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Interview with Carlos Cordova

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Cal Poly University Legal Counsel

Carlos Cordova earned his undergraduate degree in history at Loyola Marymount University in Los Angeles and continued his study of history, concentrating on the American constitutional era and U.S. labor history, with a master's degree from UC Santa Barbara. He received his law degree from UCLA Law School. Upon graduation, he managed the business of a medical doctor/inventor for three years. This experience provided knowledge of international marketing and business and an understanding of the practical aspects of business. He then took a position working for the California State University Office of General Counsel in the Chancellor's Office. During that 6 ½-year period, he represented a number of CSU campuses and developed several areas of expertise, including labor/employment law and federal disaster recovery reimbursement through FEMA (Federal Emergency Management Agency). As a result of his knowledge of the FEMA reimbursement process, he was assigned to the CSU Northridge campus for nine months after the earthquake devastated that campus in 1994. He has lived in San Luis Obispo for fifteen years, arriving to assume the position of university legal counsel for Cal Poly in 1994. He is married and has two children, one of whom is a freshman at another CSU campus.

Moebius: What brought you to this job? What are your fundamental goals?

CC: Cal Poly was the first CSU campus permitted to establish an on-campus legal counsel position. Previously, all CSU attorneys worked in the Long Beach Chancellor's Office. Presently, five CSU campuses have campus-based legal counsel. As university counsel, many of the issues I deal with involve discrimination law, contract law, and constitutional law, including the First Amendment, due process, and, infrequently, search and seizure issues. Although I concentrated my graduate history studies in the constitutional era, I do not believe the founding fathers would have anticipated the ways in which the Constitution has subsequently been interpreted by the courts. Instead, I rely on modtern judges' interpretation of the Constitution to advise my client. I believe that the three years that I worked in private business were very helpful in preparing me to serve in my present in-house legal position. I think a lot of lawyers understand the law from a theoretical rather than a practical standpoint. My previous experience running a business helped to teach me the practical aspects of being a lawyer. I believe that experience helps me communicate with my client much more effectively than if I had gone straight from law school into legal practice.

One of my goals as the campus' attorney is to keep the university out of litigation as much as possible and, as a corollary to that, to ensure that the university's limited resources are used for education purposes as much as possible. Litigating a case can be very expensive, anywhere from $100,000 to $1,000,000 plus just for attorney's fees. I would rather see the university's limited funds used to further the university's educational mis-

sion instead of being spent on lawyers and other costs associated with defending against legal claims. From that perspective, my goal is to minimize the university's legal costs as much as possible.

My primary role as campus legal counsel is to be an advisor for university administrators, to advise them on legal issues that may impact their policy decisions. While I don't handle trial work, I do administrative hearings, which are like mini-trials but are more informal. These cases may include disciplinary cases, labor cases involving selected faculty grievances, or claims that the university has committed an unfair labor practice. If litigation is necessary, depending on the nature of the case, I may hire outside legal counsel or use the California Attorney General's Office or CSU litigation counsel to handle the trial work. In such matters, I closely supervise the work of our retained outside trial counsel.

Moebius: How does your position differ from that of an attorney working for a private company? Does it differ from that of an attorney working for a private college?

CC: I've only practiced as a lawyer for the CSU. Working for a private college is different to some extent. Some issues apply exclusively to public universities, such as constitutional issues and legislative mandates. At a private college, there is a board of regents or trustees that runs the university, which is more analogous to a private company. Our respective constituents are different, the reporting relationships are different, and the applicable laws are different.

Moebius: How would you describe your office's approach to working with college students?

CC: I work with college students very infrequently. It would be a conflict of interest and a violation of ethical rules for me to advise college students when their interests involve or conflict with the university's. I generally provide legal advice and counsel to program managers, mainly vice presidents, academic deans, and our Human Resources and Academic Affairs departments.

I infrequently have contact with students or use students as witnesses. In response to student inquiries for legal assistance, I refer them to ASI [Associated Students, Incorporated]. Cal Poly's ASI has a program that provides students with a free 15 minute consultation with an attorney.

Moebius: Some people describe a person's college years as a time of inquiry and experimentation, which, by its definition, involves challenging or violating established rules. Your role could be characterized as one imposing order and regimentation. Is this dichotomy accurate from your perspective?

