



THE CALIFORNIA SUPREME COURT

# Historical Society

NEWSLETTER • FALL/WINTER 2009

## THE SUPREME COURT COMES TO THE PEOPLE



IN THIS ISSUE: A SPECIAL FEATURE ON THE COURT'S ANNUAL OUTREACH VISITS TO HIGH SCHOOL AND COLLEGE STUDENTS THROUGHOUT THE STATE

(STORY BEGINS NEXT PAGE) — *The Court assembles for the 2006 student outreach Special Session in the Mural Room of the historic Santa Barbara County Courthouse —*

LEFT TO RIGHT: Associate Justices Carlos R. Moreno, Kathryn Mickle Werdegar, and Joyce L. Kennard, Chief Justice Ronald M. George, and Associate Justices Marvin R. Baxter, Ming W. Chin, and Carol A. Corrigan.

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E. PATRICK MORRIS/EPM PHOTOGRAPHICS, SANTA BARBARA

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## The Supreme Court Comes to the People

CLAIRE COOPER

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Orange County Superior Court Presiding Judge C. Robert Jameson addresses the Supreme Court — LEFT TO RIGHT: Associate Justices Kathryn Mickle Werdegar and Joyce L. Kennard and Chief Justice Ronald M. George.

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SANTA ANA, OCT. 4, 2001

For the 100th anniversary of the old Orange County Courthouse and the Orange County Bar, the California Supreme Court accepts an invitation to sit in the county for the first time. This is a departure from the Supreme Court's longstanding practice of rotating oral argument sessions among San Francisco, Sacramento and Los Angeles. But, as Chief Justice Ronald M. George says later in an interview, the traditional venues are "artificial creations." He sees no reason why the Court should be confined to them.

Orange County high school classes view the proceedings via closed circuit.

The Chief discusses local judicial history, as he will do in years to come in cities and towns throughout California. Here in Santa Ana he talks about the founding of the old courthouse. It was constructed on a site sold to the county for \$8,000 in 1893 on condition that a courthouse

would be built within a decade, or the property would revert to the grantor, one W.J. Spurgeon. The Chief notes that, "interestingly, a jail first was built on part of the site, reflecting perhaps a change in the priorities of the new county."

From this modest start, an annual convocation for the Court and California students has grown. As it developed, statewide broadcasting and cable-casting would be added. Thousands of high school students would become involved, some traveling more than two hours each way to witness a live session of California's highest court, others viewing on monitors installed at remote locations. At each session a select few students would be chosen to address questions to the justices, who would share their views on everything from "judicial activism" to whether an ordinary citizen — perhaps the teenager posing the question — might aspire to a

judicial career. For weeks leading up to the session, local lawyers, judges and teachers would drill the students on court procedure, terminology, and the facts and laws involved in the cases on the upcoming calendar.

The Supreme Court's high school outreach program reflects the Chief's philosophy that modern courts must look beyond the confines of the courthouse to the greater community, a philosophy that has gained broad acceptance among courts across the land. In the past decade under Chief Justice George it has become strikingly obvious in the work of California's judicial branch.

The objective is to demystify the courts and make both justice and the justices more accessible. The idea would have been considered "almost radical" not long ago, when judges thought they should be aloof, the Chief says. But if people understand how courts function and not just who won or lost a case, he says, they will perform better as jurors and voters.

#### FRESNO, OCT. 8, 2002

**T**he California Supreme Court hears oral arguments in the San Joaquin Valley. Student interaction with the justices and statewide telecasting are introduced to the program. About 200 students rotate in and out of the courtroom during oral arguments in three cases. Those waiting for their turns view the proceedings on a video monitor in a side room, where James A. Ardaiz, presiding justice of the Fifth District Court of Appeal, provides a play-by-play commentary.

According to Frederick K. Ohlrich, the Court administrator and clerk of the Supreme Court, Justice Ardaiz came up with the idea of inviting the Court to sit in Fresno. "I said, 'The justices aren't going to go for that,'" Mr. Ohlrich recalls. "He said, 'I think they will!'"

As Justice Ardaiz remembers it, he sold the Court on the idea and then pushed it further, one step at a time: Why not televise the session for viewing in the local schools? How about inviting the kids to ask questions? Finally, why not take the telecast statewide? Once the calendar was announced — it included a political case that the press had been following intently — the California Channel, a public affairs cable network, agreed to feed the proceedings to 125 stations. Channel 18 in Fresno and Channel 6, broadcasting to Stanislaus,

Sacramento and Placer counties, also provided coverage.

To prepare the students, the Fifth District staff wrote synopses of the cases and furnished briefs for distribution to the schools. Court of Appeal justices joined high school students in a panel discussion of the judicial process that was videotaped and made available to valley schools.

In each high school, teachers chose a student to address a question to the Court, although in some schools composing a question became a class project.

*On the day of the event judges and lawyers are present in schoolrooms and other remote locations throughout the district where students watch the telecast. Four Court of Appeal justices join more than 150 teenagers to watch at school district headquarters in Bakersfield. Justice Ardaiz arrives at the courthouse at 5:30 a.m. and finds members of his staff already at work on last-minute details.*

*Taking the bench, the Supreme Court is "tense about everything — the cameras, the kids asking questions,"*



*"Who decides which justice writes the main opinion in the case, and how is that decision made?"*  
— Sarah Fry, Hanford High School, Hanford.

