



## 2017 STUDENT WRITING COMPETITION WINNER ANNOUNCED

Winning author Michaela Goldstein (CENTER) is congratulated by Chief Justice Tani Cantil-Sakauye (CENTER LEFT), Justice Kathryn Mickle Werdegar (LEFT), who retired from the Court on August 31 but remains on the Society's Board of Directors, Society President George Abele (RIGHT), and Selma Moidel Smith (CENTER RIGHT), who initiated and conducted the competition — in the Chief Justice's chambers in Los Angeles, September 25, 2017.

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THE CALIFORNIA SUPREME Court Historical Society is pleased to announce the results of its 2017 Selma Moidel Smith Law Student Writing Competition in California Legal History.

The winner is Michaela Goldstein, a 2017 graduate of Loyola Law School, Los Angeles, now a member of the California Bar and an associate at Sheppard Mullin Richter & Hampton LLP in Los Angeles. She receives a prize of \$2,500 and publication in the Society's annual scholarly journal, *California Legal History*. Second and third place winners were not selected this year.

Goldstein's paper is titled, "California's No-Duty Law and Its Negative Implications," and she argues for a new approach to the prevailing "no-duty" rule in negligence cases. She begins by outlining the historical development of negligence law in the United States and California during the nineteenth and twentieth centuries and then focuses on the evolution of California's no-duty rule in recent decades.

She contends that California courts have turned away from an earlier view of negligence that presumed a duty of reasonable care by all persons to all others, creating in its place "narrow and complex exceptions to the duty element." Her principal claim is that the "no-duty" rule often leads courts to decide in summary judgment whether a duty exists, rather than proceeding to trial to determine whether the duty has been breached. She argues that this

converts a question of fact to one of law — and with a specific consequence: "Because the element of duty is a matter of law for the court to determine, California has essentially removed negligence cases from the jury by deciding these cases on whether a duty exists."

Goldstein illustrates her discussion with two cases that were pending before the California Supreme Court at the time of her paper. *Regents of the University of California v. Superior Court*, which is still pending, asks whether UCLA had a duty to protect a student from a foreseeable attack by another student. In *Vasilenko v. Grace Family Church*, which was decided on November 13, 2017, the Court ultimately held that the church had no duty to protect a visitor from injury while crossing the busy street between the church and its designated overflow parking lot. In each case, the trial court had cited the no-duty rule in finding for the defendant, and in each the judgment had been reversed by the appellate court prior to review being granted by the Supreme Court.

The Society's annual competition is open to all law students. Papers must be written during law school enrollment and may address any aspect of California legal history, ranging from the justices and decisions of the Supreme Court itself to local events of legal and historical importance, at any time from 1846 to the present. The students' papers are judged by a panel of legal historians and law professors. ★