

5-18-1990

Hastings Law News Vol.23 No.11

UC Hastings College of the Law

Follow this and additional works at: <http://repository.uchastings.edu/hln>

Recommended Citation

UC Hastings College of the Law, "Hastings Law News Vol.23 No.11" (1990). *Hastings Law News*. Book 179.
<http://repository.uchastings.edu/hln/179>

This Book is brought to you for free and open access by the UC Hastings Archives and History at UC Hastings Scholarship Repository. It has been accepted for inclusion in Hastings Law News by an authorized administrator of UC Hastings Scholarship Repository. For more information, please contact marcus@uchastings.edu.

Hastings Law News

Special Edition

San Francisco, California

May 18, 1990

Volume 23, Number 11

Graduates Demonstrate for Diversity

By Hastings Alumni For Action

Graduation is a special event for all graduating Hastings students as well as their families and friends. As a group of Hastings students working to create a better environment at the school and a more fair and open legal system generally, the members of the Hastings Alumni for action are marking this day with a couple of special gestures to honor our commitment to a more open and sensitive Hastings College of the Law: we are wearing rainbow-colored ribbons to symbolize our support for diversity at Hastings and more sensitivity from the school's administration towards its student body and the surrounding community. We will also be presenting the school's Dean today with "pledge scrolls" which bear our pledges not to make financial contributions to Hastings until these issues are sincerely and completely addressed by its administration.

While the past three years have been interesting and successful for all of us, they have not been without their challenges. Figuring prominently among those challenges, of course, was the law school experience itself, which is time-consuming, intellectually demanding, and often dehumanizing for all students. In addition to the rigors of the law school experience itself, however, there were unique and more troubling hurdles confronting many members of our law school class. These included the isolation and pain experienced by many members of the Hastings community due to racist literature posted on school bulletin boards, and racist, sexist, classist and heterosexist bigotry experienced in the classroom.

For the last twenty years, Hastings students have been working to create a more diverse environment at the law school, an environment that accurately reflects the multi-cultural reality of California. Students have worked together to hold rallies, educate faculty and administration on diversity needs, and sponsor student forums on diversity issues, ranging from a panel on hate speech and the first amendment to a joint meeting between Black and Jewish law students at the school.

Diversity means different things to different people. To those of us at Hastings who have been

Continued on next page

En Banc Editorial

College Harassment of Newspaper Violates First Amendment

In 1919, in a seminal dissenting opinion that was to have prophetic import in enshrining the First Amendment imperative of free speech as fundamental to American democracy, United States Supreme Court Justice Oliver Wendell Holmes wrote, "the best test of truth is the power of the thought to get itself accepted in the competition of the market...That at any rate is the theory of our Constitution." As the editors of a newspaper at a major American law school, we feel passionately that a top-rate educational institution, like a healthy society, flourishes best in an atmosphere that nurtures spirited debate, and we are appalled at recent attempts by the administration of Hastings College of the Law to stifle the exchange of ideas at our law school by harassing the *Law News* for editorial copy criticizing a top College administrator.

After publishing an editorial calling for the replacement of the College's General Counsel, the *Law News*, which receives no school funding and supports itself completely through advertising revenues, was commanded by the administration to turn over a variety of its confidential business records to College employees. Because of the free speech implications of a demand by a state university to examine the business records of its student newspaper, the *Law News* has insisted that any review of its records be performed by an objective, third-party auditor. After the College indicated its interest in an audit, the *Law News* immediately retained an experienced accounting firm to perform that function. For reasons which the administration refuses to explain, it has continued to harass the newspaper, despite the fact that the newspaper has retained a professional auditor and is proceeding with an audit.

As a result of their stand, the spring final examination period became a Kafkaesque nightmare for our editorial staff: the members of the *Law News* Editorial Board, James P. Ballantine, John C. Andrews, and Christina A. Dalton, have been threatened in writing by the Hastings administration with individual "sanctions" for "willful violation of student conduct regulations." Still more nightmarishly, the General Counsel threatened in writing that unless the newspaper submits to its ultimatums, the General Counsel will hold up the California Bar Examination applications of both James Ballantine and Christina Dalton, graduating third

years who hope to sit for the examination in July, unless the paper submits to its ultimatum. Further, the General Counsel also threatened in writing not to allow the *Law News* "to continue to operate on the premises of the College.