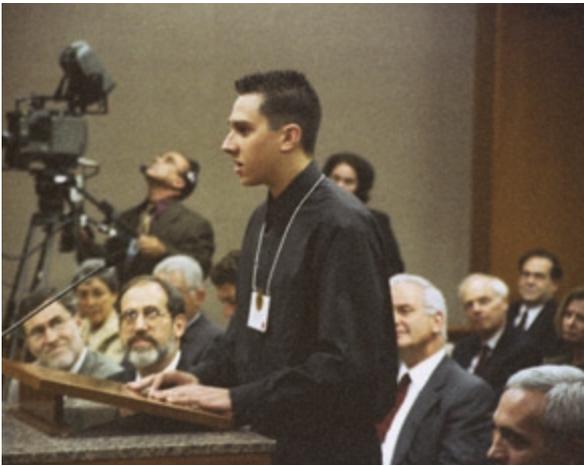


*Students preparing to enter the courthouse — TOP CENTER: Peter G. Mehas, superintendent of the Fresno County Office of Education.*

PHOTO BY HOWARD K. WATKINS, ESQ., FRESNO



*“What factors determine whether a justice will disqualify himself or herself from a case?”*  
— Monica Hunt, Tulare Union High School, Tulare.



*“What is the most enjoyable and challenging aspect of the role of a Supreme Court justice?”*  
— Kyle Osborne, Kingsburg High School, Kingsburg.



*“Why does the California Supreme Court have seven judges and the United States Supreme Court have nine?”*  
— Anna Schlotz, Edison High School, Fresno.

PHOTOS ABOVE BY HOWARD K. WATKINS, ESQ.,  
FRESNO

Justice Ardaiz recalls. But “everybody relaxed after the first kid asked the question.”

“Who decides which justice writes the main opinion in the case, and how is that decision made?” asks Hanford High School senior Sarah Fry, leaning forward at the podium, smiling. The Chief explains the process, from review of the petition through disposition of the case.

A prank that the Chief has played on Associate Justice Ming W. Chin also helps break the ice. Earlier, when dealing out the students’ questions to the justices who will respond, the Chief had assigned Justice Chin the task of explaining “the historic significance of the rule against perpetuities and the exception in Shelley’s case.” When Ceres High School student Daniel Myers asks the real question — “What is the best preparation for someone who wants to serve on the Supreme Court?” — Justice Chin is ready. “Well, Daniel,” the justice replies, “the first thing you have to do is become a lawyer. That means you have to spend three years studying arcane rules like the rule against perpetuities . . . because you never know when somebody will ask you what those rules mean.” Justice Chin goes on to suggest other preparation for appointment to the bench, including becoming a good lawyer.

SAN JOSE, DEC. 2, 2003

**B**usloads of students from 46 schools, some shepherded by bar officials, arrive at the Santa Clara County Courthouse by 8 a.m. to go through security and take their seats for the 9 a.m. hearing.

The Chief talks about changes in the Supreme Court since its early days, when justices were “colorful characters”: “One justice always went around [with] a bowie knife in his possession. Some of them frankly consumed alcoholic beverages to excess. They were quite a rowdy bunch. That has changed, I can assure you.”

Audrey Kuo, a student at Lynnbrook High School, asks the meaning of the term “activist judge.” Associate Justice Carlos R. Moreno says it means applying personal ideology instead of faithfully performing the role of a judge, which is to interpret the meaning of a statute or constitutional provision, adhere to the letter of the law and defer to the legislative and executive branches.

To prepare for the Supreme Court’s visit, Associate Justice Patricia Bamattre-Manoukian of the Sixth District Court of Appeal assembled a 38-member committee representing the courts and bar associations of the district’s four counties, the Supreme Court and the Administrative Office of the Courts.

When the calendar was released, about a month before the oral arguments, district court staff compiled and distributed a 170-page binder of “Instructional Resources” for the schools, covering the Court, the civil and criminal appellate process, “what to expect at oral

argument,” a glossary of terms, study guides for each of the 10 cases on the calendar and information on aligning the Court program with content standards for a required 12th grade course in Principles of American Democracy.

Members of the local bars made themselves available on request to history, government and civics classes. In Monterey County, these preparatory sessions sometimes ran past the class bell, says appellate specialist Jeanine Strong. She recalls discussing an insurance case with the students. “They got it when you brought it

home to them in practical terms,” she says. They were most interested in the effects of the case on the litigants — “people stories.”

After the session, Justice Manoukian distributed questionnaires to solicit the students’ reactions. A Cupertino student, who called all of the justices “very unique and cool,” learned the importance of supporting arguments “with references to previous decisions.” Several other students learned the importance of “press-idents” or “precident . . . which does not just affect the single case.” “[Y]ou need to know your presidency,” wrote a Santa Cruz student. “If you don’t, you are in trouble.” A San Jose student learned “how important the words are in laws and documents.”



