

PRANKS FOR THE MEMORIES

PAUL BERGMAN*

I joined the UCLA Law School faculty in 1970. I'm sure that one of the reasons that I ended up as a law teacher is that I enjoyed being a law student. Here are some of the ways that I continued to have fun during my first decade on the faculty side of the podium.

1. PHOTO SIN-THESIS

In the early 1970s, David Binder and his wife Melinda had recently returned from a hiking trip to Nepal. Because at the time few people had taken “exotic” trips like this, David left announcements in the mailboxes of law school faculty and staff inviting them to view slides from the trip during a lunchtime gathering in the old Faculty Conference Room. Sensing the opportunity for amusement, I purchased a few commercial slides of questionable taste. Shortly before David's presentation I wandered into his office and surreptitiously slipped a couple of my naughty slides into his carousel of slides. When it came time for the show, I was shocked to see that a huge crowd was gathered in the

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Faculty Conference Room, not just law school folk but people from Murphy Hall and elsewhere. I thought about removing my slides from the carousel but doing so would have been impossible — in their square holders, all the slides looked alike. As David was describing photos of Nepalese villagers, suddenly one of my slides popped up. There was dead silence for about ten seconds. Then David screamed one word: “Bergman.” The show did go on, at least until the second slide appeared. I’d probably be sacked if I did this today, but it’s an incident that no one who was there will ever forget.

2. ADJUNCT PROFESSOR OF THE WINTER QUARTER

In 1978, I was an adjunct professor of law, not yet a full professor. I was therefore not eligible for the annual Professor of the Year award. So I decided to try for a lesser award: Adjunct Professor of the Winter Quarter. Undeterred by the fact that no such award existed, I posted flyers all around the law school announcing the award and asking students to vote for me.

The “Karst Report” was issued in the middle of my campaign. The report recommended changes to the process by which applicants who were members of under-represented racial minority groups would be admitted to the law school. The changes were partly in response to the U.S. Supreme Court’s recent *Bakke* decision. Nevertheless, the report generated mass protests by students. As had happened a few years earlier during the anti-Vietnam War protests, students lined the halls for days, shouting and pounding on any object that would produce a lot of noise.

I decided to use the boisterous protests as a chance to increase my chances of winning a non-existent award. I placed one of the law school’s videotape recorders in the main hallway and wrote a script for a phony news story. With the noisy protesters in the background, I made a video recording of my secretary Vi Denney reporting that what was happening was a spontaneous demonstration in support of my campaign to be named Adjunct Professor of the Winter Quarter. Luckily Vi and I escaped to the quietness of the third floor before the students realized what we had done. But none of us succeeded — the faculty adopted the Karst Report recommendations, and I never was named Adjunct Professor of the Winter Quarter. (Ironically, about a decade later the faculty considered a variety of changes to the admission of

applicants from under-represented minority groups. The students of the late 1980s protested nearly as vigorously in favor of maintaining the processes prescribed by the Karst Report as the students of the late 1970s had protested in an effort to convince the law school not to adopt them.)

3. PHOTO, PHOTO ON THE WALL

Through the 1970s, the law school tradition was to display formal photos of all currently tenured law school professors on an interior wall in the law library. Coincidentally, the law school decided to terminate the tradition at nearly the same moment that Paul Boland and I were granted tenure. The wall on which we proudly expected to see photos of ourselves was suddenly empty. We took the setback sitting down — that is, we took very casual Polaroid pictures of each other sitting in our offices, eating an ice cream cone. We then went to the now-empty wall where the tenured faculty photos had until recently been displayed, and taped our photos to the wall. We left notes in each faculty member's mailbox, inviting him or her to stop by the faculty photo wall in the law library to see the newest additions. The photos stayed up on the wall for a couple of weeks before they vanished. Boland and I weren't positive that our tenured status would endure that long.

4. BERGMAN'S HOLIDAY BOUTIQUE

As holiday seasons approached, my custom in the 1970s was to create a parody of the usual holiday catalog and distribute it to students and faculty who might be looking for just that special gift to a favorite lawyer. Here are a few sample items from one of the catalogs.

Cheaper By the Case

Yes, opinions at Bergman's Holiday Boutique are Cheaper by the case! Why purchase an entire volume of the Federal Reporter or the California Appellate Reports when all you really need is one case. The cover of each case is made of genuine Alaskan Baby Sealskin (except Environmental Law cases).

Unanimous Opinion	\$6.95
Opinion with Concurrence	\$7.95
Opinion with Concurrence and Dissent	\$8.95

Cases on Point

Do you know a special lawyer who never seems to be able to find a case on point when one is really needed? Here's the answer. Choose a specially wrapped box of six opinions from the jurisdiction of your choice, each opinion guaranteed to be strictly on point. (First 100 orders receive a 7th case on point at no extra charge.)

