The duty to the public factor is not present in this case. In Tunkl v. Regents of University of California, 60 Cal.2d 92, 32 Cal. Rptr. 33, 383 P.2d 441 (1963), the California Supreme Court stated:

> "In placing particular contracts within or without the category of those affected with a public interest, the courts have revealed a rough outline of that type of transaction in which exculpatory provisions will be held invalid. Thus the attempted but invalid exemption involves a transaction which exhibits some or all of the following characteristics. It concerns a business of a type generally thought suitable for public regulation. The party seeking exculpation is engaged in performing a service of great importance to the public, which is often a matter of practical necessity for some members of the public. The party holds himself out as willing to perform this service for any member of the public who seeks it, or at least for any member coming within certain established standards. As a result of the essential nature of the service, in the economic setting of the transaction, the party invoking exculpation possesses a decisive advantage of bargaining strength against any member of the public who seeks his services. In exercising a superior bargaining power the party confronts the public with a standardized adhesion contract of exculpation, and makes no provision whereby a purchaser may pay additional reasonable fees and obtain protection against negligence. Finally, as a result of the transaction, the person or property of the purchaser is placed under the control of the seller, subject to the risk of carelessness by the seller or his agents." Id. 32 Cal. Rptr. at 36, 383 P.2d at 444.

In light of the foregoing factors, we conclude that the contract between Jones and Free Flight does not fall within the category of agreements affecting the public interest.

While it is not necessary for a contract to embody all of the characteristics set forth in Tunkl, supra, to meet the test, we conclude that an insufficient number of these characteristics are present in the instant case to establish that the contract between Jones and Free Flight affected the public interest. The service provided by Free Flight was not a matter of practical necessity for even some members of the public; because the service provided by Free Flight was not an essential service, it did not possess a decisive advantage of bargaining strength over Jones; and the contract was not an adhesion contract.

Finally, in our consideration of the remaining factors that must be reviewed in considering the validity of an exculpatory agreement, we note that there was no disagreement between the parties that the contract was fairly entered into. Likewise, the agreement expressed the parties' intention in clear and unambiguous language; the contract used the word "negligence" and specifically included injuries sustained "while upon the aircraft of the Corporation."

We conclude that the exculpatory agreement was not void as a matter of public policy, and that there was no genuine issue as to any material fact.

Accordingly, the trial court properly granted a partial summary judgment on the simple negligence issue and we, therefore, affirm the decision of the court of appeals.

4. MATERIALS FOR CLASS ON PROFESSIONAL AND ACADEMIC RESPONSIBILITY

A. INSTRUCTIONS

This assignment consists of some *questions*, one *problem*; and several *readings*. It is suggested that you take the following steps in preparing this assignment:

1. Read the *questions* and write down your immediate answers.

2. Study the *problem* and consider whether your answers to the *questions* indicate solutions to the *problem*.

3. Study the *readings.* Analyze the *problem* in the light of the *readings*. Your analysis should consist of:

   (a) a statement of the issues raised by the *problem*;

   (b) a statement of the rule (or competing rules) that appears to govern each issue, including explicit references to parts of the *readings* that support your statement;

   (c) an analysis of the facts of the *problem* in the light of those rules; and

   (d) your conclusions.

QUESTIONS

1. Should <u>lawyers</u> be held to standards of conduct that are distinct from the standards that apply to other people?

   ( ) YES ( ) NO

2. Please list the main reasons for your answer to Question 1:

____

____

____

3. Assuming a "yes" answer to Question 1, what are some of the distinctive standards of conduct that you believe should apply to lawyers?

____

4. Should law students be held to standards of conduct that are distinct from the standards that apply to other people?

   ( ) YES ( ) NO

5. Please list the main reasons for your answer to Question 4:

6. Assuming a "yes" answer to Question 4, what are some of the distinctive standards of conduct that you believe should apply to law students?

B. PROBLEM

In 1988 Alex hurt his back in a car accident. He sued the other driver and recovered damages, including a substantial sum for his injured back.

In 1992 Alex was again hurt in a car accident. Alex retained Attorney Brian to sue the other driver, Carl, on Alex's behalf. Brian filed a civil action for damages against Carl, alleging that Alex's back was injured as a result of the collision.

Using the rules for "discovery" in civil cases, Carl's attorney requested Alex to answer in writing under oath some "interrogatories." One of the interrogatories asked, "did you ever have trouble with your back before this collision?" The answer--prepared by Brian and signed and sworn to by Alex--was, "no." (Assume that by swearing to this false answer Alex committed the crime of perjury.)