*“What prior experience is the best preparation for serving as a Supreme Court justice?”  
— Analisa Svehaug, Harbor High School, Santa Cruz.*

AP/WIDE WORLD



*Students observe the proceedings and wait in numbered order to ask their questions.*



*Visiting students are welcomed by Associate Justice Patricia Bamattre-Manoukian of the California Court of Appeal, Sixth Appellate District.*



*As one group of students exits the courtroom, the next prepares to enter.*

PHOTOS CENTER RIGHT, LOWER LEFT & LOWER RIGHT BY DONNA S. WILLIAMS,  
LAW LIBRARIAN, CALIFORNIA COURT OF APPEAL, SIXTH APPELLATE DISTRICT, SAN JOSE



Students from Bellarmine College Preparatory pose with distinguished alumnus Associate Justice Ming W. Chin (class of 1960).

PHOTO COURTESY BILL COLUCCI, DIRECTOR OF ADMISSIONS, BELLARMINE

Some students said they would consider going to law school, and a Monterey student wrote, "Though this educational program didn't make me want to be a judge one day, it did increase my knowledge in our legal system and make me want to learn more." A Palo Alto student wrote, "It's not as complex and untouchable as you thought."

Not every student was favorably impressed. "It is important but not interesting," said a San Jose student. A Monterey student didn't like the "various constraints and formality." Several students confessed they were baffled by what they saw. "Without prior information or knowledge I didn't understand most of what was presented," wrote a San Jose student.

Preparation, or lack of it, seemed to be a critical factor. A Milpitas teacher, who reported in an interview that her students were bored by their experience, said she had done little to prepare them for it. But American law teacher Bill Colucci at Bellarmine College Preparatory in San Jose said his students were fascinated. "If anything was a surprise," the teacher said, "it was that these were just folks engaged in their work and it wasn't anything super-mysterious and beyond their ability to understand."

#### SAN DIEGO, DEC. 7, 2004

To mark the 50th anniversary of the University of San Diego School of Law, more than 1,200 students from 34 high schools and members of the Teen Court of the San Diego Family Justice Center watch the Supreme Court in action at the Joan B. Kroc Institute for Peace and Jus-

stice. Other students, accompanied by judges and attorneys, watch the proceedings via cable television at locations throughout San Diego and Imperial counties. Teams of judges and lawyers lead discussions in 15 area high schools. The Fourth District Court of Appeal posts a study guide with detailed case summaries on its Web site.

In the Kroc auditorium a student from Otay Ranch High School in Chula Vista, Juliana Baxter, asks, "How difficult is it to find a balance between protecting the rights of the individual and the needs of society and order?"

Former Associate Justice Janice Rogers Brown says the question "goes right to the heart of the problem of founding and maintaining a free government, and it is a very difficult task." Quoting from Madison and De Tocqueville, she talks about balancing stability and liberty.

The Chief observes that modern courts reach out to the greater community by holding public forums, establishing drug and domestic violence courts and funding programs to assist self-represented litigants.

The Chief's list of outreach measures taken by the California courts continues to grow. In other venues he also mentions improving interpreter services, issuing plain-language jury instructions, setting up a court Web site and establishing self-help centers in community facilities.

He became a believer in public outreach during his trips to California's 58 counties, which he began soon after taking office in 1996. In 1997, he appointed a Special Task Force on Court/Community Outreach. The California Judicial Council approved the task force recommendations in 1999. The council adopted a new standard of judicial administration, now standard 10.5, providing that participation in community outreach activities should be considered "an official judicial function."

In response, several districts of the California Court of Appeal have been reaching out to their local high schools. For example, the Fourth District's Division Two, based in Riverside, annually hears arguments at Bishop Union High School in Inyo County. The justices try to include a juvenile delinquency case on the calendar. Before the session they visit with student leaders. After the session they team with members of the local bar, law enforcement, and other community leaders to



*Students fill the auditorium of the Joan B. Kroc Institute for Peace and Justice (behind the bar at the rear).*



*“What advice would you give to a high school student who is interested in becoming an attorney and perhaps one day a Supreme Court justice?” — James Willis, Teen Court, San Diego Family Justice Center.*



*Justice Kennard responds to a question — LEFT TO RIGHT: Associate Justices Kathryn Mickle Werdegar and Joyce L. Kennard, Chief Justice Ronald M. George, and Associate Justices Marvin R. Baxter and Ming W. Chin.*



*“What are your various responsibilities as a justice of the California Supreme Court?” — Cesar Rodriguez, Miramar College, San Diego.*



*“Is it more democratic to interpret the Constitution based on contemporary views or on its original intent?” — Jacqueline Lisle, Preuss School, UC San Diego.*

PHOTOS THIS PAGE COURTESY UNIVERSITY OF SAN DIEGO SCHOOL OF LAW

go into the classrooms, where they talk to the students about staying out of trouble and continuing their studies. The students can ask about anything except pending cases, says Presiding Justice Manuel A. Ramirez.

Outreach is an accepted part of the work of the judicial branch nationally. According to records kept by the National Center for State Courts, about a dozen state court systems have created special outreach Web sites that include materials ranging from a Supreme Court coloring book in Louisiana to an outreach handbook for judges in Washington state. At least eight state supreme courts regularly travel to meet with high school students. But California seems to be the only state in which extensive use is made of telecasting to carry the program far and wide.

