



LEFT TO RIGHT: *David A. Carrillo, former California Supreme Court Associate Justice Joseph R. Grodin, and attorney Calvin R. House at the February 2013 conference sponsored by the Center.*

PHOTO BY JIM BLOCK

## *Berkeley Law's New California Constitution Center*

BY DAVID A. CARRILLO\*

California is the nation's most populous state, and this year the Legislative Analyst's Office estimates that our state has the ninth largest economy in the world. State courts are often the first to be called upon to decide cases of national importance with broad social and political consequences. Indeed, the overwhelming majority of all legal cases nationwide are handled by state courts. The California Constitution and the Supreme Court of California in particular provide fertile ground for scholarly study, and have been the focus of great public attention at times — most recently in the debate over same-sex marriage. But state judicial systems have not been studied to the same degree as the federal judicial system, and to date there has been little sustained effort to study the California Constitution. Thus, when significant issues of state constitutional law arise, neither practitioners nor the courts have ready access to a comprehensive body of legal scholarship on California constitutional provisions.

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To address that problem, Berkeley Law created the California Constitution Center ([www.law.berkeley.edu/calconcen.htm](http://www.law.berkeley.edu/calconcen.htm)) in 2012 as the first and only academic research institution devoted exclusively to studying the Constitution and high court of the state. The center will encourage and participate in developing a body of scholarly work on the difficult legal and policy issues that arise under the state charter, and will explore issues affecting the state judiciary generally and the state high court in particular.

The center approaches its mission from several angles:

▶ The Supreme Court of California Moot provides a venue for “mooting” cases pending before the state high court. In a moot, the practitioner representing a party argues the case before a panel of mock justices composed of expert appellate attorneys, retired judges, and legal scholars. Berkeley Law students may participate in a three-unit seminar to prepare bench memoranda and act as law clerks to the mock jurists. This program is made available at no cost to practitioners, to aid both the advocate and the Court by improving the quality of argument. Approximately four cases are mooted in each academic semester, and cases are generally selected based on the involvement of state constitutional issues. To preserve party privacy and work product confidentiality of the

participating practitioner, moots are closed to the public and the names of the cases mooted are not publicized.

► Center-affiliated faculty and practitioners teach academic seminars on California constitutional law, covering topics such as constitutional design, separation of powers, federalism, individual rights, relationships between the state and local governments, and California's mechanisms for direct democracy — the initiative, referendum, and recall.

► The center holds regular events, including a conference on the California Supreme Court and a local government conference with the Municipal Law Institute. The MLI conference (entitled "Local Governments Navigating the California Constitution") was held in February 2013. Panels were comprised of legal experts from across the state, including eminent jurists and scholars such as Joseph L. Sax, Professor (emeritus) of Environmental Regulation at Berkeley Law, and Hon. Joseph R. Grodin (ret.) of the California Supreme Court. The event tackled constitutional questions involving privacy rights, free speech and religious liberty, water access, state finance and revenue, the evolving trend of states limiting cities' powers, and tensions between local and state control. The California Supreme Court conference raises public understanding of the Court's work, and explores state constitutional developments and issues affecting the state judiciary. The next conference is planned for October 4, 2013, and it is anticipated that

it will be held in conjunction with a subsequent special oral argument session of the Court at Berkeley Law. At the previous offering of this conference four of the Court's justices participated in a series of panel discussions on the Court's recent term, the death penalty, private judging, and access to justice in family court.

► The center engages law students and practitioners as research fellows to publish scholarship on the state Constitution and courts, along with center-affiliated faculty publications, including *California Constitutional Law: Separation of Powers*, 45 *USF.L.Rev.* 655 (2011); *California Constitutional Law: The Religion Clauses*, 45 *USF.L.Rev.* 689 (2011); and a forthcoming chapter on the state judiciary in *Governing California: Politics, Government, and Public Policy in the Golden State* (IGS Press 2013).

► Finally, the center's website maintains an up-to-date list of activity in cases pending on the California Supreme Court docket at <http://www.law.berkeley.edu/php-programs/courts/>.

As the center grows, each of its existing programs will be scaled up: more cases will be mooted, more fellows will publish articles, and more courses will be taught. Although there is much that Berkeley Law can do to advance the understanding of the state charter and high court, there are limits on what one research center can accomplish without involvement from the broader legal community. By focusing attention on the state Constitution with this center, we hope that more attorneys and scholars will be inspired to work in this area. So, to all those with an interest in thinking, writing, and speaking about these things, the California Constitution Center is your venue. Our doors are open, and we look forward to working with you. ★

BELOW LEFT: *David A. Carrillo*

BELOW RIGHT: *David A. Carrillo (LEFT) and former California Supreme Court Associate Justice Joseph R. Grodin (RIGHT).*

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