Hello again from Berkeley Law’s trial advocacy program! I once again have the honor of updating you with our team’s successes in the beginning of the 2013-14 season.

There was a lot of excitement coming into our season, with 22 new faces on our team of 30 students. This meant the largest fall Trial Competition Intensive class we’ve ever had, as well as many opportunities for our students to have their first experience with competitive trial advocacy.

As expected, our students rose to the occasion.

We started the year off quickly with a successful trip to the ABA Labor & Employment competition, with Regionals being in San Francisco. Our four-student team, coached by veterans in our program, along with a wonderful first-year coach, advanced to the semi-final round of the competition—the top four teams in the entire tournament.

We were also invited, for the second year in a row, to the Tournament of Champions, held this year at Cumberland School of the Law at Samford University in Birmingham, Alabama. Our team, along with our veteran coaches, made a strong appearance in an unusually difficult field.

Our Fall season came to a close with our first-ever trip to the prestigious National Civil Trial Competition, hosted by Loyola Law School in Los Angeles. Again competing against the strongest teams in the country, our students made us proud with unwavering advocacy throughout the tournament.

In Trial Competition Intensive, the class all students who compete on our teams must take, we increased our focus on drill-based training, with special emphasis on drills that keep preparation time to an absolute minimum. Our favorite drill is the “flash trial drill,” in which the students get 30 minutes to prepare to try a case. This year we did the flash trial drill twice instead of once, and not only did we improve our trial skills, we had some fun.

In the spring we’re looking forward to our 6th Annual Bales Trial Competition, the wonderful internal trial tournament we host each year, which is a major driver in our program’s success.

But before we get to the Spring, please enjoy this recap our Fall season!

Spencer Pahlke, ’07
Walkup, Melodia, Kelly & Schoenberger Director of Boalt Trial Competition Teams
We got off again to an excellent start this year at the ABA Labor & Employment competition in San Francisco. We’ve historically had several successful trips to this tournament, and this year was no exception to that rule.

Our L&E team consisted of Bryn Starbird, '14, Eric Cuellar, '14, Samantha Sondag, '15, and Anthony Guzman, '16. Our coaches were Katie Lubin, '08, Aubry Holland, '08, and Ed Piper, '12. We were very excited to welcome Aubry into our program. She is a labor law specialist at Orrick in San Francisco, and the perfect complement to our team. She joined veteran coach Katie Lubin, and additional first-time coach Ed Piper.

This year’s problem involved a common fact pattern with a twist: unlawful termination on account of a disability, with the disability being alcoholism. Our students on the plaintiff’s side represented plaintiff Jamie Knight, who worked in the kitchen of defendant Newton Valley Nursing Homes, Inc. When she was hired, she contends that she made Newton Valley aware of her disability, and that she was knowingly hired with the disability of alcoholism.

Three years later, upon notifying management that she would be checking into an inpatient rehabilitation facility to treat her disability, Newton Valley fired her. She therefore filed a employment case, arguing that Newton Valley failed to reasonably accommodate her disability. Newton Valley responded that it terminated her due to poor performance and reports that she was intoxicated in public, which reflected poorly on the defendant’s reputation.

Our students distinguished themselves in the preliminary rounds, doing well enough to advance to the semi-final round of the tournament, making this the fourth straight year in which we have advanced to the elimination rounds at this tournament. Competing against the team from Hastings, we had an exceptionally close round, with Hastings narrowly winning to advance to the final round.

While their in-trial performance was impeccable, perhaps we can be most proud of the team for carrying on Boalt’s traditions of teamwork and good sportsmanship. Our students also pointed out that among the benefits from the practice they put in was honing their verbal advocacy skills, something that regular law school classes simply do not provide. Whether it was practicing late into the night or waking up early to compete, our team was just that: a team, in every respect.

Great job ABA L&E team, we’re proud of all of you!

I enjoyed practicing how to craft arguments on the fly. Whether in a tricky cross examination, a pretrial motion in limine, or in response to an objection, that’s a skill that law students don’t really get to hone aside from the occasional cold-call.

I also enjoyed preparing for the competition while studying Evidence for the first time: without trial team as an application, I think I’d be much more lost in class!

Finally, the people were great. My L&E teammates were wonderful, and I can’t think of any other people I would have rather picked up from Boalt at 6:30 a.m. on a Saturday to drive to the tournament. The trial team as a whole was also incredibly supportive, sending us regular, positive messages during the trial competition (which was, for three of us, our first).