In 1993 Attorney Brian became sick and had to refer out a number of his cases. Alex's case was referred to Attorney Diana. Following her usual practice in new matters, Diana checked court records for prior litigation involving her client and learned about Alex's 1988 injury and lawsuit. Diana advised Alex that she would prepare an amended answer to the interrogatory in which Alex's prior back injury would be disclosed. Alex replied, "If that's what you want to do, I shall have to find another lawyer. I want a lawyer who will fight for me tooth and nail. Why are you so picky, anyway? Brian said that sometimes one must shade the truth in order to achieve justice."

Two days later, Diana received a letter from Attorney Edwin, saying that he had been retained to represent Alex in the case against Carl and requesting Diana to send over the case file.

Diana is considering taking one or more of the following actions: (1) telling the whole story to Edwin; (2) telling the whole story to Carl's attorney and the judge to whom the case of *Alex v. Carl* is assigned; (3) reporting Alex to the District Attorney's office, which has responsibility for prosecuting perjury cases; (4) reporting Brian to the

Grievance Committee of the State Bar, which has responsibility for disciplining lawyers who violate the rules of professional responsibility; or (5) saying nothing to anyone.

Advise Diana.

C. ROBERTS v. UNITED STATES, 445 U.S. 552, 100 S. Ct. 1358, 63 L. Ed. 2d 622 (1980)

Mr. Justice POWELL delivered the opinion of the Court.

[Roberts pleaded guilty to a federal crime involving drug trafficking. Within a range of sentencing alternatives, the judge imposed a severe sentence because Roberts refused to tell federal investigators the names of his suppliers. Was this a proper basis for imposing more severe punishment? The Supreme Court majority held that it was. Most of the opinion deals with technical issues under the sentencing law. However, the opinion briefly discusses the broader question of citizens' duty to report crimes, as follows:]

* * * Concealment of crime has been condemned throughout our history. The citizen's duty to "raise the 'hue and cry' and report felonies to the authorities," *Branzburg v. Hayes*, 408 U.S. 665, 696, 92 S. Ct. 2646, 2664, 33 L. Ed.2d 626 (1972), was an established tenet of Anglo-Saxon law at least as early as the 13th century. 2 W. Holdsworth, History of English Law 101-102 (3d ed. 1927); 4 *id*., at 521-522; see Statute of Westminster First, 3 Edw. 1, ch. 9, p. 43 (1275); Statute of Westminster Second, 13 Edw. 1, chs. 1, 4, and 6, pp. 112-115 (1285). The first Congress of the United States enacted a statute imposing criminal penalties upon anyone who, "having knowledge of the actual commission of [certain felonies,] shall conceal, and not as soon as may be disclose and make known the same to [the appropriate] authority . . . ." Act of Apr. 30, 1790, 6, 1 Stat. 113. [2] Although the term "misprision of felony" now has an archaic ring, gross indifference to the duty to report known criminal behavior remains a badge of irresponsible citizenship. * * *

[2] The statute, as amended, is still in effect. 18 U.S.C. § 4. It has been construed to require "both knowledge of a crime and some affirmative act of concealment or participation." See *Branzburg v. Hayes*, 408 U.S. 665, 696, n. 36, 92 S. Ct. 2646, 2664, n. 36, 33 L. Ed.2d 626 (1972). [Footnote by the Court.]

Mr. Justice MARSHALL, dissenting.

* * * The Court refers to the ancient offense of misprision of felony, but as its own discussion shows, petitioner could not have been punished under 18 U.S.C. § 4. The Government has never contended that petitioner's behavior was other than lawful. A discussion of the continued vitality of laws making it a crime to fail to report criminal behavior is unnecessary to this case; I observe only that such laws have fallen into virtually complete disuse, a development that reflects a deeply rooted social perception that the general citizenry should not be forced to participate in the enterprise of crime detection. See Note, 27 Hastings L.J. 175, 181-187 (1975); Note, 23 Emory L.J. 1095 (1974). Cf. Glazebrook, Misprision of Felony--Shadow or Phantom?, 8 Am. J. Legal Hist. 189, 283 (1964). As Mr. Chief Justice Marshall stated: "It may be the duty of a citizen to accuse every offender, and to proclaim every offense which comes to his knowledge; but the law which would punish him in every case for not performing this duty is too harsh for man." *Marbury v. Brooks*, 7 Wheat. 556, 575-576, 5 L .Ed. 552 (1822).

D. MODEL RULES OF PROFESSIONAL CONDUCT PREFACE AND PREAMBLE

American Bar Association, 1983

For seventy-five years, the American Bar Association has provided leadership in legal ethics and professional responsibility through the adoption of professional standards which serve as models of the regulatory law governing the legal profession. On August 27, 1908, the Association adopted the original *Canons of Professional Ethics.* These were based principally on the *Code of Ethics* adopted by the Alabama Bar Association in 1887, which in turn had been borrowed largely from the lectures of Judge George Sharswood, published in 1854 under the title of *Professional Ethics*, and from the fifty resolutions included in David Hoffman's *A Course of Legal Study* (2d ed. 1836). * * *

In 1964 * * * the American Bar Association created a Special Committee on Evaluation of Ethical Standards * * * to assess whether changes should be made in the then current *Canons of Professional Ethics.* As a result of its deliberations, the Committee produced the *Model Code of Professional Responsibility* in response to a perceived need for change in the statement of professional principles for lawyers. The *Model Code* was adopted by the House of Delegates on August 12, 1969, and subsequently was adopted by the vast majority of state and federal jurisdictions.