### REDDING, OCT. 5, 2005

**T**he Supreme Court hears oral arguments in the Redding City Council chamber. Highway signs are programmed to indicate the turns for school buses coming in from Tehama, Trinity, Lassen, and Siskiyou counties.

Talking about historic ties between Shasta County and the Supreme Court, the Chief mentions Justice Jesse Carter, who sat on the high court from 1939 to 1959. A native of neighboring Trinity County, Justice Carter “was known for the diligence he showed in his work at the court and for the vigorous language he employed in his numerous dissenting opinions.”

Evan Drakes, a student from Shasta High School, asks, “To what extent do political considerations play a part in Supreme Court appointments?” Associate Justice Marvin R. Baxter replies that the term “political considerations” can have either positive or negative connotations. In the positive sense, he says, a governor is accountable to the public and wants a judicial appointee to be received favorably by the citizens. He explains the appointment process from the initial vetting of a candidate through voter confirmation.

Another student from Shasta High School, Justin Dushare, asks to what extent the justices feel bound by precedent. Justice Kathryn Mickle Werdegarr explains the difference between dealing with U.S. Supreme Court precedent — “we are absolutely bound by it” — and state Supreme Court precedent. “If the issue has been decided by our court before, we generally do tend to follow precedent because the strength of our legal system is its predictability and stability, so that people in their daily lives can know how to manage their affairs and what the law will be.... If time has shown that the precedent that we’re looking at is unwise or is not working well, or if there has been a significant change of circumstances that justifies reexamining the question, then it is our responsibility to make that change.”

*At a reception for the justices, somebody mentions that a teacher bought his students shirts and ties to wear to court. Justice Chin later reimburses the teacher.*

Judicial outreach wasn’t a new concept for Shasta County. The Sacramento-based Third District Court of Appeal heard oral arguments there in 2000. Since then, the Third District justices have convened in 17 more counties. They’ve sat behind makeshift benches



*Each group of students observes the Court’s proceedings on closed-circuit television prior to entering the courtroom.*



*Shasta County District Attorney Jerry Benito addresses the students.*



*Students assemble on the plaza for an orientation briefing before entering the courthouse.*

PHOTOS ABOVE COURTESY MELISSA FOWLER-BRADLEY, COURT EXECUTIVE OFFICER, SHASTA COUNTY SUPERIOR COURT, REDDING

knocked together in auditoriums, libraries, and gyms like the one at Nevada Union High School, where a banner behind the bench read “House of Pain.”

According to Arthur G. Scotland, the presiding justice, the court during these outreach sessions tries to hear cases illustrating the consequences of criminal behavior or the tension between rights and responsibilities. (The Supreme Court, too, chooses its outreach calendars to appeal to the students’ interests, the Chief says.)

Melissa Fowler-Bradley, the Shasta County court executive officer, says many students express an interest in legal careers after attending outreach sessions.

Although some of the Third District’s rural counties have minimal resources for aspiring youngsters, Justice Scotland says an outreach program can succeed anywhere. As an example, he adds that the disadvantaged, predominately minority students of Hamilton High School in Glenn County were among the best prepared groups that his court has seen.

#### SANTA BARBARA, OCT. 3, 2006

About a dozen students from Los Robles Boys Academy at the Los Prietos Boys Camp for delinquent males are bused to the historic Santa Barbara Courthouse to see the Supreme Court in action, along with about 900 other area students.

The Chief notes Santa Barbara’s “history of handsome courthouse buildings” and says, “The neoclassical courthouse that preceded this wonderful facility was severely damaged by an earthquake in 1925 — a circumstance that serves as a reminder that there still remain in California many courthouse facilities that are not sufficiently fortified to withstand the earthquakes that so often reshape our state.”

Asked by Ryan Flowers of Righetti High School what changes he foresees in the future of the California courts, Justice Chin says the trend is toward providing more services with less funding, which he says can only be done through court technology. The “overarching challenge,” he says, will be “maintaining the judicial independence of our judges, of our court system.”

The Chief personally selects and edits the student questions that the justices will address. But that’s just the final step. In Santa Barbara, Superior Court Judge James C. Herman made the first cut, assisted by local lawyers and teachers. Those choices were forwarded to San Francisco for the Chief’s review. The Chief edits questions for relevance and appropriateness and, because there will be time for 14 questions at most, he may roll multiple questions into one. Certain questions are perennial choices: How are cases chosen for review? What protections are in place against convicting the



*The justices prepare to hear the first oral argument.*



*“What changes do you see in the future of California courts?”  
— Ryan Flowers, Righetti High School, Santa Maria.*



*Justice Chin answers the question from Ryan Flowers  
— LEFT TO RIGHT: Associate Justices Marvin R. Baxter,  
Ming W. Chin, and Carol A. Corrigan.*

PHOTOS ABOVE COURTESY LAW OFFICES OF  
E. PATRICK MORRIS/EPM PHOTOGRAPHICS,  
SANTA BARBARA



*Civil litigator Richard F. Lee of Santa Barbara explains a legal issue to students in the Santa Barbara Superior Courtroom 2 as a video feed on the projection screen shows the members of the Court hearing oral argument.*



*“What motivates you every day to come to your job as a judge and try to solve difficult problems that may not affect your personal life?” — Morgan Clark, Righetti High School, Santa Maria.*



*“How do you keep your personal views, morals and any bias from interfering with your decision on a case?” — Michelle Silva, Santa Ynez Valley Union High School, Santa Ynez.*

PHOTOS THIS PAGE BY IAN VORSTER, COURTESY LOMPOC RECORD

innocent? What’s the best, or most challenging, part of the job?

