

Pacific West College of Law

Dedicated to Producing Attorneys with Know-How

CLSJ: So, Pacific West College of Law is moving up?

DEAN O'CONNELL: We're moving up. We're moving up in leaps and bounds.

CLSJ: There is definitely a need and a place for smaller law schools.

D.O.: There is. The students seem to come here and do better. I think it is a non-competitive type of situation that brings the students. There is an awful lot of academic freedom with the instructors. I don't get in the way of what an instructor does in the classroom. I don't tell them what to teach or how to teach or how to grade. I figure that's what I'm hiring them for. And like I said, that most of them are trial attorneys, so I better put them in there and trust them that they are going to do it.

CLSJ: Sounds like an environment where students will be motivated.

D.O.: Yes. I have walked into classes where the students have gotten in early. They have already discussed all the cases and when I walk in they are just asking questions about the cases. There is no sense in briefing them. They are really self-motivated. They are learning what they are supposed to learn.

CLSJ: And they are here because they want to be here.

D.O.: And we are real trial-practice intensive. **CLSJ:** So, in other words, they are going to leave here with skills?

D.O.: We start them out the first semester of the second year. Our legal research is based on actually doing pleadings, not just going to workbooks and finding cases. You start drafting pleadings. In your fourth year you are doing trial practice. You get to pick which side you want to go to.

CLSJ: It is very important to be using what you learn. Because with the pure casebook method, too many law students that graduate law school, they don't know how to practice.

D.O.: You're right, they don't.

CLSJ: They don't know how to do a thing.

D.O.: Yeah, not at all.

CLSJ: And, very few law firms want to teach you how to do it.

D.O.: Well, that was my idea all along. I thought if the Marine Corp could take a 19-year-old kid and in 90 days make him take a bullet. I should be able to take a law student and in four years teach him how to do a trial.

CLSJ: Sounds like a goal worth striving for.

D.O.: You've got to teach them about exams and you have to teach them about the theory, but you should, they should be able to come out and have the option of hanging their own shingle or going into a firm and saying "I can do the work now."

CLSJ: Marketable skills can go a long way.

D.O.: And I think that's why you are going to get hired. Because nobody teaches them how to do the work. If you are an employer, you have to hire who you think is the easiest to teach.

CLSJ: The easier the transition, the better.

D.O.: Who will learn my stuff the fastest to make me money, that's why I'm hiring the guy.

CLSJ: The bottom-line usually prevails.

D.O.: So, I can either hire a guy from Harvard who I think is very smart or I can hire a guy that walks in and says I can do it for you tomorrow. That's the guy I'm hiring.

CLSJ: And that's why it's important to put out that kind of lawyer.

D.O.: Yes. So, our students, they do pleadings, like I said. Starting in their second year, so when they go out, they have their own files. They have their own pleadings. They have some rejection motions and demurrers and motions to strike and motions to suppress that they can show.

CLSJ: And that's what everybody that graduates wants to get their hands on.

D.O.: Exactly. So they are able to do them and they understand all the discovery. We've had students clerk with some big firms already. They have gotten really good pay already because they are able to walk in and basically start actually doing something for that firm. They are not just walking in and saying train me. The firms are able to say, "OK, here you are and here's your files and, you know, go make me

money."

CLSJ: Exactly. There's lots to be said for having professors that are actually practicing law.

D.O.: And that is so true because those -- and I probably shouldn't be saying this because my father didn't practice that much and he taught well. I mean, he's very knowledgeable about the law. But, academically what you emphasize and in reality, what occurs is so different that there is a certain academic challenge. But, you have to weigh that and say, "Is this really important that we really delve into this academic?" It is like the Palsgraf test. How much time should we really emphasize the Palsgraf theory when in actual practice--

CLSJ: You never use it.

D.O.: Exactly. Because you know what. Nobody knows what it means.

CLSJ: More don't than do, that's certain.

D.O.: That's what I noticed of most of the difficult areas of law school. Nobody knows what they are, so everybody just basically stays away from them.