In 1977, the American Bar Association created the Commission on Evaluation of Professional Standards to undertake a comprehensive rethinking of the ethical premises and problems of the profession of law. Upon evaluating the *Model Code* and determining that amendment of the *Code* would not achieve a comprehensive statement of the law governing the legal profession, the Commission commenced a six-year study and drafting process which produced the *Model Rules of Professional Conduct.* The *Model Rules* were adopted by the House of Delegates of the American Bar Association on August 2, 1983.[1] * * *

[1] Almost all of the states have now adopted the Model Rules of Professional Conduct (amended 1997)-often with significant amendment. 2 Geoffrey C. Hazard, Jr. & W. William Hodes, *The Law of Lawyering: A Handbook on the Rules of Professional Conduct* § AP4:107 at 1269-71 (Supp. 1998); American Bar Association, *Compendium of Professional Responsibility: Rules and Standards* 517-18 (1997). [Ed.]

Preamble: A Lawyer's Responsibilities

A lawyer is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice.

As a representative of clients, a lawyer performs various functions. As advisor, a lawyer provides a client with an informed understanding of the client's legal rights and obligations and explains their practical implications. As advocate, a lawyer zealously asserts the client's position under the rules of the adversary system. As negotiator, a lawyer seeks a result advantageous to the client but consistent with requirements of honest dealing with others. As intermediary between clients, a lawyer seeks to reconcile their divergent interests as an advisor and, to a limited extent, as a spokesperson for each client. A lawyer acts as evaluator by examining a client's legal affairs and reporting about them to the client or to others.

In all professional functions a lawyer should be competent, prompt and diligent. A lawyer should maintain communication with a client concerning the representation. A lawyer should keep in confidence information relating to representation of a client except so far as disclosure is required or permitted by the Rules of Professional Conduct or other law.

A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. A lawyer should use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process.

As a public citizen, a lawyer should seek improvement of the law, the administration of justice and the quality of service rendered by the legal profession. As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law and work to strengthen legal education. A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance, and should therefore devote professional time and civic influence in their behalf. A lawyer should aid the legal profession in pursuing these objectives and should help the bar regulate itself in the public interest.

Many of a lawyer's professional responsibilities are prescribed in the Rules of Professional Conduct, as well as substantive and procedural law. However, a lawyer is also guided by personal conscience and the approbation of professional peers. A lawyer should strive to attain the highest level of skill, to improve the law and the legal profession and to exemplify the legal profession's ideals of public service.

A lawyer's responsibilities as a representative of clients, an officer of the legal system and a public citizen are usually harmonious. Thus, when an opposing party is well represented, a lawyer can be a zealous advocate on behalf of a client and at the same time assume that justice is being done. So also, a lawyer can be sure that preserving client confidences ordinarily serves the public interest because people are more likely to seek legal advice, and thereby heed their legal obligations, when they know their communications will be private.

In the nature of law practice, however, conflicting responsibilities are encountered. Virtually all difficult ethical problems arise from conflict between a lawyer's responsibilities to clients, to the legal system and to the lawyer's own interest in remaining an upright person while earning a satisfactory living. The Rules of Professional Conduct prescribe terms for resolving such conflicts. Within the framework of these Rules many difficult issues of professional discretion can arise. Such issues must be resolved through the exercise of sensitive professional and moral judgment guided by the basic principles underlying the Rules. * * *

E. EXCERPTS FROM DISCIPLINARY RULES OF MODEL CODE OF PROFESSIONAL RESPONSIBILITY American Bar Association, 1969, as amended

DR 1-102. Misconduct

(A) A lawyer shall not:

(1) Violate a Disciplinary Rule.

(2) Circumvent a Disciplinary Rule through actions of another.

(3) Engage in illegal conduct involving moral turpitude.

(4) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.

(5) Engage in conduct that is prejudicial to the administration of justice.

(6) Engage in any other conduct that adversely reflects on his fitness to practice law.

DR 1-103. Disclosure of Information to Authorities.

(A) A lawyer possessing unprivileged knowledge of a violation of DR 1-102 shall report such knowledge to a tribunal or other authority empowered to investigate or act upon such violation. * * *

DR 4-101. Preservation of Confidences and Secrets of a Client

(A) "Confidence" refers to information protected by the attorney-client privilege under applicable law, and "secret" refers to other information gained in the professional relationship that the client has requested be held inviolate or the disclosure of which would be embarrassing or would be likely to be detrimental to the client.