Some types of questions are quickly rejected: Are you in favor of the war in Iraq? How will the Court decide a particular case or issue? Do you have a bulletproof desk?

The quality of the questions submitted by the students is “very much a function of the teacher,” says the Chief, who credits many teachers with encouraging their students to think in a more lofty way. He says the best questions “go to the heart of the judicial function.”

The associate justices are assigned their questions in advance. Some write out their answers while others

extemporize from the bench. Initially, although all the justices agreed to the program, some may have done so with “trepidation and doubt,” says the Chief. Now they all look forward to it, “more, perhaps, than we anticipated.”

“We’ve all bought into the idea that this is part of our job,” says Justice Moreno. “I think that my colleagues have become more comfortable over the years doing that.”

*Ruth Castillo of Pioneer Valley High School asks, “What part of your job as a Supreme Court Justice has been most rewarding and what part most difficult, and how has being on the Supreme Court changed your life?” Associate Justice Werdegar thanks her for the “multipart*

question” and responds to each part. She says the most rewarding part “is the opportunity to work with my colleagues in sitting to resolve the difficult legal issues that affect the state,” and that the most difficult is “having all of us together work to reach a just and correct resolution in a given case,” after which, “we send our decisions out there and just hope that it’s all going to work out for the parties....” She adds that it “has changed my life in many ways which I’m not always conscious of. Something you’ve never dreamed was possible becomes part of your life and you’re not always aware. But I do have to say a true change is that my children give me more respect. Because at home I’m just Mom, Grandma.” But, above all, says Justice Werdegar, it has given her “the rare privilege, together with responsibility, to work on these legal issues that I mentioned, and to try to serve the citizens of the State of California.”



Chief Justice Ronald M. George addresses an audience of students from high schools in Sonoma County.

SANTA ROSA, OCT. 2, 2007

Philip C. Nix, then dean of Sonoma Country Day School, which hosts the Supreme Court session, thanks the justices for giving his students “access to the fact that the ideals of our culture — justice and democracy and participation — are embodied in real human beings in real time who take on that service with their individual and particular lives.”

The Chief says the justices visit with high school students in order to further public understanding of the role of the courts as impartial adjudicators of disputes. But the justices become educated, too. The visits “provide an opportunity to learn more about the history of the area in which we will be sitting,” he says, noting that the Court’s 24th justice, Jackson Temple, was a Sonoma County man. Justice Temple served three stints on the Supreme Court over a span of 32 years. In 1882, however, when he ran for a seat on the Court as the Prohibition Party’s candidate, “he lost quite soundly.”

Tim Derner of Cardinal Newman High School asks, “What is the impact of the public media and public opinion on decisions made within the California Supreme Court?” Justice Carol A. Corrigan answers, “When we assume these jobs, it’s because we’ve derived our authority from the people, so the law doesn’t belong to us — it belongs to all of us. When we decide a case it’s important that we explain not only what we decided, but why we decided it that way.



“Why are there major differences in the rights conferred in the federal and California constitutions, and are there differences concerning freedom of speech?” — Hannah Harding, Windsor High School, Windsor.



Students fill the auditorium at Sonoma Country Day School, Santa Rosa.

PHOTOS THIS PAGE BY CHRISTOPHER CHUNG/© THE PRESS DEMOCRAT, SANTA ROSA

*In that way, we discharge our obligation to have people understand the legal system that they entrust to us. But when we decide a case, we don't take a poll. There are very clear rules about how we're supposed to approach deciding a case and we look first of all to what the people have said about what they want the law to be — what their legislators have said on their behalf — or what they may have said in the course of passing an initiative to amend the Constitution."*

The Court's visit coincided with the schools' annual mock trial competitions. Robert Cullinen, who teaches advanced placement government classes at Analay High School in Sebastopol, says the timing was perfect. Many of his students "took a serious look at law or pre-law as a college course of study after this event," he says.

**PALM DESERT, OCT. 7, 2008**

**"I**s there a future for someone born outside the United States to achieve levels of the California justice sys-

tem?" asks Indio High School student Iris Perez. Associate Justice Joyce L. Kennard explains why the answer is "a resounding yes." She recounts her personal history, from her childhood in an internment camp on the island of Java and the jungles of New Guinea through her rise to the state Supreme Court. "America taught me that the boundaries of achievement are set largely by the individual," she says. "America gave me a chance to succeed against all odds. America taught me to dream. More than that, America taught me to dream the impossible dream. So my advice to you is — do go after your dreams."

Later, Ms. Perez told Associate Justice Douglas P. Miller of the Fourth District Court of Appeal that the exchange "inspired her to hopefully go to college and someday be someone of importance," Justice Miller says. The next day a local newspaper quoted her as saying: "I was expecting an answer that I couldn't do it, but [Justice Kennard] gave me an answer that gave me hope."

