
UC Davis Launches State's First California Supreme Court Clinic

BY AIMEE FEINBERG*

The California Supreme Court touches the lives of every Californian. The Court reviews the work of about 2,000 judicial officers, the largest law-trained judiciary in the world,¹ and issues rulings governing countless day-to-day activities of the state's residents. According to the National Center for State Courts, the California Supreme Court processed a staggering 9,562 matters in 2010, thousands of cases more than the next busiest state high court.²

The Court's reach extends beyond the state's borders. In a comprehensive study published in 2007, Jake Dear and Edward Jessen concluded that the California Supreme Court is the most followed state high court in the United States.³ Thus, when it comes to tort law, insurance law, criminal law, and others, the saying rings true: as California goes, so goes the nation.

It is fitting, then, that one of the state's newest legal clinics should train its attention on the state Supreme Court. In the fall of 2012, UC Davis School of Law launched the first and only law school clinic in the state to focus exclusively on the California Supreme Court. Inspired by a 2010 speech by former State Bar President Jeff Bleich⁴ and modeled to a large extent on Stanford's first-in-the-nation US Supreme Court clinic, UC Davis's California Supreme Court Clinic provides pro bono representation to parties and amici in both civil and criminal cases pending before the state's High Court. The Clinic's six students, each of whom is selected to participate by application, become immersed in California Supreme Court practice and procedure. During the semester-long program, Clinic participants study the Court's rules, learn principles of effective appellate advocacy, hear from seasoned practitioners, and, under faculty supervision, research and draft briefs to be filed in cases pending before the Court.

Like many appellate advocacy programs, the Clinic aims to teach students critical brief-writing skills. But focusing exclusively on the California Supreme Court offers students other important learning opportunities. Because the Court grapples with some of the most complex

and consequential issues facing the state, students in the Clinic learn to research and analyze legal questions at an exceptionally deep level. They are called on to leave no stone unturned in their case research, to comb through legislative history, to examine agency regulations, to canvass laws in other jurisdictions, and to marshal policy arguments. By concentrating on the state's highest court, moreover, the Clinic offers students the chance to see how a



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legal issue travels through the state system from start to finish. Likewise, because the Court (for the most part) has discretion to decide what cases it will hear, Clinic enrollees learn about the petition-for-review process and the characteristics of cases that may find their way onto the docket of a court of last resort. At the same time, focusing on a court with a docket as diverse as that of the California Supreme Court exposes students to an unusually broad array of legal issues. And by observing the Court's oral argument sessions, students see some of the nation's most respected jurists question advocates and explore the intricacies of complicated legal questions.⁵

Litigating cases before the California Supreme Court also provides students with an important opportunity to serve the public interest. Although the federal courts undoubtedly decide significant issues, the California state courts provide the forum for many more disputes to be resolved: in 2012, litigants filed 372,563 matters in federal district court; in fiscal year 2010–2011, filings in California superior courts surpassed 9.4 million.⁶ At the same time, the state system often adjudicates cases in the areas of law most likely to affect people's everyday lives — how contracts are enforced, the accused are tried, businesses are regulated, marriages are dissolved, children are reared, and property is owned. By working on cases pending before the state's highest court, Clinic enrollees have the chance to present their clients' arguments knowing that a case's outcome will almost certainly impact the lives of many people.

The Court's special place in the state's judicial system offers special opportunities for law students. For the participants in the Clinic, it is an honor to litigate before the Court. ★

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Justice Liu Delivers the Mathew O. Tobriner Memorial Lecture at UC Hastings

California Supreme Court Justice Goodwin Liu delivered the Mathew O. Tobriner Memorial Lecture at Hastings College of the Law on April 17, 2013. His topic was the role that state courts play when addressing questions of federal law, both constitutional and statutory. Noting that state courts are, unlike their federal counterparts, courts of general jurisdiction, he emphasized that they are therefore fully empowered to interpret and apply federal law and — contrary to the assumptions of many — may and do decide cases that raise solely federal law issues.