(B) Except when permitted under DR 4-101(C), a lawyer shall not knowingly:
(1) Reveal a confidence or secret of his client. * * *

(C) A lawyer may reveal:

* * *

(2) Confidences or secrets when permitted under Disciplinary Rules or required by law or court order.

(3) The intention of his client to commit a crime and the information necessary to prevent the crime. * * *

DR 7-102. Representing a Client Within the Bounds of the Law

(A) In his representation of a client, a lawyer shall not:

* * *

(4) Knowingly use perjured testimony or false evidence.

* * *

(7) Counsel or assist his client in conduct that the lawyer knows to be illegal or fraudulent. * * *

(B) A lawyer who receives information clearly establishing that:

(1) His client has, in the course of the representation, perpetrated a fraud upon a person or tribunal shall promptly call upon his client to rectify the same, and if his client refuses or is unable to do so, he shall reveal the fraud to the affected person or tribunal, except when the information is protected as a privileged communication. * * *

F. EXCERPTS FROM MODEL RULES OF PROFESSIONAL CONDUCT

American Bar Association, 1983

Rule 1.2 Scope of Representation

* * *

(d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law. * * *

Rule 1.6 Confidentiality of Information

(a) A lawyer shall not reveal information relating to representation of a client unless the client consents after consultation, except for disclosures that are impliedly authorized in order to carry out the representation, and except as stated in paragraph (b).

(b) A lawyer may reveal such information to the extent the lawyer reasonably believes necessary:

(1) to prevent the client from committing a criminal act that the lawyer believes is likely to result in imminent death or substantial bodily harm[2] * * *

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[2]The Commission that drafted the MODEL RULES would have included the following language in Rule 1.6(b): "*A lawyer may reveal such information to the extent the lawyer believes it necessary: * * * (2) to prevent the client from committing a criminal <u>or fraudulent</u> act that the lawyer believes is likely to result in death or substantial bodily harm, <u>or substantial injury to the financial interest or property of another</u>; (3) <u>to rectify the consequences of a client's criminal or fraudulent act in the commission of which the lawyer's services had been used</u>* * * * ." (Emphasis added.) The final version, as printed in text, was the result of amendments adopted on the floor of the ABA House of Delegates. [Ed.]

Rule 3.3 Candor Toward the Tribunal

(a) A lawyer shall not knowingly:

(1) make a false statement of material fact or law to a tribunal;

(2) fail to disclose a material fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client;

* * *

(4) offer evidence that the lawyer knows to be false. If a lawyer has offered material evidence and comes to know of its falsity, the lawyer shall take reasonable remedial measures.

(b) The duties stated in paragraph (a) continue to the conclusion of the proceeding, and apply even if compliance requires disclosure of information otherwise protected by Rule 1.6. * * *

Rule 8.3 Reporting Professional Misconduct

(a) A lawyer having knowledge that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate professional authority.

* * *

(c) This Rule does not require disclosure of information otherwise protected by Rule 1.6.

G. **EXCERPTS FROM CALIFORNIA STATE BAR ACT**

Cal. Bus. & Prof. Code § 6068. Duties of attorney

It is the duty of an attorney to do all of the following: * * *

(d) To employ, for the purpose of maintaining the causes confided to him or her such means only as are consistent with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law.

(e) To maintain inviolate the confidence, at every peril to himself or herself to preserve the secrets, of his or her client. * * *

(*o*) To report to the agency charged with attorney discipline, in writing, within 30 days of the time the attorney has knowledge of any of the following:

(1) The filing of three or more lawsuits in a 12-month period against the attorney for malpractice or other wrongful conduct committed in a professional capacity.

(2) The entry of judgment against the attorney in any civil action for fraud, misrepresentation, breach of fiduciary duty, or gross negligence committed in a professional capacity.

(3) The imposition of any judicial sanctions against the attorney, except for [certain minimal] sanctions * * * .

(4) The bringing of an indictment or information charging a felony against the attorney.

(5) The conviction of the attorney * * * of any felony, or any misdemeanor committed in the course of the practice of law, or in any manner such

that a client of the attorney was the victim, or a necessary element of which * * * involves improper conduct of an attorney * * * .

(6) The imposition of discipline against the attorney by any professional or occupational disciplinary agency or licensing board, whether in California or elsewhere.

(7) Reversal of judgment in a proceeding based in whole or in part upon misconduct, grossly incompetent representation, or willful misrepresentation by an attorney. * * *

H. FACULTY EXPECTATIONS FOR FIRST-YEAR STUDENTS

M E M O R A N D U M

To: All Entering First-Year Students

From: The First-Year Faculty

Re: Our Basic Expectations

1. Introduction: Welcome to law school! You will find legal education quite different from your undergraduate experience in terms of teaching methods, study materials, pre-class preparation, class attendance and class participation. All of this will become apparent to you as your first year experience unfolds. Why is law school different? It is different because the goals of legal education are different from those of most undergraduate studies.