Justice Miller, the event committee chair, learned in preparing for the session that the cost of transporting



*"Could you outline the main differences between trial courts and appellate courts?" — Amanda Aguilar, West Shores High School, Salton City.*



*"Which crimes can be punished by the death penalty?" — Yvette Lopez, Indio High School, Indio.*



*"How do you put your personal beliefs or feelings aside when deciding a case, and do they ever make it difficult for you to decide a case?" — Daniel Flores, Indio High School, Indio.*



*Justice Corrigan responds to a question — LEFT TO RIGHT: Associate Justices Carlos R. Moreno, Kathryn Mickle Werdegar, and Joyce L. Kennard, Chief Justice Ronald M. George, and Associate Justices Marvin R. Baxter, Ming W. Chin, and Carol A. Corrigan.*

PHOTOS THIS PAGE USED BY PERMISSION OF THE DESERT SUN, PALM SPRINGS

students to the California State University, San Bernardino campus for the outreach session could run as high as \$17,000. Knowing that the local schools didn't have that much money, he sought help from Desert Town Hall — Indian Wells. The nonprofit sponsor of public affairs programs didn't hesitate to arrange and pay for busing in 2,400 students from three school districts.

The local costs of the Supreme Court's outreach program are a responsibility of the local event organizers. Local philanthropies may help, as did the H.N. and Frances C. Berger Foundation in Palm Desert. Local bar associations often contribute money, as they did in the San Jose area, where the program also received a \$6,000 "public education and outreach" grant from the State Bar Foundation. Television stations may solicit grants to cover telecasting costs, as did the public television station in Fresno.

**BERKELEY, NOV. 3, 2009**

**T**he focus for the first time is on reaching out to law students as the Court hears arguments at the UC Berkeley School of Law. The difference between this and previous outreach sessions is striking.

First-year student Mellori Lumpkin asks about the Court's role in creating policy on questions of first impression or addressing issues not presented by the parties. Justice Baxter responds at length, saying in part that the Court is the final arbiter of state law only in a limited sense — that the Legislature and the people may overturn a common law decision, an interpretation of a statute or even a constitutional decision. The Court itself practices self-restraint and avoids creating policy, he says.

The Chief notes that the first woman appointed to California's Court of Appeal, Annette Abbott Adams, was a Berkeley law graduate. Justice Adams also became the first woman to serve on the California Supreme Court, sitting on a case by assignment in 1950.

Berkeley Law Dean Christopher Edley, Jr. welcomes the Court to campus. He observes that the Chief

has been a judge longer than most people in the room have been alive. "I think he was appointed by the King of Spain," the dean says.

For the most part the question and answer session between the Berkeley Law students and the justices covers familiar territory — it is the vocabulary that changes. Instead of asking about "activist judges," for



*"What are the processes and factors by which you choose your clerks?"*  
— Eric Neff.



*"How does California's budget crisis affect the courts?"*  
— Julia Mehlman.



*"When hearing a case on highly technical subject matter in an area that you may not be familiar with, how much do you look to research and familiarize yourself with the subject matter in preparation for the case? Do you ever look to experts in the field to help you get familiarized, or do you primarily rely on the oral arguments and briefs submitted by the parties?"*  
— Nikhil Vijaykar.



*"As the final arbiter of the law, the California Supreme Court may be charged with the responsibility of creating policy on questions of first impression. What standards does the Court evaluate in making a decision where there is maybe no legislative or executive text that directly addresses the issue? Furthermore, in making the opinion, how does the Court determine whether it will address issues that may not necessarily have been presented in the parties' briefs but are essential to the analysis of the opinion?"*  
— Mellori Lumpkin.

PHOTOS THIS PAGE BY JIM BLOCK PHOTOGRAPHY, SAN FRANCISCO



*The justices pass the student questioners as they exit the auditorium — LEFT TO RIGHT: Associate Justices Carlos R. Moreno and Kathryn Mickle Werdegar; FAR RIGHT: Court Administrator and Clerk of the Supreme Court Frederick K. Ohlrich.*

Although law students had attended some of the Supreme Court’s earlier student outreach sessions, the program at Boalt Hall is the first one designed mainly for the benefit of students at this advanced level. As sophisticated as they may be, Berkeley Law lecturer William H. D. Fernholz says they rarely see a court in operation. Because they spend so much of their time studying theoretical matters, says Fernholz, who teaches appellate advocacy, observing the practical application of those principles is a valuable experience.

The questions asked by the law students reflect “the kinds of things lawyers care about: what kinds of judges are these, what are their values and what is the process that they use to make a decision,” Fernholz says. In responding, the justices were “as candid as they could be consistent with their ethical duties.”

A couple of student questioners refer to the recent confirmation hearings for Associate Justice Sonia M. Sotomayor of the U.S. Supreme Court, in which the role of a judge’s personal experience was debated.

Fielding a question from Elizabeth de la Torre about the effect of personal experience on her judging, Justice Werdegar says a judge’s life experience “rarely has a direct impact on the way he or she decides a case,” yet it is not irrelevant. A woman judge who has experienced sex discrimination may perceive the facts differently in a sex discrimination case, for example. “We all benefit from the members of the Court having diverse backgrounds in life and in law.” Diversity broadens the Court’s collective wisdom, Justice Werdegar said.

example, Josh Rosenfeld asks whether the courts have “a legitimate counter-majoritarian role.”