CC: I agree that it is an expectation that a student's college years are a time of inquiry and experimentation. But I would not go as far as to say that experimentation requires violating rules. Some people choose to interpret inquiry and experimentation as violating

rules, but I also think that in most instances inquiry and experimentation can be done within established rules. I don't define my role as imposing regimentation, but rather as making sure that people understand the various rules and legal mandates that apply to the university. These legal rules and mandates may include campus and CSU policies and external rules such as laws and constitutional principles. My role is to ensure that administrators are aware of and understand those rules and mandates. Then, based on that advice, they can work with individuals they supervise to determine if it is appropriate for them to engage in the activities they are pursuing. I address questions such as: Will we be sued for that? If we are sued, what will it cost in terms of money and university manpower, and what may be the possible consequences? Is that cost worth the educational benefit that we gain from the activity?

I characterize my role as one piece of the pie making up the university's decision. I provide the legal piece. There is also the budgetary piece, the university's academic mission, and policy considerations that go into making a decision. Occasionally the law is so clear that we know if we can or can't do something, but most of the time, in the situations we encounter at the university there may not be a clear-cut legal answer. Sometimes, the applicable legal rules conflict, putting the university in the position of having to decide which potential lawsuit it wishes to defend. For example, sometimes the privacy laws conflict with the university's obligation to provide a safe environment. Generally, my advice is only one factor that the ultimate decision-maker must consider. After receiving my advice, the decision-maker will have to decide whether or not to go forward with the proposal, pursue a different direction, or withdraw the idea.

Moebius: How would you describe the state of "town/gown" relations in San Luis Obispo?

CC: Town/gown relations do not really enter into the legal analysis that I do, but it may impact the politics of the advice that I provide. I think it is important for a campus-based attorney in a college town like San Luis Obispo to understand that town/gown considerations are very important to the institution. Although my primary role is to provide legal advice, the people with whom I work sometimes want to hear my non-legal opinion regarding a matter. I'm fully aware that residents in the local community have expectations of how they think our students should behave and sometimes their expectations are not consistent with how our students do behave. We are a small community, and I believe both sides have to acknowledge the concerns and desires of the other party. In my experience, this dynamic is significantly different than what occurs at an urban campus such as CSU Long Beach, CSU Los Angeles, or San Francisco State, where the town/gown relationship, while important, is not nearly as significant as in San Luis Obispo. I was counsel for CSU Chico before coming to Cal Poly and the town/gown dynamic there was very similar to what occurs here. While I agree that Cal Poly should be sensi-

tive to the concerns of the local residents, sometimes those concerns are not consistent with limitations placed on Cal Poly because of its status as a public higher education institution. For example, local residents might want Cal Poly to exert more control over student activities occurring off campus, but the courts have not been sympathetic to that position except in situations in which the off-campus activity directly impacts a college's educational mission.

Moebius: Are campus controversies intrinsic to a university environment?

CC: I believe most people expect there will be controversies on college campuses because challenging conventions and assumptions is part of the educational process. I would hope that such challenges would be done in a civil manner and not impact the ability of other members of the campus community to participate in the educational process, although this is not always the case. I become involved only when the controversies spill into areas that the law mandates or addresses. In those situations, I advise administrators on how to respond to the controversy in a manner consistent with what the law expects of us. We are a public university, and the California State Legislature expects us to adhere to certain laws and principles. Cal Poly is not a completely independent entity and must be sensitive to the wishes of outside entities such as the Legislature, which funds the university, the Board of Trustees of the CSU which establishes policies for CSU campuses, and California taxpayers. These constituents many times believe that they have a stake in these controversies and how Cal Poly addresses them. Administrators have to be cognizant of this because many of these constituents control the university's purse strings.

Moebius: What do you enjoy most about your job?

CC: I like my job because as an attorney I get to address many different issues on a constant basis. Every day, I address a wide variety of legal issues. Most attorneys only address legal issues within their areas of expertise. When I walk into my office each morning, I have no idea what new issue I will be required to address on that day. I enjoy being a generalist even though most attorneys are specialists. The variety is always interesting. The analogy I sometimes make is that I am similar to a medical doctor who is a general practitioner. I can generally address most legal issues that come across my desk. However, on occasion, a general practitioner must refer a patient to a specialist, for example a brain surgeon. One would not want their general practitioner to do their brain surgery. Similarly, when I have a matter which requires a high level of specialization, such as trial work, I will hire trial counsel to handle the case instead of handling it myself. Such an approach is ultimately better for the client.

Interview on behalf of Moebius conducted by Adrienne Miller, Winter 2010.