CLSJ: So, are you trying to strike a happy medium between getting them ready for the Bar and getting them ready for the real law world as well?

D.O.: Yeah. And I think it goes hand in hand. I think it really does have to go hand in hand.

CLSJ: Well, all of the pleadings that your students are drafting will help them with the performance exams.

D.O.: Very much so.

CLSJ: Because the performance exams are actually asking, show us how you are going to think once you are a lawyer.

D.O.: Yeah. And our students get a ton of that. In the law and motion thing, when they do those they have to draft a moving paper, they exchange it with their opposing student. They draft their opposition the next week. And then in the third week they argue.

CLSJ: If somebody is working full-time, there is a place for them in your law school?

D.O.: A lot of ABA schools really don't entertain people working 40 hours per week. In fact, I think there are guidelines that they don't let them work more than a certain amount a week.

D.O.: They want them down at 16.

CLSJ: Yes, 16.

D.O.: I think it is healthy for students to work while they are going to law school. I don't think every law school in the nation should change to that. But, I think for a lot of people, especially older people who are second career, they are, you can't ask them to change that lifestyle that much. They can't suddenly stop working after working so many years and just go to school. I mean, their families aren't going to accept that.

CLSJ: So, are most of your students seeking a second career?

D.O.: Most of them are, which really adds to the idea of what all this trial practice stuff brings because a lot of them are either out of that field or they are out of a field that we are dealing with at the time and so they get to share experiences and because it is so varied on how you go against each other and how things are mixed up, you end up, you know, one day you may know more about than the next guy and then the next week it is a subject in which they know more about it than you. You better learn how to deal with people and you know, not overstep it to the point to where you get somebody who is going to come after you.

CLSJ: There is actually a lot of benefits of a night school, even for somebody not seeking a second career.

D.O.: I agree completely.

CLSJ: Because it allows you to work during the day and perhaps pay for the tuition that way, rather than graduate with all this debt.

D.O.: Yeah. We have a lot of students who came out of schools where they had the loans. They are really happy here because that is exactly what they found out. They found out, "Wow, when I finally get out of there, when I can walk through the graduation, I'm clean." I take the diploma and my life is mine. I don't have \$70,000 of debt hanging over my head. We raised our tuition to \$300 a unit, which still makes us, I think, the lowest in Orange County. **CLSJ:** At least 50% lower than everybody, just about.

D.O.: I don't want to keep raising the tuition. In fact I actually proposed to one board of directors



that we really seriously think about the idea of actually reducing tuition as volume goes up. It would be great marketing... we would be the only one doing it. But, I don't think law school should be that expensive. They have almost gone the ways of Mercedes Benz's and stuff. Mercedes Benz's were only worth so much until they figured out a 5 year lease and then the price

went through the roof. Because you could have this new financing. And law schools it is almost like, well, when they say they will loan up to \$70,000, well now suddenly law degrees became worth \$70,000 and I don't think that it...

What you are trying to do is put a healthy person as an attorney in the public, not that you pull so much out of this person that when you finally kick him out the other side they are emotionally spent, they are mentally spent and they are financially strapped to where are you really putting somebody quality out there to start representing somebody else's problem? I see a lot of them to where they are so stressed out by the time they get out of law school that they need to help themselves. They really don't have anything left to help somebody else. And then they get taken advantage of by big firms because they know you've got a \$70,000 debt. So, I am going to give you some money and I'll give you a car, and I'll lock you in here. You are going to be my slave. Because I'm going to pay you maybe \$50,000 a year and you are going to bill for me \$350,000 a year.

CLSJ: Now, as far as that goes, do you think your law school is one that will be putting out more solo practitioners?