Perhaps the most basic difference between law school and undergraduate school is that in law school you are being prepared for a specific task: legal representation of clients. In three or four years you will be called upon to use the knowledge and skills you have developed in law school to protect your clients' rights. Clients will entrust you with the task of protecting their lives, liberty, families and property. It will be your responsibility to do so as well as you can. In undergraduate school you could be concerned only with your own needs. In law school you must be concerned not only with your own needs, but with your future clients' needs. You and your clients both will benefit from your getting the most out of law school.

As faculty members who have taught first year courses for years, we share a joint understanding of the basic expectations for student performance which are discussed below. We want you to get the most out of your investment in a legal education by helping you maximize your performance as a law student. Our expectations are based on what we have learned by experience as to how that can be done.

2. Attendance: Regular attendance in classes is **mandatory**; it is also **crucial** to success in law school. Regular attendance means attending **every class session**, unless you are ill or have an unforeseen emergency which makes attendance impossible. Under rules and regulations adopted by the Faculty, we are required to consider your class attendance record in assigning grades. In addition, a record of poor attendance may be a basis for denying a student the right to take examinations in the course, leading to a failing grade. We have attached a copy of the relevant rules for your review. Experience teaches us that there is no substitute for class attendance. Your attendance and active involvement in class discussion form a central part of the learning process in law school for you and your classmates. Most first year classes are taught largely by use of the "Socratic" method, which involves a dialogue between the professor and a student or students based on the materials assigned for class. This process is

essential to both understanding substantive legal principles and developing your skills in critical analysis and argument.

3. Punctuality: The first few minutes of class are often the most important. You owe it to yourself to be on time. And you owe it to your professors and classmates not to create a disturbance by arriving late. Regular attendance means punctual attendance.

4. Class Preparation: In law school, class preparation is **essential** to learning. You cannot understand what is going on in class if you are not fully prepared. Preparation requires careful reading of the assigned materials (often several times) and reflective thinking about the meaning and significance of those materials. First year classes are taught primarily by the case method. Appellate decisions in actual cases are considered and discussed. To understand that discussion, you must have a firm grasp of the decision under consideration. How? You must "brief" the case. Briefing will be explained to you during the orientation sessions for first year students. Briefing takes time and it will be tempting to discontinue briefing at some point. **DON'T**. It is through briefing cases that you will be able to understand and participate in class discussion.

5. Class Participation: We expect that you will be fully prepared to participate actively in class and will actively participate in class when called on. You will be called upon! This experience is important to your development as a lawyer and to your grade. We also expect that you will closely follow the class discussion at all times. Much of the learning process depends on your engagement in the dialogue between the professor and other students. When your professor asks a question of another student, we expect that you will ask yourself how you would answer that question and compare the answer given with your own.

Each professor has his or her own opinion regarding the advantages and disadvantages of using laptops in the classroom as well as his or her own policy allowing or disallowing laptops in class. All professors agree, however, that if you choose to use a laptop during class, you use it only for class purposes and not to engage in any activity (internet, e-mail, solitaire, etc.) that would divert your attention and/or distract the other students in class.

6. Questions and Comments: Questions and comments by students can be very helpful to class discussions. In law school there are rarely "stupid questions." If you don't understand, there is a good chance other students in the class also don't understand. If you have a question or a comment which you believe will improve the discussion or make it more understandable, we encourage you to volunteer.

7. Faculty Office Hours: All of us have regular office hours posted outside our offices. We will make every effort to honor these hours by being available at the times indicated. **Take advantage of this opportunity.** If you are confused by what has gone on in class or just unable to understand a particular area after carefully reviewing the assigned materials and your class notes, visit your professor. Don't wait until the end of

the semester. On the other hand, don't seek help before the subject is considered in class.

8. Policies of Individual Professors: You may be given further information from some of us about how we interpret the rules concerning attendance, class preparation, class participation and other subjects, and what consequences will flow from violations of those rules. Do not make the mistake of assuming, however, that a professor's failure to provide further enlightenment about how he or she administers the rules indicates any disregard for those rules. All of us honor and enforce these rules, as we must. **Failure to attend class regularly, prepare adequately for class or participate satisfactorily in class discussions when called on will affect your grade.**

9. Respect: We expect our students to respect each other and their professors sufficiently to be civil to them, to listen attentively to them and respond appropriately, and to be sensitive and accommodating to the wide range of feelings and perspectives that result from the diversities in our faculty and student body. We also expect respect for principles of honesty and academic freedom, many of which are embodied in the student honor code with which you should become familiar.

We sincerely hope that you enjoy your law school experience and derive the greatest benefit possible from it.