We think it is an embarrassment to both the student body and the alumni of Hastings for its administration to be comporting itself in this manner. More importantly, however, are gravely troubled by the threat these measures pose for open debate and free speech at Hastings.

In March of this year, this newspaper ran a staff opinion piece calling for the replacement of a top school administrator, Hastings General Counsel Angele Khachadour. The article, which was written from a sincere conviction that the General Counsel is not serving the students' or the College's best interests, provoked both agreement and disagreement among our readers — as a journalistic opinion piece should.

Seven school days after call for the General Counsel's replacement appeared, the Hastings administration (initially through the student government) demanded that all *Law News* business and financial records for the 1988-89 fiscal year be turned over to the College for review. The *Law News* receives no school or student funding, and supports itself completely via advertising revenues. While Hastings administrative rules allow the school to audit student organizations, it has never made a practice of doing so and had not requested the records of any single other student organization. Moreover, the school demanded delivery of a complete audit file during the final examination period.

After this disparity in treatment was pointed out to the College, on the last day of Spring semester classes administrators issued a hastily-prepared audit demand to other student groups, also to be due during the final examination period. To date, few if any groups have complied with the request. Unlike the *Law News*, however, no other school group or any of its members have been threatened with disciplinary action.

The Editorial Board of the *Law News* believed, and continues to believe, that the paper was "singled out" for disparate treatment after writing an opinion piece unfavorable to the school's General Counsel. More crucially, however, we see an ugly conflict of interest in the prospect of

Continued on next page

Harassment

school administrators, and accountants employed by them, making audit decisions as to the business conduct of a newspaper with which they have an inherently adversarial relationship.

There's an easy solution to this dilemma, of course, one that the *Law News* Editorial Board offered to the Hastings administration: the *Law News* has offered to retain an objective, uninvolved, professional third-party auditor to perform the audit. However, throughout the final examination period, school administrators continued to reject this suggestion and issue deadline ultimatums to the paper's Editorial Board. On April 27, each Editorial Board member received a personal copy of a letter from Hastings Financial Officer Joan Majerus containing the following threat: "You should be cautioned that failure to comply with this request will be viewed as a willful violation of student conduct rules and may subject individual members of the Editorial Board of the *Law News* to Sanctions."

On May 10, while the paper's staff was still attempting to study for final examinations, its legal counsel received a letter from General Counsel Angele Khachadour. This letter demanded that if the *Law News* chose to retain an outside auditor, any audit performed be paid for out of the pockets of individual staff members of the paper as the money earned by the *Law News* constituted "public funds." We would like to point out to the Hastings administration at this point that to our knowledge, the individual staff members of such non-profit entities as the Sierra Club and the March of Dimes, and such public entities as Hastings College of the Law, do not pay for organizational audits out of their pockets.

Finally, and most ominously, the letter concluded with this threat: "No clean certification of good character can be made to the State Bar for those [*Law News* editors] who are scheduled to graduate this year until the [audit] report is received in the form required [by the College]." The letter also threatened that "many issues regarding the status of the *Law News* need to be resolved...if the *Law News* is to continue to operate on the premises of the College."

Also, we note that these attacks have not gone unnoticed in the San Francisco Press. The *Banner-Daily Journal* ran a prominent story on the controversy on May 8, and Jim Balderston of the *Bay Guardian* commented on the harassment in the May 16 issue. Additionally the *San Francisco Examiner*, the *San Francisco Chronicle*, and *The Recorder* all have reporters following this story.

We regard the College's attacks on the independence of the student press as outrageous and, even more so, as sad and regrettable. Graduation is a time to reflect on the various concepts of liberty, justice, freedom of speech and professional responsibility addressed during the past three years. Unfortunately, it appears that College administrators need a refresher course.