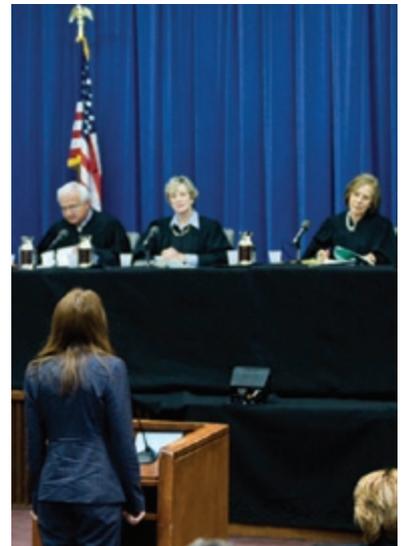
Like the high school students at earlier sessions, the law students solicit practical career advice. They react favorably to the justices’ helpful and, in some cases, entertaining responses. Asked by Kara Cook how to write a persuasive, interesting brief, Justice Corrigan advises that “a good brief ought to be a pleasure to read” and that circumlocution is no longer a lawyer’s obligation. “I’m here to confirm that Blackstone is dead.”



*“Given our constitutional structure, do courts have a legitimate counter-majoritarian role?” — Josh Rosenfeld. (SEATED AT RIGHT: Berkeley Law Dean Christopher Edley, Jr.)*



*“How can you write a brief to the Supreme Court that’s both persuasive and interesting while still being sure to cite precedent and law?” — Kara Cook.*



*The members of the Court listen to student Kara Cook’s question (LEFT TO RIGHT): Associate Justices Carlos R. Moreno, Kathryn Mickle Werdegar, and Joyce L. Kennard.*

PHOTOS THIS PAGE BY JIM BLOCK PHOTOGRAPHY, SAN FRANCISCO



Chief Justice Ronald M. George (RIGHT).



Associate Justices Carol A. Corrigan and Ming W. Chin.



Associate Justice Carlos R. Moreno (RIGHT).



Berkeley Law Professor and former Dean Jesse H. Choper (CENTER) and Associate Justice Joyce L. Kennard (RIGHT).

Miles Palley asks, “Does sympathy or compassion have a legitimate role in analyzing the legal merits of a case before you, and if you do have sympathetic or disapproving reactions to a party before you, how do you temper that reaction in your decision?” Justice Baxter responds, “We’re not robots. We’re human beings.” He emphasizes, however, that personal feelings must not be allowed to interfere with the proper application of legal principles.

*The law students then join the justices for lunch and have the unusual opportunity of sharing an hour of informal conversation with members of the Supreme Court.*

*After the lunch recess, younger students arrive at Boalt Hall to hear the Court’s afternoon calendar. They represent middle and high schools in Berkeley, Oakland, and Richmond. Some are enrolled in the Center for Youth Development through Law, a program for disadvantaged East Bay youths who are interested in law as a career. The session begins with complex, fast-paced arguments over parts of Jessica’s Law, an initiative that established zones where registered sex offenders may not reside. At a debriefing conducted afterward by members of the Alameda County Bar, Berkeley High students are attentive but, apparently, they’re at sea. A student says he heard a lot of debate about “the plain meaning of the statute.” What is “the statute?” he asks. Other students want to know what qualifies as a sex offense and the meaning of “retroactivity.” Oakland attorney Darryl Stallworth tells the students not to be discouraged by the jargon and formalities. The exchange between judges and lawyers resembles conversations that go on every day between parents and children, he says. To persuade their parents, children will talk about facts; old rules, analogies and exceptions; what makes sense and what’s fair. Arguing a case is the same thing, he says. “It’s very manageable. It’s very doable. It’s very exciting.” ☆*



The Supreme Court in session at Berkeley Law’s Boalt Hall.

PHOTOS THIS PAGE BY JIM BLOCK PHOTOGRAPHY, SAN FRANCISCO



GORDON MORRIS BAKKEN has published a new book, *Women Who Kill Men: California Courts, Gender, and the Press* (coauthored with Brenda Farrington). The book details eighteen cases of women on trial for murder in California from 1870 to 1958. Its themes are the changing public image of women and the reliance of defense attorneys on gendered stereotypes and language to portray their clients as sympathetic victims within a patriarchal system.



The book focuses “on the representations of women, case by case, in the newspapers and in trial-court settings, and the rhetoric of attorneys,” by making “comparisons over time and place to ferret out the nuances of gender, femininity, and the law.” Particular attention is given to the changing attitudes of juries, prosecutors, judges, and the press.

Bakken is a professor of history at California State University, Fullerton, and the author or editor of numerous books, including *Practicing Law in Frontier California* and *The Mining Law of 1872: Past, Politics, and Prospects*. He is a board member of the California Supreme Court Historical Society.

The book is part of the Law in the American West series of the University of Nebraska Press and is available at [www.nebraskapress.unl.edu](http://www.nebraskapress.unl.edu).