UNIVERSITY OF THE PACIFIC
McGEORGE SCHOOL OF LAW

Extract from GRADING AND ADVANCEMENT COMMITTEE
RULES, REGULATIONS AND PROCEDURES
(Approved by the Faculty)

301: McGeorge School of Law subscribes to the policy of the American Bar Association's Section on Legal Education which considers student preparation and attendance essential for a legal education.

302: Each professor shall consider a student's class attendance in assigning the student's final grade in a course. In flagrant instances of repeated absences, a professor may notify the Associate Dean for Academic Affairs that, by reason thereof, the professor is considering denying the student the right to take the final or other examination in a course; thereupon the Associate Dean shall notify the student in writing that unless the student's attendance after receipt of the notice is deemed satisfactory, he/she may be denied the right to take the final or other examination in the course; if the student's attendance following receipt of the notice is deemed unsatisfactory by the professor, the professor may with the concurrence of the Associate Dean deny the student the right to take the final or other examination in the course.

303: A professor may consider a student's preparation, participation and performance in assigning his/her final grade.

5. PACIFIC MCGEORGE CHARTERED STUDENT ORGANIZATIONS

Listed below are the student organizations chartered for the 2007-2008 academic year as described by their members:

American Constitution Society (ACS)
The mission of the American Constitution Society is to harness the values of compassion and respect for each individual and to re-incorporate them into American law and politics in order to build a stronger and more decent national community. ACS works to achieve this mission by providing opportunities for students through speaking and discussion events, as well as intersection with professionals in the field of constitutional law and related practice areas.

Asian Pacific American Law Student Association (APALSA)
APALSA was formed to introduce Asian American and Pacific Islander cultures and issues into the Pacific McGeorge community. It is also a support and fellowship group for the Asian American students and friends at Pacific McGeorge. Additionally, APALSA provides a forum to keep Asian law students informed about issues that may affect them as both law students and attorneys in the community. The Association, moreover, has a long standing tradition of holding social events and sponsoring cultural functions that celebrate Asian heritage.

Black Law Students' Association (BLSA)
BLSA members strive to promote and support the academic and social needs of African-American law students, while simultaneously striving towards diversity and the enhancement of the overall experience of the entire Pacific McGeorge student population. Membership is open to all Pacific
McGeorge students and provides a focus of community service within Oak Park as well as an opportunity to discuss current topics that impact the Pacific McGeorge community and surrounding areas.

Entertainment and Sports Law Society
The Entertainment Law and Sports Society is designed to provide students at Pacific McGeorge the opportunity to keep abreast of the ongoing operation of the entertainment and sports industries. The Society also hopes to assist those members unfamiliar with the entertainment and sports industries, who are curious about its unique characteristics. The organization seeks to promote a greater understanding of entertainment and sports law and its place in the legal profession.

Environmental Law Society
The McGeorge Environmental Law Society assists students with an interest in the field of environmental law. Environmental law governs the interaction of people and their physical surroundings, including any impact on atmospheric, organic or inorganic matter, and living organisms. It also deals with the socio-economic, health, and cultural impacts to the environment.
The Environmental Law Society offers students an opportunity to discuss environmental issues, to network with other students with similar interests, and to get involved with the community.

Governmental Affairs Student Association (GASA)
The Governmental Affairs Student Association is an organization comprised of Pacific McGeorge students who share a common interest in federal, state and local governmental affairs. The organization is concerned with the activities and policies of government as viewed from a legal perspective.

International Justice Mission
The International Justice Mission (IJM) provides a forum where students, faculty and community members can raise awareness of human rights abuses being investigated by IJM, organize advocacy and intervention efforts on behalf of victims of that abuse, and raise money to support the IJM in its work abroad. The IJM also provides a venue for students to connect with other students who share their interests, passions or faith. The organization creates opportunities for students to participate in social change while in law school and motivates students to affect change using their professional skills beyond law school.

J. Reuben Clark Law Society
The McGeorge J. Reuben Clark Law Society seeks to affirm the strength brought to the law by a lawyer's personal religious conviction. It strives through public service and professional excellence to promote fairness and virtue founded upon the rule of the law. The society particularly strives to espouse the virtues of J. Reuben Clark and the Church of Jesus Christ of Latter-day-Saints, but membership is open to all interested students and professors. The society has weekly Institute classes on-campus, socials for the whole family, a wives club, participates in service projects, has an active mentorship program with the Sacramento JRCLS, and offers help with academics and anything else facing law students.

Jewish Law Students Organization
The Jewish Law Students Organization is open to all students, faculty and administrative personnel of Pacific McGeorge. It serves as a forum for those interested in Jewish issues; provides a community for Jewish law students and faculty; offers educational opportunities about Judaism and its customs to both members and the Pacific McGeorge community, and serves as a liaison between the local Jewish community and Pacific McGeorge School of Law.