Boxed set of six intermediate court opinions	\$19.95
Boxed set of six Supreme Court opinions	\$39.95
Boxed set of six Texas opinions	\$0.95

Electronic Plea Collar

Does your gift-giving list include a criminal defense lawyer who is always itching to plead clients guilty? We have just the solution: the Electronic Plea Collar. The colorless collar fits comfortably under any dress shirt. Studies prove that the collar is 94 per cent effective at preventing plea bargaining by emitting a vile odor when its language processor detects the words "deal," "drop," or "golf." Defense lawyers cannot detect the odor, but prosecutors cannot tolerate it.

Electronic Plea Collar	\$24.95
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Dictum Alarm

Is your favorite appellate court lawyer frequently reprimanded by judges for relying on arguments based on dictum? If so, Bergman's Holiday Boutique has the perfect gift! Just roll the Dictum Alarm over the pages of any appellate court opinion. It will respond with a loud shriek whenever it is passed over a sentence that constitutes dictum. (Activated by 28 AA batteries, not included.)

Dictum Alarm	\$13.95
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5. RETIREMENT PLANNING

In the mid 1970s, all UC employees were allowed to choose whether to rely exclusively on their UC retirement benefits, or to coordinate those benefits with Social Security benefits. Faculty members with specialized

knowledge in financial planning distributed memos explaining the ramifications of making one choice or the other. What these memos had in common is that I could understand none of them. Figuring that other law school faculty and staff could be in the same boat, I distributed a memo that all could understand.

To: Faculty and Staff
From: Paul Bergman
Re: UCRS and Social Security

February 18, 1975

Like Bill Klein, I have adopted a position of rigid refusal to give advice as to whether they should choose to coordinate UCRS with Social Security. However, I want to point out the following facts that I have carefully culled from the complex computations.

Retirement benefits will be larger for those whose salaries are bigger, under either alternative.

If you retire after 40 years of service, you will have worked twice as long as an employee who retires after 20 years of service.

The following figure seems to be pervasive, and may be meaningful: 32.1 per cent.

Attila the Hun had neither UCRS nor Social Security but was able to retire comfortably.

Sample computation: Multiply your years of UC service by your age when you began service. Take your Average Salary Factor, divide it by your benefit percentage, reduce that by 2 per cent of your Otherwise Eligible benefit at 64 or 65, whichever comes first, and hypothecate the remainder over a ten year span. Then figure the likely cost of a world cruise in 1990. Under either plan, you will not have enough.

6. DUSTBALL

By 1978, I had achieved a form of tenure called “security of employment.” In my newly exalted status, I sent a memo to Dean Bill Warren asking him to extend the honor to another long-term law school occupant.

To: Dean Bill Warren
From: Paul Bergman
Re: Honorary Tenure for Ball O'Dust

September 1978

Dear Dean Warren,

I think it appropriate for the law school to grant Honorary Tenure to Ball O'Dust. Ball has been a member of the law school community for at least seven years. Thus, UC tenure policy requires that Ball either be granted tenure or terminated. I support the honorary tenure option because Ball has remained in the law school day and night, in his office in the corner of the third step from the top of the staircase leading to the law school's third floor. Conferral of Honorary Tenure on Ball will recognize Ball's contribution to the law school community as a welcoming presence whose steadfastness is comforting in these turbulent times.

Thank you for your consideration. I hope that you will follow up on this matter at your earliest opportunity.

Paul

7. CLASS ACTS

My interest in practical jokes often followed me into the classroom. One law student organization regularly sponsors a Red Cross Blood Drive. When a Blood Drive day coincides with one of my teaching days, I often wrap my wrists, forearms, neck and scalp with ketchup-smearred gauze. The gauze was not immediately visible to students, as when I come to class the gauze is hidden by a scarf, a hat and a sweater. I begin class with a fervent plea along these lines: "I urge you to donate blood today if you haven't already done so. I donated earlier, and I assure you that the donation process is easy and painless. The Red Cross nurses are highly skilled; you won't feel a thing." As I talk, I remove my hat, sweater and scarf, slowly revealing gauze strips that appear to be smearred with blood. As the students realize the gag, their hesitant titters build into loud laughter and often applause. Of course, I hope I never dissuaded a student from donating blood!