Sam Sondag, '15 / ABE L&E 2013
We were honored once again to be invited to the Tournament of Champions, one of the most selective competitions in the country. This was our second year in attendance, and we did not disappoint.

Led by veteran coach Bruce Budner, along with first-time coach but long-time trial advocacy star Kaitlyn Murphy, ‘13, our team included Kayla Delgado, ‘14, Christine Chan, ‘15, Janice Liu, ‘15, and William Lisa, ‘15. The Tournament of Champions tournament is always held by the team that won the competition two years before. This year, that was the Cumberland School of the Law at Samford University in Birmingham, Alabama.

The hosting team is responsible for all aspects of the tournament, ranging from the substantive problem to the logistics of the competition. Cumberland did a wonderful job in all respects.

This year’s competition was equal parts opportunity to improve trial skills and learning of crucial United States history, both woven together by the fact pattern.

The problem was modeled on the bombing of the 16th Street Baptist Church in Birmingham in the summer of 1963. With this being the 50th anniversary of the bombing, Cumberland used the opportunity to teach history and advocacy, all at once. In our fictitious version of the problem, a bomb went off and killed a man working near the 15th Street Baptist Church in Birmingham. The defendant was prosecuted—many years after the fact—for lending his car to one of the bombers, on the theory that he was an accomplice in the crime.

During the competition, Cumberland had lectures and learning opportunities embedded in the schedule, including a presentation put on by the US Attorney who tried the case that was the basis of our TOC problem. It was a perfect combination.

In competition, our students performed admirably. Ms. Chan’s closing arguments were impassioned, pitch perfect in tone, tempo, and gesture. Ms. Liu, also on the defense side, dismantled the prosecution’s case on cross examination with precision in both her words and manner. Ms. Delgado and Mr. Lisa, handling the prosecution side of the case, played the role of eminently reasonable prosecutors. Mr. Lisa provided the reliably solid start with an opening statement that told the story of the tragedy, and set the jury on a path toward a guilty verdict. Ms. Delgado not only sealed the deal with a closing argument from which nothing but a guilty verdict could escape, but also was the steady, guiding hand throughout the trial, never showing outward concern no matter how difficult the challenge.

Through the four preliminary rounds against the best teams in the country, our students won two rounds and lost two rounds. One of the losses was a very narrow defeat against the team that ended up getting second place overall. It was an excellent performance by our team and coaches, great work!
This was the first year Berkeley has ever been invited to the prestigious National Civil Trial Competition, hosted each year by Loyola - Los Angeles. We were very excited to join this year’s field given the tournament’s excellent reputation among competing schools. Our team consisted of James Unger, ’14, Salah Hawkins, ’15, Tamila Gresham, ’15, and Margi Schierberl, ’15. Our coaches were Spencer Pahlke, ’07, and Valerie Rose, ’10.

The problem was modeled off a famous lawsuit against food personality Paula Dean. In our case, the defendant was Bobby Dean, a restaurateur and Food Network television star based in Georgia. The plaintiff was Jamie Jackson, a longtime employee at one of Ms. Dean’s restaurants, Daddy Bubba’s Seafood and Oyster House. The main culprit at the restaurant was Ms. Dean’s now-deceased brother, Bubba Dean.

The plaintiff’s case alleged that Bubba drank throughout the day, danced in sexually explicit ways in the kitchen, and spent much of his time perusing pornography on work computers, often so he could show it to other employees during work. Bobby Dean and her company defended the matter on the basis that these allegations were unsupported and, in any case, she was never put on notice of such conduct.

In the competition, Mr. Unger and Ms. Gresham represented Ms. Jackson on the plaintiff’s side, while Ms. Schierberl and Mr. Hawkins represented Ms. Dean and her company. When it was Mr. Unger’s and Ms. Gresham’s turn, Ms. Gresham used her powerful courtroom presence throughout trial, but especially during her well-crafted opening statement. Mr. Unger served as the perfect bookend during the closing argument, marshaling the facts of the case and walking the jury through a complicated special verdict form. When it was the defense’s turn, Ms. Schierberl executed a gentle but pointed cross examination of a sympathetic plaintiff with aplomb, and Mr. Hawkins’s lawyering was perhaps only outdone by his performance as the character Terry Murphy. Mr. Hawkins transformed Murphy, a consultant from New York, into perhaps the funniest witness ever before seen in law school mock trial. After a tournament event on Saturday evening, Mr. Hawkins stayed in character for several hours, pitching cab drivers and night club bouncers—and everyone in between—on his HR services as a consultant. All at the modest rate of $550/hour.