Junior Barristers' Club
The focus of the Junior Barristers' Club is to establish relationships and contacts with attorneys in the Sacramento area. The parent organization, the Barristers' Club, has opened its functions to Junior Barrister members and has developed special seminars to address law school topics. Through social events, seminars and community involvement activities, the Barristers strive to promote the legal profession.

Lambda Law Students' Association
The Lambda Law Students Association is dedicated to promoting awareness and understanding of issues affecting gay, lesbian, bisexual and transgendered individuals. The Association is also conscious of race and gender issues and strive to be inclusive in all aspects of its membership and organization. It seeks to achieve its goals through education, community outreach and dialogue with interested groups and persons.

Latino Law Students' Association (LLSA)
The Latino Law Students' Association is an organization devoted to the establishing and promoting fellowship between Latinos of diverse backgrounds at Pacific McGeorge. The purpose of LLSA is to provide academic and social support for members throughout their law school career and to bring awareness of Latino culture and political issues to the Pacific McGeorge community. Through community involvement, LLSA aspires to encourage Latinos in the community to pursue higher education. Its members are comprised of both Latino students and non-Latino students interested in Latino culture and issues. For more information please visit LLSA's website at: http://groups.msn.com/LLSAMcGeorge.

McGeorge Business and Tax Society
The purpose of the McGeorge Business and Tax Society is to provide an opportunity for students with an interest in tax and business issues to meet and join with other students and legal and business professionals who share the same interest. The Society promotes tax classes and concentrations, introduces tax issues and other business matters and provides a friendly atmosphere for discussing tax related issues. The Society also provides a forum that gives students the opportunity to engage in community service, as well as social and extracurricular activities.

McGeorge Cycling Club
The McGeorge Cycling Club provides a forum to those interested in cycling, supplies information to members about cycling events and acts as a social outlet for members.

McGeorge Democrats
The McGeorge Democrats provides a forum for those interested in the politics of the Democratic Party. It also provides educational opportunities about politics and the Democratic Party, social outlets for members and the Pacific McGeorge community, and interaction with other organizations and the Pacific McGeorge community to promote a fuller understanding of Democratic politics and its place in the legal profession.

McGeorge Federalist Society
The Federalist Society is a group of conservatives and libertarians interested in the current state of the legal order. It is founded on the principles that the state exists to preserve freedom, that the separation of governmental powers is central to our Constitution, and that it is emphatically the province and duty of the judiciary to say what the law is, not what it should be. The Federalist Society is a non-profit organization that does not involve itself with political issues. Thus, the Society takes no position on candidates, referenda, legislation, or any other form of political expression. Instead, the Society exists to provide a forum for the discussion of conservative and libertarian ideas, primarily through the sponsorship of lectures and debates.

McGeorge Golf Club
McGeorge Golf Club seeks to promote the sport of golf on campus and provides an environment for golfers to socialize and compete with each other and legal professionals. This objective is met by hosting golf league(s) or tournament(s) for members and guests, seeking legal professionals for participation in league(s) or tournament(s), and seeking sources of funding to provide more affordable golf for members. The club provides a friendly environmental for all skill levels.

McGeorge Health Law Association
The Health Law Association provides a forum for those interested in health law, provides information to members about internships, career opportunities, scholarships, networking opportunities, and events pertinent to health law.

McGeorge Intellectual Property Student Association
The purpose of this organization is to provide a forum through which members can coordinate resources, knowledge and interests, promote interaction between students and members of the intellectual property community, and to assist the faculty and staff to develop extra-curricular intellectual property programs.

McGeorge International Law Society
The International Law Society (ILS) promotes an understanding and recognition of the principles of international law, educates students in the purposes of international law and international organizations, and encourages a just world order and friendly commerce among the citizens of all nations by promoting the comparative study of the legal systems of the world. Members build contacts and form relationships with individuals and organizations oriented toward international law and business. The ILS also provides various social and educational activities as well as employment opportunities.

McGeorge Men’s Caucus
The McGeorge Men’s Caucus (MMC) is a non-partisan organization open to both males and females. The MMC encourages members to make connections within the legal community and has a strong commitment to the local community as well as to the student body. It also provides a forum for the discussion of social and political issues that are of particular concern to men and women, and promotes programs concerning men and women and the law. The MMC will organize social and philanthropic activities throughout the school year and will provide a variety of leadership opportunities to all of its members.

McGeorge Mixed Martial Arts Club
The McGeorge Mixed Martial Arts Club promotes an interest in mixed martial arts among the Pacific McGeorge students. The organization also promotes health and fitness by encouraging the practice of mixed martial arts and provides a forum of interaction for mixed martial arts enthusiasts. It also seeks to promote the sport by offering education about mixed martial arts.