Justice Goodwin Liu

Justice Liu observed that since the 1930s American law has become increasingly “federalized.” He described this as an incremental process, the result of both expansive interpretations of the federal Constitution by the United States Supreme Court and the enactment of federal regulatory legislation covering fields as diverse as civil rights, the economy, and the environment. Given the ubiquity of federal law, state courts cannot avoid dealing with federal statutes and constitutional principles.

Moreover, Justice Liu maintained, state courts should welcome the opportunity to make a useful contribution to the judicial understanding of federal law. As one example he mentioned *Perez v. Sharp*, 32 Cal.2d 711, a case decided by the California Supreme Court in 1948, holding that state laws prohibiting interracial marriages violated the Equal Protection

clause of the *federal* Constitution — a determination rendered nearly 20 years before the US Supreme Court reached that same conclusion in *Loving v. Virginia* (1967) 388 U.S. 1.

The lecture was warmly received by a large and enthusiastic audience of Hastings students and faculty, judges, lawyers, and family and friends of the late Justice Tobriner. Former California Supreme Court Associate Justice, and current Hastings faculty member, Joseph R. Grodin introduced Justice Liu, highlighting some of his numerous academic and professional accomplishments before his appointment to the California Supreme Court in 2011 by Governor Jerry Brown. Justice Grodin also recalled Justice Tobriner as one of the finest justices in the history of the California Supreme Court — the author of opinions that resonated throughout the nation and are still studied in law schools. At the same time, he reflected on Justice Tobriner’s personal character and values: his passion for justice and his empathy, his ability to see the human beings behind the cases.

After Justice Tobriner’s retirement from the Court he had been scheduled to teach at Hastings, an opportunity lost upon his unexpected death in 1982. After his passing, Justice Tobriner’s friends and admirers joined with his family to initiate the memorial lectures at Hastings as a suitable public way to keep his legacy alive. (An article by former Justice Grodin concerning the origins of the memorial lecture series appeared in the Spring/Summer 2012 issue of this Newsletter. It was accompanied by a list of each of the 21 lectures that had been presented at Hastings between 1983 and 2004, providing the name of each speaker, the topic, and a citation to the Hastings journal in which they were published.) Justice Grodin joined with Hastings Dean Frank Wu in expressing both his gratification at seeing the tradition of lectures by distinguished speakers revived after a pause of nine years, and his pleasure that Justice Goodwin Liu had agreed to be the first speaker in the renewed series of memorial lectures. ★

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ENDNOTES

1. Chief Justice Tani Cantil-Sakauye, *State of the Judiciary, Address to a Joint Session of the Calif. Legislature* (Mar. 11, 2013), see <http://www.courts.ca.gov/21268.htm> [as of Apr. 16, 2013].
2. *State Court Caseload Statistics*, State Court Caseload Tables, 2010, Appellate — Grand Total Court Caseloads, Nat. Ctr. for State Cts., see <http://www.courtstatistics.org/Other-Pages/StateCourtCaseloadStatistics.aspx> [as of Apr. 16, 2013].
3. Dear & Jessen, “Followed Rates” and Leading State Cases, 1940–2005, 41 *U.C. Davis L.Rev.* 683 (2007).
4. *Remarks of Jeff Bleich at the First Annual Conference on the California Supreme Court*, 1 *Calif. L. Rev. Cir.* 1 (2010), see

<http://www.californialawreview.org/assets/pdfs/Circuit/01.01.Bleich.pdf> [as of Apr. 16, 2013].

5. See generally Karlan et al., *Go East, Young Lawyers: The Stanford Law School Supreme Court Litigation Clinic*, 7 *J. App. Prac. & Process* 207, 209–210 (2005) [discussing similar lawyering skills taught in US Supreme Court clinic].
6. Admin. Off. of US Cts., *Judicial Business of the United States Courts*, 2012 Annual Report of the Director, see <http://www.uscourts.gov/Statistics/JudicialBusiness/2012.aspx> [as of Apr. 16, 2013]; Jud. Council of Calif., *2012 Court Statistics Report, Statewide Caseload Trends, 2001–2002 through 2011–2012*, (2012) p. xiv, see <http://www.courts.ca.gov/documents/2012-Court-Statistics-Report.pdf> [as of Apr. 16, 2013].