THOMAS J. McDERMOTT, JR. is the 2009 recipient of the John Frank Award, given annually by the U.S. Courts for the Ninth Circuit in recognition of an outstanding lawyer practicing in the federal courts of the Ninth Circuit. The award was presented on November 5 in San Francisco.



McDermott’s areas of specialization have included defense of class actions from allegations of securities fraud and construction litigation, and defense of anti-trust and intellectual property claims. He has been a Fellow of the American College of Trial Lawyers since 1982, and is a past chair of the Litigation Section of the State Bar of California. He is a

past president of the Association of Business Trial Lawyers and of the UCLA Law Alumni Association.

For many years, McDermott has been active in the Ninth Circuit, where he has been a member of the Advisory Board of the Ninth Circuit (formerly Senior Advisory Board) and was recently the chair of the Advisory Board. He is a board member of the California Supreme Court Historical Society.

HARRY N. SCHEIBER is the editor of the recent book, *Earl Warren and the Warren Court: The Legacy in American and Foreign Law*. The book is a compilation of papers by Scheiber and other leading historians, lawyers, and social scientists on the most important contributions of the Warren Court to law in America and abroad. Authors are included from Europe, Latin America, Canada, and East Asia. The book offers analyses of how innovations in American law generated by the Warren Court led to a reconsideration of law and the judicial role and, in many areas of the world, to transformations in judicial procedure and the advancement of substantive human rights.



Scheiber is the Stefan A. Reisenfeld Professor of Law and History at the UC Berkeley School of Law. He is the author of more than 100 articles in journals of law, history, economics, and social science, as well as books on American legal and economic history, international law of the sea, and American and comparative law. He is a past president and honorary fellow of the American Society for Legal History, and received an honorary doctorate in law from Uppsala University in Sweden. He serves as director of the UC Berkeley Institute for Legal Research, and is a board member of the California Supreme Court Historical Society.

The book is available from Lexington Books at [www.lexingtonbooks.com](http://www.lexingtonbooks.com).

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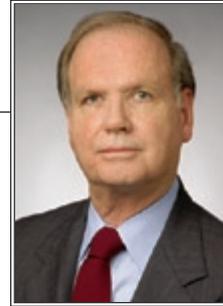
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*Send contributions for MEMBER NEWS and suggestions for ON YOUR BOOKSHELF to the editor, Selma Moidel Smith, Esq., at [smsth@aol.com](mailto:smsth@aol.com)*

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COMMENDATION FROM CHIEF JUSTICE RONALD M. GEORGE  
ON THE OCCASION OF RAY McDEVITT'S RETIREMENT



December 23, 2009

Ray E. McDevitt, Esq.  
Hanson Bridgett LLP  
425 Market Street, 26th Floor  
San Francisco, CA 94105

Dear Mr. McDevitt:

I write to you on the occasion of your retirement as a senior partner at the Hanson Bridgett law firm, for the purpose of recognizing your many significant accomplishments and contributions during a very distinguished career.

I am aware that you came to the profession as a dedicated legal scholar, having studied law at Stanford and Oxford. You have given back to the next generation of scholars by teaching government law as an Adjunct Professor at the University of San Francisco Law School since 1994. You served the California Supreme Court as a law clerk to The Honorable Justice Raymond L. Sullivan in 1969-1970 and learned from Justice Sullivan a deep respect for the law and a keen appreciation of our judicial system.

You went on to be an Associate General Counsel at the United States Environmental Protection Agency in Washington, D.C., ultimately supervising 15 attorneys with responsibility for the EPA's water-related programs, including the Safe Drinking Water Act and the Clean Water Act. You contributed significantly to the protection of California's beautiful coastline with your work in drafting the "California Coastal Initiative." You joined the Hanson Bridgett firm in 1976, developing a representation of public entities in water law and related fields, including the vigorous representation of the Bay Area Water Users Association, which secured the protection of water supply for millions of people living in the Bay Area. You were later instrumental in the creation of the Bay Area Water Supply and Conservation Agency and served as its general counsel since its formation.

Your love of history and scholarly passion led to years of work on your 2001 book, *Courthouses of California, An Illustrated History*, which introduces the rich and storied past of our state's historic courthouses, the "temples of justice" in all of California's 58 counties. It was a pleasure for me to write an introduction to this charming, substantive, and educational book.

As a senior partner at Hanson Bridgett, you have been a leader in expanding your firm's public agency and government practice, while guarding the collegial culture that is so important to you and your partners. You served as chair of your firm's Recruiting Committee and mentored numerous associates and partners in the development of their careers. Approaching retirement, you have served as a role model for the transitioning of clients to younger partners without interrupting the high level of service and wise counsel your clients have come to expect.

You have continued to give back to the legal community, serving on the Board of Directors and as an officer of the California Supreme Court Historical Society. As President, you greatly improved the Society's administration and the quality of its programs and publications. Your strong but gracious and measured leadership has set an example for other board members and officers, and you have earned the gratitude of all members of the Society.

It is a pleasure to recognize and commend you for your distinguished career in the law and for your service to our legal system and the people of California.

Sincerely,  
Ronald M. George

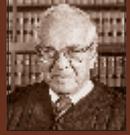
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