

# THE PRECEDENT

## Criminal Law Practice Center Distinguished Speaker Event



On October 16, 2014, Western State had the honor of welcoming the Honorable Joanne Motoike for a Distinguished Speaker event organized by the Criminal Law Association, the Asian , Pacific American Law Student Association, and the Criminal Law Practice Center.

Judge Motoike's service to the public spans over 20 years. Before being appointed as a Judge by Governor Jerry Brown to the Orange County Superior

Count, she served in the Public Defender's office and was also war a crimes prosecutor for the United Nations at the International Criminal Tribunal in the Netherlands.

Judge Motoike received distinction on the Dean's List while at University of California, Irvine and earned her Juris Doctorate from Loyola Law School in 1993.



*From left to right: APALSA President Danny Kim, CLA President Steven Bell, Hon. Joanne Motoike, Professor Elizabeth Jones. Photo courtesy of CLA.*

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*THE PRECEDENT*  
welcomes contributions from the WSCL  
student body, administration, faculty,  
staff, and alumni.

*If you have an essay, article, or illustration  
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**Website:**

**[www.ThePrecedent.org](http://www.ThePrecedent.org)**

## Public Service Week: PB&J Drive

Entertainment and Sports Law Society kicked off public service week with our PB&J Drive. ESLS's goal was to donate to 150 sandwiches to Mary's Kitchen in Orange, CA .



Thanks volunteers and generous donations from our executive board, faculty, staff, and students, ESLS nearly doubled their goal and donated 286 PB&J sandwiches to Mary's Kitchen!

## PACIFIC LEGAL FOUNDATION

### Conservative/Libertarian Public Interest Litigation Fellowship 2015-2016

Pacific Legal Foundation's College of Public Interest Law offers 2-year litigation fellowships to graduates interested in rapidly gaining experience in the litigation of major constitutional cases. The fellowships are open to all graduating individuals of demonstrated high achievement and offer an exceptional opportunity as a stepping stone to private practice, public agency law, an academic career, or a permanent position with Pacific Legal Foundation ([www.pacificlegal.org](http://www.pacificlegal.org)). Applicants accepted for the College of Public Interest Law Fellowship will begin September, 2015.

Fellows will work in the Sacramento, California, headquarters of Pacific Legal Foundation. Guided by experienced attorneys, each Fellow will participate in hands-on litigation. Starting salary is \$60,000, plus medical, dental, and vision benefits, participation in a 403(b) savings plan, insurance coverage, and pension. Applicants must submit a resume and a personal statement. The resume should include your GPA, class rank, journal and moot court affiliations, and any other law school organizations. The personal statement should explain your interest in libertarian/conservative ideas, your interest in issues that PLF litigates, and what distinguishes you from a typical or average student at your school.

Applications are reviewed as they are received. Please send (e-mail preferred) to:

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930 G Street, Sacramento, California 95814  
phone 916) 419-7111 - fax 916) 419-7747  
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## Controversial New California Laws

By Emma Popiolkowski



### *Driver's Licenses for Undocumented Immigrants*

Assembly Bill (AB) 60 will make it possible for undocumented immigrants to obtain a driver's license by waiving the requirement that an applicant provide to the DMV proof that they are authorized to be in the United States if they are not eligible for a social security number. Although this essentially is an admission that they are illegal immigrants, the law offers protection from this admission being used against them as a basis for detention. The purpose behind this law is to increase safety on the roads. According to the text of the bill, The AAA Foundation for Traffic Safety has determined that unlicensed or invalidly licensed drivers are involved in 20% of fatal crashes. In offering licenses to undocumented immigrants, the DMV can educate and test these drivers, thus increasing safety on the road. The law does acknowledge that implementation will cost the DMV in expenditures such as new staff, facilities, and training, so AB 60 makes an allowance for the DMV to pass on the extra costs to those who apply for a license under this law until June of 2017.

### *Facilitating Changes on Identifying Documents for Transgendered People*

AB 1121 makes it easier for transgendered people to legally change their birth certificate to reflect their identity. Previously, in order to legally change gender on a birth certificate, one would have to appear in court and obtain a court order. Under the new law, one will simply have to submit to the California State Registrar an affidavit from a doctor that they have had the treatment to change gender. This relaxation of the requirements is especially significant if the person is living out of the state, since the new law facilitates a change through mail exchanges. To make it even easier to changing gender on a birth certificate after gender reassignment, the California Department of Public Health has included instructions on their website specifically for this type of request. However, in order to change a name, one still has to obtain a court order.

### *Defining Consent: "Yes means Yes"*



*California State Capitol - Photo source: elcivics.com*

Senate Bill (SB) 967—or more commonly called the “yes means yes” rule—codifies what is and is not consent to engage in sexual conduct on college campuses. The purpose of the law is to prompt college administration to create policies and procedures that will help prevent violence and offer greater resources to those who are sexually assaulted on college campuses. One noteworthy aspect of this law is that colleges must comply in order to receive money from the state in the form of financial assistance for students. One of the criteria for compliance with

this law is that colleges adopt an “affirmative consent” standard—yes mean yes—rather than the old adage—no means no—in order to determine whether the interaction was consensual. The law defines affirmative consent as an ongoing affirmation of both parties to consent to the activity. This is expressly differentiated in the bill from lack of a “no” from an intoxicated, silent, or unconscious partner.