D.O.: I think that's where the road will be showing. We end up with a lot, I try to get as diverse a faculty as I can. I have a real diverse board of directors and I have a real diverse student body and I really want a diverse faculty, but they have to be qualified in what they do. Most people end up coming as private practitioners or they're really, if they are in a firm, they are up high enough that they are able to use their own mentality and their own individuality. Like with the two D.A.'s we have, the one's the head of family law or the head of spousal abuse in Orange County and the other is the head of child abuse in Orange County. So, they are fairly high up there and they are very individual thinking in their thought because they are the heads of these departments. So, they are not just walking in and saying, well, this is what we are told to do. So, that is what in and they are very challenging. So, that is come I have tried to make sure that is maintained. That you get that type of independent thinker. Because I would sure like it if one of these students walked out of here and changed the laws in the United States. That

would be an exciting thing. I don't want them all coming out as clones. That is where the trial practice aids them in giving them that individuality because they started doing it there. You can't act like Melvin Belli, you have to act like yourself and that means you are an individual. So it is real funny to see the development of these students as they start to realize that they are going to perform better the more that they bring their own individuality into the courtroom. Students are real happy. Basically, we will start to be happy if they do trials. They'll get people laughing. Students who are normally intense and serious will become even more intense and serious. But they feel more satisfied because they are being themselves. That is where they are always going to perform their best. I think it is going to make long-term attorneys. That is the other thing that bothers me and a lot of other practicing attorneys. Attorneys are getting out of the practice in 4 to 5 years too much now. They are losing so many new attorneys who are unable to stay with the pressure.

CLSJ: Because they burn out?

D.O.: Yeah. And I think that part of it is that they were never told up front, "you are going to go through horrible and tough times out there in practice. This isn't easy, and its serious and it hurts." And because they went to schools where people didn't practice. So they taught them how wonderful the theory of law was and people walked out there and got hit in the face with a bat. So, I think that is part of the reason and I think the other part of the reason is that nobody ever gave them the tools to say, "You can do this." "You can get out there, you are going to be a success." You can put up with anything as long as you know at the end of it you are going to survive.

CLSJ: And most students lose sight of that fact.

D.O.: If you know you're going to make it through it, you will put up with it. And I don't think most law students coming out feel, gee, I can never really make it. And law school is that way. They put students down. They humiliate them. There is tricks to make you think, but that is good in the first year, after that, you've got to start getting them with real high confidence that they get to graduate.

CLSJ: There is a difference between passing the bar and being a lawyer.

D.O.: A complete difference.

CLSJ: I think if you come out knowing how to be a lawyer, that eliminates a lot of the stress. Because I have some friends in this industry who have just graduated from law school. They are afraid to even go out on an interview... because they know they don't know how to do anything. And they are very fearful of the entire process.

D.O.: And that's true. And that's too often. And then everybody's saying, you know, there is something wrong with the lawyers in California. In fact, that's why. Nobody ever taught them how to be lawyers in California. You know, you are giving them a license, putting them out there, and they are making a spectacle. You know what? If you learn how to drive a car from someone who never drove and you were never allowed to get in a car and you could only read the little DMV manual on driving a car, I guarantee you would walk out and get in an accident.

CLSJ: One last question, Dean: Why would you tell a student to come to your law school?

D.O.: I think the biggest reason is because we are going to prepare you to be an excellent attorney. I think that is the difference. And that is what most of the faculty feel is that we need to prepare people to be trial attorneys. Trial attorneys are getting washed out. And I know that other schools, their attitude is we need gentler, kinder attorneys. Well, the problem with that is like being in a bar fight. If you don't want to be in a bar fight, but the other guy does, I hate to tell you, you just got into a bar fight. If you know how to survive in a bar fight, then you can always decide I don't want to be in a bar fight. So, that is basically the attitude that we try and give these students.



Dean O'Connell, His Refreshingly Candid and Visionary Self

Publisher's Note: This is the first of a two-part interview with Dean Kevin O'Connell, of Pacific West College of Law. Son of the man who wrote the *Nutshell for Remedies* and was a former Dean of Western State University, College of Law, Dean O'Connell is as entertaining as he is brilliant. As you'll come to realize, he doesn't shy from speaking his mind.

CLSI: If a school is a non-correspondence school, can you add a correspondence aspect to that school, or do you have to be one or the other?