Diversity

working on the issue, it means increasing the range of philosophies and viewpoints presented in the school curriculum, ensuring that Hastings' student body reflects the multi-cultural reality of California, and helping the administration to understand the need for a more diverse faculty and staff at Hastings.

We are delighted at the positive steps that have been taken of late in improving the diversity of the Hastings environment: this year saw the hiring of the school's first Black woman Director of Admissions, the establishment of a civil rights law course, the hiring of a lesbian attorney to teach a course that does not focus solely on gay rights issues, and the hiring of two visiting faculty members for the 1990-91 year who are people of color. The Hastings administration also hired a consultant this year to assist the school in adjusting to the changing ethnic demography of California.

Although we applaud the administrators and faculty who have helped to make these achievements a reality, there is still much to be done: Hastings employs only two full-time tenured Black law professors, one Latino law professor, and two Asian law professors out of a total of 54 full-time tenure or tenure-track professors. Out of those 54, the school's female professors number eight, all of whom are white. In wearing our rainbow ribbons today, we are urging that the best educational environments, like the best societies, are those which include — and which respect — a variety of viewpoints, backgrounds, and philosophies.

We also believe that it is incumbent on a law school to behave humanely and sensitively vis a vis both its student body and the members of the community in which it is situated — an area in which the Hastings administration has unfortunately been lacking at times during our tenure at the school.

After the earthquake of October 17, 1989, Hastings decided to demolish the low-income housing units sitting on the "West Block" property it owns on Golden Gate Avenue and evacuate the buildings' tenants — including the five year old General Assistance Advocacy Program, a non-profit drop-in legal clinic for impoverished Tenderloin residents operated and staffed by Hastings students. G.A.A.P., a non-profit public interest group whose services to the community have frequently been extolled by college fundraisers, has been forced to move to a location outside of the Tenderloin area where most of its homeless and low-income clients are centered.

Equally distressing to us were the events of the spring of 1989, when the College made plans to begin removal of asbestos from a building in which classes are conducted. Students were not informed about the immanent operations until four to five days before the work was scheduled to begin. Top administrators promised concerned students that there would be no unsafe procedures, but students were illegally exposed to dangerous

asbestos during when removal work began less than 24 hours later, necessitating the filing of a lawsuit by students to stop the removal process until the administration guaranteed that all procedures would be conducted within government safety guidelines.

We also remember that at the end of our first year at Hastings, graduating students were forced to threaten to sue the school administration to prevent the recitation of a prayer at the graduation ceremony. As we have learned from our constitutional law courses at the school, such an observance would present troubling First Amendment concerns due to America's constitutional separation between church and state.

As graduates and people who are about to join the legal profession, we are concerned about the issues of diversity, respect for student concerns, sensitivity to our Tenderloin neighbors, and humanizing the Hastings bureaucracy. As people with broad work experience inside and outside of the legal field, we are concerned that the unnecessary bureaucracy which characterizes the school presently stifles creative legal thought and action, causes feelings of isolation, and denies many students the opportunity for a full legal education.

We are proud that many of our classmates have joined together and organized for a better Hastings. In that spirit, we are wearing our rainbow ribbons and presenting the "pledge scrolls" at graduation today. We invite our classmates to join Hastings Alumni for Action, and join our commitment to making Hastings a great law school for all who attend.

Editor's note: The Hastings Alumni for Action is an alternative alumni association composed of a group of alumni concerned with the operation of the College. The organization has been reactivated by a group of approximately 40 graduating students.

Hastings Law News

Editor-in-Chief James P. Ballantine
Executive Editor John C. Andrews
Copy Editor Christina A. Dalton

Editorial Policy Statement

The Hastings Law News is the monthly student newspaper of the Hastings College of the Law. Signed opinion articles represent the opinion of the writer and not that of the College or of the Law News. Unsigned editorials represent the opinion of a consensus of the Law News Editorial Board only and not that of the staff editors or writers. Nothing in these pages should be construed as being the opinion of the College, its Board of Directors, or its General Counsel.

Hastings Law News, 200 McAllister Street, San Francisco, CA 94102, (415) 565-4786