At NCTC, we had the opportunity to compete against three excellent schools, and had three close rounds. As expected, our students made us proud. Nice job NCTC!
Berkeley’s trial successes are hardly confined to the mock courtroom. With our growing trial advocacy alumni community, including many former students who have started careers that put them in the courtroom, I’m happy to report that I’m hearing of more and more successes in trial from our young alumni.

In this edition of the Trial Advocate, we hear from Sandhya Ramadas, ’09, and Jerome Price, ’11. Both had great successes in recent trials. I am told that Ms. Ramadas received a round of cheers by the judge, courtroom staff, and even opposing counsel after she put on her first witness ever!

In law school, Ms. Ramadas competed in both the NTC and SFTLA trial competitions, making it to regional finals in NTC during her 3L year. Mr. Price competed in the San Diego Defense Legal tournament, winning it his 2L year, and also made it to the AAJ National Competition his 3L year, getting to the top 4 out of more than 200 teams nationally.

Ms. Ramadas is now an associate at the renowned Los Angeles firm, Bird Marella. Mr. Price is an Assistant Federal Public Defender in Fresno.

In **United States v. Martin**, Mr. Martin was driving through Edwards Air Force Base when he was pulled over for driving 68 mph in a 55 mph zone. When he was retrieving his registration from the glove box, the officers noticed that in the glove box there was a green vial containing medical marijuana. When officers asked Mr. Martin for consent to search his car, he consented and stated that there was marijuana in the car. The United States charged Mr. Martin with possession of a controlled substance.

During the jury trial, the government called one of the officers who executed the stop and an investigator who would confirm that the substance seized was marijuana. On direct examination, the officer testified that Mr. Martin stated that there was marijuana in the car before the officers conducted the search of the vehicle. On cross examination, I went over the testifying officer’s various positions throughout the entire traffic stop and was able to establish that Mr. Martin had conversations with the other (non-testifying) officer that was out of the earshot of the testifying officer. The next question established that the officer actually never heard Mr. Martin make the previously-admitted statement (based on his position away from the driver’s side window when the alleged statements would have been made)! We were then able to exclude the statements based on the Confrontation Clause, and the jury was instructed to disregard any statements attributed to Mr. Martin about having marijuana in his car.

The government’s case now dwindled to Mr. Martin having marijuana in his car. On closing argument we hammered the point that “having marijuana in your car” is not the same as “possessing” marijuana. To establish possession the government had to show that Mr. Martin knew and intended to have the marijuana in his car when he got in his car and drove through the base. We pointed out that this case is no different than any other time marijuana is found in a car, when the driver may share their car with a spouse, roommate, friends, or children. Without any statements, or even circumstantial evidence (e.g., wrappers, residue, strong odor, pipe, lighter), the government proved that Mr. Martin “had” marijuana in car, but could not prove beyond a reasonable doubt that he “possessed” it. The jury agreed.

I’m a fourth year associate at Bird Marella in Los Angeles, and I was fortunate enough to second-chair a trial in June and July of 2013 in San Jose, California, in Santa Clara County Superior Court. The case involved allegations by two individual plaintiffs of the breach of a settlement agreement by our client, a community bank here in Los Angeles and the bank’s CEO.

The allegations included intentional and negligent infliction of emotional distress, which are far from standard allegations in a breach of contract case.

At trial, I argued motions in limine, and took three witnesses: I directed our medical expert, cross-examined Plaintiffs’ medical expert (even getting to impeach him once with a video of his deposition testimony), and directed a former employee of our client, who laid the groundwork for the jury to understand who our client was.

Ultimately, we received a defense verdict on all claims except one (libel) and most important, prevailed on Plaintiffs’ breach of contract claim, which entitled our clients to recoup their attorneys’ fees. We were also able to get the case against the bank’s CEO dismissed in a motion for non-suit, and are now litigating post-trial motions.
Pictured above left, coach Spencer Pahlke, ’07, and Salah Hawkins, ’15, sit on a level couch while the camera was at an angle, not the other way around.

Above right, Spencer Pahlke, Sara Haji, ’14, Vassi Illiadis, ’13, and Valerie Rose, ’10, posing inside the Santa Monica Superior Courthouse.

Left, Terry Murphy (AKA Salah Hawkins), attempting to pitch a bar employee on his Human Resources consulting practice.


Below right, it appears that Mr. Hawkins has acquired the means to continue the celebration indefinitely.