I taught the first year Civil Procedure course once, in Fall Semester 1991. It was my students' first law school course, and I began it by telling the students that the Admissions Office had admitted too many 1L students. (Luckily I taught this course four years before my wife Andrea became the law school's assistant dean of admissions!) Adopting my most serious tone, I told the class that three students in our section had to be dismissed, and that after observing them for a week, I would make a final decision about which students to dismiss. I gave them time to write down any objections they had. After a few minutes I called on students and put a list of their objections on the blackboard. Just as I had anticipated, virtually all of their objections were procedural: "We don't know what standards you are using to judge us." "We should have a chance to talk to you before you dismiss us." "The Dean should have the right to review your decisions." "It's too late now to do this." I then assured the students that this was an exercise: no one would be dismissed from the 1L class. The purpose of the exercise was to demonstrate that as a society we care not only about legal outcomes, but also we care strongly about the procedures that lead to those outcomes. Civ. Pro., I said, focuses on these procedures. Admittedly this exercise was as much a teaching method as a prank. But it was my way of responding to a common student belief that Civ. Pro. covers insignificant minutiae and is much less important than "real" first year courses like Torts, Contracts and Criminal Law.

8. THE REST OF THE STORY

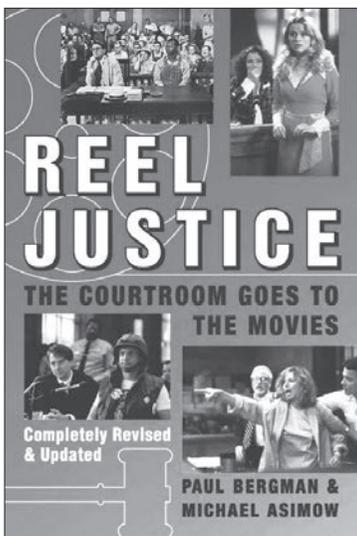
I am truly blessed to have been a faculty member at UCLAW for over forty-five years. When I was hired in 1970 to teach students how to be lawyers and try cases, I had been out of law school less than two years myself. If you had asked me upon graduation from Boalt Hall to identify ten ways in which I might use my law degree, law teaching would not have been close to being on the radar screen. But as a student I loved the classroom experience, and as a lawyer I wanted to use whatever skills and talents I had in service to marginalized people. Despite my qualms that I knew little more about the practice of law than my students, I thought that teaching-by-doing was a perfect way for me to find a purpose for my life that I was passionate about.

I have enjoyed every minute of it (with the possible exception of committee work). I truly value the opportunity to teach and learn from students, even though they have stayed the same age and I have gotten older every year. My law school faculty colleagues have always been kind and generous with me beyond my deserving, a true community rather than a collection of academic specialty groups. And I love writing. Just as I never thought I'd be a law teacher, I never imagined that I would have lists of books and articles to my credit.

Ultimately, UCLAW has allowed me to follow my professional interests in whatever direction they took me. When I wanted to help students improve their legal drafting skills, my proposal to teach a will drafting course and prepare wills for actual clients was approved without hesitation. Likewise for my Street Law proposal, in which I provided law students with opportunities to teach law-related material to high school students and used their experiences to help them think about how to communicate legal principles and knowledge effectively.

Most significantly, UCLAW supported the development of my interest in Law and Popular Culture. I first used clips from courtroom-focused films and TV shows as educational tools when I began teaching Evidence in the early 1990s. As I sought to identify sources of clips beyond those that I already knew about, I realized that no one had ever analyzed the genre of courtroom

films even though law-related films and TV shows were for many people the primary source of their knowledge of law, lawyers and the legal system. A book proposal began to form in my mind, and over a series of lunches with my wonderful and brilliant colleague Michael Asimow the shape of *Reel Justice: The Courtroom Goes to the Movies* came together. Its publication in the mid-1990s, followed by a second edition in 2006, changed my life. Inside the law school, Michael and I developed a brand new UCLAW course in Law and Popular Culture. The course was tremendously popular, and we asked



students to think as carefully about the portrayal of law and lawyers in films and TV shows as they thought about principles of torts and contracts.

But the biggest impact of *Reel Justice* on my life was taking my interest in teaching law through film clips outside the law school. Like Michael, I have presented *Reel Justice* programs all over the country and beyond. My audiences have included law teachers, lawyers, judges, and community groups. Depending on a group's interest, film (and sometimes TV) clips are an entertaining method of addressing topics as diverse as trial tactics, legal ethics, divorce law, legal history, and (of course) principles of evidence law. I have also discussed the portrayals of law and lawyers in popular culture on numerous TV and radio shows. I am so grateful to UCLA for supporting my work because these experiences have tremendously enriched my life. I hope that in all that I have done I have also been a goodwill ambassador for the law school.

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