O'CONNELL: I could add a correspondence aspect, but I would have to reapply. **CLSI:** Could it still be called Pacific West College of Law? Would it be under the same umbrella, so to speak?

O'CONNELL: Yes, we could keep our current name. But as far as online-commuting, which is what I'm really interested in, I have asked the State Bar about such a program. The Bar does not deem correspondence learning to be any other type of learning as long as it is live and real-time, which, again, is exactly what I'm interested in. With such a system, students would actually, over the Internet, see the professor live, and if they had web-cams, they would be communicating with the professor just as if he was in the classroom. Technology exists where all the students could see all the other students in the class and communicate with one another. You could be across the world, and on your computer screen, it would look like everyone was right there with you. As far as that goes, the Bar does not deem that to be a correspondence school because it is, in essence, actual class-room time. However, if it is conducted solely on the Internet and through the E-mail system, that would be classified a correspondence school.

CLSI: Are there any pitfalls for an on-line law school?

O'CONNELL: The Committee of Bar Examiners has a task force trying to study this. There biggest problem is that without it being real-time, you don't get that true in-class communication. By the time you watch a videotape of a lecture, at the end of a such lecture, the number of questions you would have would obviously be much less than you would have during a lecture, if you could actually ask them as it is going on.

CLSI: Seems like the Bar wants actual human interaction.

O'CONNELL: Yes, and the technology is available, so it can be done. I know UCI, Cal State Long Beach, and Coastline Community College got together to try and put together this type of real-time program with China. So, I believe it is going to happen. But, I don't know what it is going to do when Harvard Law can pick up students in the backyard of Chapman Law and Whittier Law. I suspect eventually everything will.

CLSI: Now, about the Baby Bar Exam: Is "consumer protectionism" that goes through the State Bar's mind concerning the dreaded Baby Bar?

O'CONNELL: Yes. I went to a meeting with the CBE and Deans of California Law Schools, and I told the Bar that it was an erroneous standpoint because you are not protecting the consumer, you are penalizing the consumer. If you wanted to protect the consumer, you would come after the law school. Now, that would be consumer protection. Instead, they are going after the actual consumer and saying, "Well, you didn't pick a good enough school, so, therefore, you are not going to be penalized." So its not consumer protection. And, the questions on the "dreaded" Baby Bar are incredibly difficult, especially for someone still in their first year of study.

CLSI: An extremely difficult test. As is the General Bar Exam.

O'CONNELL: We get statistics from the Bar that breaks down bar passage, per race and sex. If you follow those statistics, they will tell you that if you want to have a good bar pass rate, you will bring in white males. If that is your student body, you will have the best chance of a high bar pass rate. Especially in California, white males are a dwindling population. It seems silly to forecast that. You are going to have a minority still in control of this major aspect of society. The Bar has to change things and allow minorities to get in. But if you allow minorities to get in, if you allow minorities in your school, your bar results are going to be poor. Unfortunately, that is what the statistics keep showing us.

CLSI: In your mind, is the statistical correlation based on English as a second language? After all, such law students had different kinds of schooling in the elementary and high school levels than most white law students?

O'CONNELL: No, I don't think it is necessarily that. I have seen white male students who passed the bar with very basic education, and I have black students with other graduate degrees, and they are not passing. I don't think it English as a second language. I really think what it comes down to is the LSAT and the MBE because it is the same company, the same mind set, if you will, in charge of both of those standardized test. Honestly, I think it is an exam that is skewed to a certain type of person.

CLSI: Both tests are definitely skewed to a certain type of thought process. Have you ever focused on helping these kinds of students? Or, is the test too much of a barrier to a student who doesn't naturally possess that kind of thought process?

