

The Law School Observer

Brian Leiter

LOCATED TRULY in paradise – on a beautiful hilltop campus overlooking San Diego’s Mission Bay – the University of San Diego School of Law is less than fifty years old but is now on the verge of cracking the “big leagues” of the great law school hierarchy. For decades, everyone knew USD as home of **Larry Alexander**, the prolific and influential scholar of constitutional law, criminal law, and jurisprudence, someone often referred to as “the most famous legal academic not already at an elite law school.” In 1998, USD then acquired a Dean worthy of Alexander’s ambitions for the institution: **Daniel Rodriguez**, a respected scholar in the public law fields, moved to San Diego from Boalt Hall at Berkeley.

In the last two years, things have really started to happen. First, **Sai Prakash**, a prolific and already widely cited young scholar in public law and securities regulation, moved from Boston University to USD, largely for personal reasons – though a large contingent of like-minded conservative legal scholars was

surely an added plus (these include **Michael B. Rappaport**, **Bernard Siegan**, **Emily Sherwin**, **Thomas A. Smith**, and **Christopher Wonnell**, making USD something of a “George Mason West”). Now, in one of the most dramatic moves of the year, the eminent criminal law theorist and legal philosopher **Michael S. Moore** is moving together with his wife **Heidi Hurd**, also a well-known jurist, from the University of Pennsylvania to USD. In addition, USD has extended a senior offer to Critical Race Theorist **Richard Delgado** at Colorado, and next year the legal philosopher **Scott Brewer** from Harvard Law School will be a Visiting Professor at USD as well.

Together with some other well-known regular faculty – like **Roy Brooks** in civil rights and Critical Race Theory, **Ralph Folsom** in international trade, and **Fred Zacharias** in legal ethics – as well as distinguished part-time professors like **Carl Auerbach** from Minnesota, **Yale Kamisar** from Michigan, and **Richard Speidel** from Northwestern, USD

Brian Leiter is the Joe A. Worsham Centennial Professor in Law, Professor Philosophy, and Director of the Law & Philosophy Program at The University of Texas at Austin.

has now clearly overtaken California rivals like Loyola-Los Angeles and Santa Clara, and must be ranked competitive with UC Davis, and perhaps even UC Hastings. How long it will take those who fill out *U.S. News* reputational surveys to register this fact remains to be seen, but to any informed observer of legal scholarship, the judgments must seem uncontroversial.

Another regional school “on the way up” is Wake Forest University in North Carolina. Before Moore’s move from Penn, the most dramatic “step down” in the great law school hierarchy was the decision by **Michael Perry**, the distinguished constitutional law scholar, to move from Northwestern to Wake Forest in 1997. Two years before, Wake Forest lured **Steve Nickles**, a well-known commercial lawyer, from Minnesota. Equally significant is Wake Forest’s apparent ability to retain top talent as well: Perry, for example, has rebuffed offers or inquiries from UCLA and San Diego since moving to Wake Forest, while **Mark Hall**, the influential health law scholar who moved from Arizona State to Wake Forest in 1993, recently turned down a tenured offer from Penn.

Of course, in the annals of schools that underperform in *U.S. News* reputational sur-

veys, no institution compares with George Mason. It’s true that the school, under the tutelage of **Henry Manne**, now occupies something of a specialty niche as a law & economics powerhouse – efforts to build up other areas have been less successful – but the niche is an important one in the modern academy, and in this niche George Mason outshines many top 25 law schools. Having lured the distinguished torts scholar **Mark Grady** from UCLA to succeed Manne as Dean, the school has recently added to a faculty that already included **Ernest Gellhorn** in administrative law and **Larry Ribstein** in corporate law such notables as **Daniel Polsby** from Northwestern and **Gordon Tullock** from Arizona, one of the giants of modern economics and public choice theory. Although not a school for the politically liberal or economic-phobic (though in that regard it is not much different from its neighbor UVA), George Mason has clearly emerged as the third strongest school in the Washington, DC area (behind Georgetown and George Washington) – a fact that would be more widely recognized but for the complete incompetence of the editors of *U.S. News & World Report*, who still fail to employ such simple safeguards as providing current faculty lists with their reputational surveys. *g*