## Student Voices

### Nick Flicker: Sports Law Association Conference

On Wednesday October 8, 2014 I attended an event in Los Angeles put on by the Sports Law Association. I attended with Entertainment and Sports Law Society Former President Caren Seenauth. The SLA event was about protecting client's assets. The event discussed how high net-worth clients must be careful to protect their investments against creditors. Offshore accounts may illicit unsavory techniques and are highly regulated in many places like the Cayman Islands. These regulations are highly effective in protecting assets because US Court judgments have no jurisdiction over funds in offshore accounts. The event was aimed at working professionals. At times I struggled to keep up with the speakers but I feel like it was still a very valuable experience and a good time. I was able to get my feet wet with my networking skills. As a shy individual, I knew it would not be easy to initiate conversation with sports attorneys. I know I have plenty of room to improve. I am glad that I began developing these skills now because these



### Manuel Magpajian: "War Stories" with Phi Alpha Delta

As students, very rarely do we hear the professors' stories of when they were practicing attorneys and what drove them to consider a career in teaching. On October 14<sup>th</sup>, 2014, Phi Alpha Delta ran their first event called "War Stories". The event included Professor Blasser, Professor Jaffke, Professor Schroeder and Phi Alpha Delta Western State alumna Jennifer Rowe. Each panel member provided humorous and amazing stories of when they were practicing attorneys and provided a glimpse into the world that we as students will likely be part of in the future. It was an interesting and thought provoking event by Phi Alpha Delta and am personally looking forward to future Phi Alpha Delta events.

### Precious Rice: Black Law Student Association Exam Writing Workshop with Dean Charles Sheppard

On Saturday, September 27, 2014 BLSA held their Exam Writing Workshop for incoming and continuing students at Western State College of Law. It continues to be a great workshop to help students either learn or refresh their exam writing skills. Dean Sheppard discussed how to find sources for practicing exam writing such as text or reference material problems, prior exams, and "homemade" hypos. He also suggested how students should practice issue spotting, analysis, objective questions, and writing out issue and rule statements for each class for at least 15 minutes a day in order to keep their writing skills sharp and exam ready. The workshop also highlighted Dean Sheppard's "Rule of Thumb: Steps 1 through 4" for writing a well-organized exam. The workshop had many useful tips for students to prepare for writing their law school exams and we look forward to more workshops like this being held in the future to promote student's academic success at Western State College of Law.



### WSCL Administration, Faculty, Staff Members, Alumni and Fellow Students:

*The Precedent* invites you to email us the followings for publication (in our "News In Brief" section): Your recent or past accomplishments, recognition, awards — Your recent or future publications, or special projects (that relate to the school or the law) — Personal announcements, such as: wedding, anniversary, graduation, engagement, birth/adoption, etc. — A story or any article on any topic — Photos of you, your work or family — Job opportunities or referrals — Housing/roommate referrals or tips — Any other announcements or communications.

We look forward to receiving your submissions and publishing them. This way, the WSCL family can strengthen our relationship, know each other better, and provide more help for each other. Please email your submissions to [WSCLPrecedent@gmail.com](mailto:WSCLPrecedent@gmail.com). Thank you.

## Business Law Center

### OCBA LEADERSHIP RECEPTION

*By Matthew Gustin, BLC Ambassador*

Earlier this semester, the Orange County Bar Association hosted its first student leadership event of the year at its headquarters in Newport Beach. The event was open to OC law students who represented various organizations, including WSCL's Business Law Center and Business Law Association. Student leaders were able to meet current OCBA section leaders, members of the Young Lawyers Division and other law students interested in their respective practice areas. With so many active law students and lawyers in the same room, it was hard not to come away with great advice and important new contacts. It was also a chance to see what the organizations at other schools are doing, and whether there are opportunities to coordinate events. If you are interested in attending upcoming events, make sure to inquire about leadership positions within the organizations you would like to become more involved with! For more information on the Business Law Center or the Business Law Certificate Program, contact Professor Tracie R. Porter, Director.

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# NSA Surveillance and Privacy Rights since 9/11/2001

NEWS

By Cheryl Bigos



In the summer of 2013, whistleblower Edward Snowden released documents to The Guardian detailing how the National Security Agency (“NSA”) illegally conducted surveillance among American citizens. In a statement to The Guardian, Snowden said, "I'm willing to sacrifice... because I can't in good conscience allow

the US government to destroy privacy, internet freedom and basic liberties for people around the world with this massive surveillance machine they're secretly building."

Since the attacks on September 11, 2001, the NSA increased surveillance on US citizens with the goal of targeting terrorists. What began as a victory for the US in capturing Al Qaeda eventually lead to NSA surveillance that invaded our right to privacy. For many Americans, we knew surveillance was necessary. How else would the government determine who is or who is not a terrorist without conducting surveillance?