O'CONNELL: I don't know any trick way to skew the students into the thought process. We try and motivate them toward practice and hope that the motivation will carry them through because that is what the bottom line is with anybody. If you are motivated enough to do this, you will find a way to learn how to do the exam. I know you know this from all of the people you've helped. **[Publisher's Comment: One bar exam, publisher Steve Liosi successfully tutored four students from a local law school that had, on that particular bar, only 4 out of 64 students pass!]** This might shock some people, but I believe the reason why many students do not pass the General Bar Exam, is because they are self destructing somewhere, because they are so afraid of the change that passing is going to have on them. Honestly, this has a huge impact when you are dealing with Asians, Hispanics, and Blacks. Because there is a lot of family pressure. I came from an Irish family, and when I passed the bar it was like, "Okay, get out of the house, go make a living, and leave us alone." But oftentimes in a Hispanic family, if you are the first one to get a law degree and pass the bar, it is likely you have to start giving money to your parents, you have to help "Johnnie" when he gets arrested for drunk driving. Suddenly, there all these new burdens on you, simply because you tried to get ahead. Then, you can also have a lot of resentment that comes out of this same family unit that you are doing something that some other brother or cousin didn't do. So, I think honestly, that is a bigger reason why some people are not getting success on the Baby Bar, the General Bar and the LSAT.

CLSI: Interesting. From what I gather from the hardcore repeaters who have taken the

O'CONNELL continued

General Bar five (5), six (6), seven (7) times, is that something beyond academics is at work. Usually, it is psychological. I know that most bar exam professionals are not psychologists, but maybe they should be. I know that Fleming's has a hypnotherapist as part of his course.

O'CONNELL: Many students are plagued with anxiety, and the anxiety is caused by an underlying fear of facing new obligations and responsibilities. I think the older the student is, the more at risk they are of this psychological barrier. They maybe are jaded by life as opposed to the younger ones who do not have much life experience.

CLSI: Do you feel schools with a makeup of low-LSAT students have a responsibility to teach differently, or at the very least expose their students to test-taking techniques?

O'CONNELL: The General Bar has gotten so much more difficult. If you look at a bar question from the 70's, I think a high school kid can pass that kind of bar now. It's foolish to say that everybody can just figure this out on their own. I don't think that is occurring. The General Bar exam is so hard now.

CLSI: How would classify your students? Is there anything that they should be doing differently?

O'CONNELL: Our students are free thinkers.....self assured about speaking up in class.....that comes from our Trial Practice program. All students need to start preparing for the bar exam right away, once they enter law school. Unfortunately, it is not the way it used to be when I went to law school many years ago, where one could just get out of law school and use the next two months to prepare for the exam, and that would be enough. Now, it is all so overwhelming.

CLSI: Everything a student does while a law student will have a cumulative effect. A

student should never feel that they are wasting their time if they are trying to figure out how to write an essay for the General Bar Exam in their first year of law school. Even PMBR's founder, Bob Feinberg, says start preparing a year before you take the bar. I say one year, minimum. I personally started preparing my first year of law school, and I made sure I left law school with the skills I needed to pass the California Bar Exam the first time, and I did. Today, I just don't understand many law students. Speaking only of Orange County, the bar pass rates are woeful, but too few students seek the help of a tutor, and they should. Immediately! Before their first midterm. Actually, I find it sad that they let their ego interfere with such a complex process. Honor students in undergrad end up on Academic Probation in law school. Undergraduate "hot-shots" take the bar more than once.

O'CONNELL: Yes, ego gets in the way. Ninety-nine percent of all law students need extra-curricular help.

CLSI: What do like most about being a law school dean?

O'CONNELL: To help people realize their dreams and help them grow. I teach the Trial Practice class. Students do nine (9) trials, a trial a week for the last nine (9) weeks of school. So there is absolutely no let up. In the beginning, the students are excited, but in the middle, the students get upset about the grueling grind.....it is so tough on them. But, by the end of it all, you can see the difference. The students simply know how to walk into the room, start asking questions, start analyzing; there is no hesitation, and it is baptism by fire. You see an incredible amount of growth in the nine-(9) week period; it is amazing to see the difference from the people who walked into the class and then walk out of it nine (9) weeks later.