McGeorge Republican Society
The McGeorge Republican Society provides Pacific McGeorge students and alum with a network for those who are *political*, and not merely interested in government-related opportunities. The Society brings new opportunities to students and graduates that explore the lawyer’s role in government and politics with Republican Party objectives and which allow them to help further a Republican Party agenda. Members will also develop networking skills and contacts among Party activists, public officials subscribing to Republican ideals, and Republican campaign strategists to help further each member’s career goals as they relate to the law.

McGeorge Rugby Football Club
The McGeorge Rugby Football Club was created to promote good fellowship among all students, foster the athletic life of the students and promote the name of Pacific McGeorge School of Law throughout the Northern California region and beyond. This goal is achieved by holding matches with other rugby clubs throughout the area, team practices and other planned social activities.

McGeorge Ski and Snowboard Club
The objective of this club is to create a social atmosphere for its members and the Pacific McGeorge community interested in skiing and snowboarding. The club strives to make the sports available to those who may not be able to afford it.

McGeorge Society of Law and Religion

McGeorge Society of Law and Religion is dedicated to exploring the relationship between law and religion. The Society recognizes that the laws and government of the United States are informed by the personal religious beliefs of its citizens. The Society is committed to providing a neutral forum to discuss the influence of religion on the law and the influence of law on religious behavior. By this process, it hopes to expose its members to different religious ideas and beliefs and to promote mutual understanding and respect in the legal community.

McGeorge Softball Club

The McGeorge Softball Club's purpose is to organize Pacific McGeorge students and faculty to play softball in a fun and competitive environment and to mix first, second, third and fourth year law students together to build friendships and a sense of community. There will be a Fall and Spring Softball League and a Fall and Spring Softball Tournament.

McGeorge Women's Caucus

The McGeorge Women's Caucus was founded in 1971 in an effort to explore and act upon concerns common to women at Pacific McGeorge. One of the most active organizations on campus, the Women's Caucus often takes the leadership role on issues of general student interest. The goal of the Women's Caucus is to provide support in the law school experience for its members and to provide assistance to its surrounding community. In addition, the Women's Caucus holds an annual wine tasting event each spring in order to raise funds to donate to local charities. Individual inquiries from interested women and men may be left in the Women's Caucus mailbox in the Student Services Office.

Middle Eastern/South Asian Association (MESAA)

This association is designed to further the academic welfare of the Middle Eastern/South Asian students at Pacific McGeorge. Further, they strive to promote a commitment towards professionalism and excellence in the legal profession.

National Lawyers Guild

The National Lawyers Guild is an association dedicated to the support and defense of economic and social justice, and to progressive change rather than acceptance of the status quo. The Guild seeks to educate its members and the community about issues effecting economic and social justice, provide law students with pro bono opportunities in support of these goals, and increase awareness of the Pacific McGeorge community on issues surrounding economic and social justice.

The Nevada Laws Student Association (NLSA)

The NLSA provides a network through which students interested in practicing law in Nevada can meet with one another and with Pacific McGeorge alumni practicing in Nevada. The Association holds several social events for its members each year as well as at least one Alumni event.

Phi Delta Phi

Founded in 1869, Phi Delta Phi is an honor society dedicated to the promotion of the highest standards of professionalism, legal ethics, and scholarship. The Society accomplishes this goal by providing students, alumni and faculty members a forum where they can voice their concerns.

Additionally, the Phi Delta Phi works to foster better relations between students, faculty and alumni. The Society also provides a social outlet for students and increases student to student interaction by staging social events which involve members of all divisions of the student body.

Property Law Association

The purpose of the Property Law Association is to give students a forum to discuss property, real estate and land use law issues. The organization also provides an opportunity to connect students with real estate and land use attorneys, as well as brokers and developers. The Association hosts guest speakers of regional importance to provide insight into the specialty, establishes networking and social opportunities, and mentors students in classes concerning property, environmental, and land use law.

Public Legal Services Society (PLSS)

The Public Legal Services Society is a club dedicated to supporting students who desire to work in the public-interest or public-services sectors of the legal community. This goal is achieved by two programs: first, the summer grant program that assists students who work in these sectors over the summer break; and second, the loan repayment assistance program (LRAP). LRAP assists graduates who take employment in these sectors by reducing monthly law school loan obligations. Graduates who maintain a long term career may potentially receive assistance until all law school loan debt is eliminated. To support these programs, PLSS holds an annual fund-raiser that includes both a live and a silent auction. Auction items are provided by faculty members as well as businesses around the state.

Students for a Better McGeorge

Students for a Better McGeorge is one of the largest student organizations on campus. SBM is dedicated to improving Pacific McGeorge’s national rank by providing academic assistance to all students in the form of course specific outlines and tutors. It also furthers its objective by organizing lectures featuring world-renowned leaders, beautifying the campus to promote a welcoming and prestigious environment and seeking corporate sponsorships in order to fund large-scale campus improvements.