On the other hand, how much is too much? Is there a line to be drawn between protecting us from terrorists and protecting our rights to privacy?

Shortly after the attacks, most Americans didn't mind giving up a little bit of privacy to feel safe. Although some policies such as the extra security measures at the airport were a bit tedious at first, most Americans felt they were necessary. As time wore on, however, and the government took greater steps to find terrorists and “protect us” from terrorism, the sentiment seemed to go away and people began to question whether or not safety from terrorists was worth the further invasions of our privacy – especially after Snowden told his secret. While most of us knew the NSA was probably wiretapping phones and tracking internet searches, there were some things we didn't know.

We didn't know citizens were being inadvertently snooped on “due to typing mistakes and errors in the system.” We didn't know the NSA accessed and stored

200 million SMS messages to gather location information, contacts, and financial information. We didn't know that in addition to the NSA monitoring “nearly everything a user does on the internet,” they also had an elite hacker team at their disposal to infiltrate links connecting Yahoo and Google data centers behind the companies' backs. More importantly, we didn't know the NSA was doing it. They just did it.

Suddenly, private text messages you sent to loved ones weren't so private anymore, and debit or credit card transactions had become a matter of national security.

In response to the questions posed during the town hall meeting, some students felt Snowden was a hero, and that Americans had a right to know this was happening. Additionally, the issue was raised that if the NSA could take away our right to privacy in the name of national security without our knowledge or consent, what other rights could they take away in the future?

*Is there a line to be drawn between protecting us from terrorists and protecting our rights to privacy?*

Conversely, others felt Snowden's actions were detrimental to our national security. First, he stole the documents, which is technically a crime. More importantly, the documents revealed the

NSA was using surveillance to gather information on European offices both in the US and Europe, including embassies, and some 35 world leaders.



Edward Snowden. Photo by Associated Press.

Continued on page 7

## NSA *(Continued from page 6)*

In addition, the program had hacked internet networks in China. Revelations of this information undoubtedly made some of those countries uneasy.

Finally, there is always the question of whether we were better off not knowing. Prior to the Snowden documents being released, did you ever think the people who were distrustful of the government were just plain crazy? Maybe it was that one person at work who refused to open a bank account and stuffed all his money in his mattress because he thought the government was going to take it all. Or

maybe it was the family member who refused to make online purchases because she thought the government would track her purchases. Sometimes, ignorance is bliss.

In the meantime, big brother may be watching.

*Source: BBC News: Edward Snowden: Leaks that exposed US spy programmes.*

*The Guardian: Edward Snowden: the whistleblower behind the NSA surveillance revelations.*

## NSA Town Hall Meeting at Western State

On September 11, 2014, Professors Elizabeth Jones and Ryan Williams held a town hall meeting to discuss National Security Agency (“NSA”) surveillance violations of our right to privacy under the Fourth Amendment. More specifically, they wanted to know how students felt concerning the content of hundreds of NSA documents given to the press by Edward Snowden in 2013.

Professor Jones was tasked with arguing for NSA involvement and against the actions of Snowden. Professor Williams was tasked with arguing against NSA involvement and arguing that Snowden’s actions were necessary.



*Professor Williams and Professor Jones during NSA Town Hall Meeting. Photo: The Precedent.*



### *Questions posed to students were:*

1. Do you think it’s still necessary for the NSA to monitor private phone calls, email messages, or track your movements to stop terrorism?
2. How do you feel about this being done in secret, or without your knowledge?
3. Do you feel that what Snowden did was okay?

## Upcoming Events

### Thursday, November 20 - BLSA Panel: What Does Ferguson Mean for America?


On Thursday, November 20th, from 4:00 PM to 6:00 PM in Room 110, Western State’s Black Student Law Association will be hosting a panel that will discuss the legal issues surrounding the shooting death of Michael Brown by Police Officer Darren Wilson. Panel speakers include Professor Robert Molko, Missouri Attorney George O’Connor, Attorney Pete Carr, Esq., and Professor Ryan Williams. The panel will be moderated by Professor Stacey Sobel.

### Tuesday, December 2 - IPT: Finals Reading Week Animal Therapy

The Intellectual Property & Technology Law Society is hosting Paws 4 Healing on December 2, 2014 from 2:00 p.m. to 4:00 p.m. outside the library. Paws 4 Healing is a volunteer organization that provides animal-assisted therapy services. The organization will be bringing to campus dogs, cats and possibly bunnies. Please stop by Student Services to fill out a waiver form and grab a wristband which is required to pet the animals.

*Presented By*  
*The Black Law Students Association*

# WHAT DOES FERGUSON MEAN FOR AMERICA?



JOIN US FOR A  
PANEL DISCUSSION

NOVEMBER 20, 2014  
ROOM 110 4PM – 6PM

*Panel Presenters*

- Robert Molko, WSCL Professor
- George O’Connor, Licensed Attorney in Missouri
- Pete Carr, Esq.
- Ryan Williams, WSCL Professor

*Moderated by Stacey Sobel, WSCL Professor*



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