Dean O'Connell Talks about His School, Pacific West College of Law, His Students, the Practice of Law, His Father and Fleming's Mnemonics

PUBLISHER'S NOTE: Kevin O'Connell is the founder and dean of Pacific West College of Law, located in Orange, California, near the Arrowhead Pond. His school clearly places the emphasis on creating a nurturing educational environment where students graduate with practice skills. In addition to running his law school, Dean O'Connell has a thriving private practice.



Dean O'Connell: Maybe, but there is a lot more government intervention with how you [attorneys] are doing things. A cooling-down economy also affects attorneys. You get a lot more Malicious Prosecution and Legal Malpractice cases as soon as the economy goes down. When the economy picks up, you see those kinds of cases start to drop away. Many factors affect the moods and dispositions of attorneys.

I don't think that there is that much legal malpractice being committed, but there are a lot of misconceptions as to how the law really works, among the general public. Also, a lot of these misconceptions lie with law students when they come straight out of law school. There are the recent graduates that walk out of law school with the idea that all they have to do is this and that, and they will win the case, and they don't really have to work the case is what they think: easy money.

I do well in my practice, but I only promise one thing: that I will work the case. I do not promise I will win the case. I have been praised by District Attorneys and Judges, on the record, on the amount of work I have

Please see O'CONNELL, page 15

O'CONNELL continued

put into a particular case. Most attorneys do not do this.

Recently, I had a case in Barstow in which the judge openly admonishes people from getting private counsel because the private counsel are so poor out there—they do not fully litigate. I tried to run a motion on the first District Attorney on this particular case, and she got real upset, and demanded a conference with the judge. The judge said to her, "Do you want me to not allow him to bring his motion?" She said, "No." Then, the judge said, "Let him bring his motion." I think this happened because no one had ever brought a motion against her before, but I think you have to work your case to the fullest.

Many of your Constitutional Law issues come up in drunk-driving cases, not just in the murder cases. It starts way down there, with the so-called little cases, and to me that is when you really have to assert those rights. Attorneys just do not do this. There is no easy money out there. Attorneys think they can just go out there and make easy money, but it just isn't there; it doesn't work that way.

CLSI: No easy money anywhere. One thing more about your law school's students, are they predominantly "second-careers"?

Dean O'Connell: Yes, they are. To me, these students make great classes because they bring with them real-life experiences.

CLSI: Most of these students have had success in life and probably success in school at the undergrad or even post-grad level. Do you think these factors prevent many of them from attacking the bar examination with the urgency that is certainly needed? Pass rates among the smaller schools are woeful.

Dean O'Connell: Yes, that is true. Also, if law school is your second career, so to speak, and you are also working full-time, you are pretty tired. Sometimes, it is difficult to regenerate a new surge toward the California bar examination.

CLSI: What I tell everyone about law school is that it is the most difficult graduate discipline in the United States of America. Likewise, the California bar examination is the most difficult bar exam to pass in the United States of America. Most students refuse to realize this. Smaller-school students and low-LSAT students should all seek professional guidance with the process of law school and the bar exam. Unfortunately, ego gets in the way, and these students simply are unwilling to process just how difficult the California bar exam is to pass on your first attempt, if ever.

Dean O'Connell: Yes, and much of this has to do with the law school culture. Take so-and-so course six weeks before graduation, and that's that. But many, many students need more than that, especially in California.

CLSI: I know your father passed away a few years ago. A former Dean at Western State University College of Law, a professor of Remedies at Western State University College of Law and the author of the *Remedies In A Nutshell* hornbook. Does your father still influence your life and how you act as a lawyer?

Dean O'Connell: As a dean, in a real big way. I never really realized how much I learned from him. He was an excellent dean, and he was a very good lawyer. He was a fair and equitable man. In those ways, he influenced me greatly. And, you may not know this, but some of the Fleming's mnemonics came straight from my father.

CLSI: I did know that. When your father passed away, Professor Fleming was obviously touched, and we had a short conversation about your father. Professor Fleming had nothing but flattering things to say about your father.

Dean Kevin O'Connell