

GOING TO TRIAL

St. Mary's Law gets national spotlight in *Class Action* podcast.

WRITTEN BY ERIC QUITUGUA

What is mock trial competition like for today's law students? A team of aspiring lawyers from St. Mary's University School of Law welcomed attorney and TV host Katie Phang (MSNBC's *The Katie Phang Show*) as they prepared for the National Trial Competition in the 2021-2022 season. Their journey, along with that of three other mock trial teams from across the country, was chronicled over one year in Phang's *Class Action* podcast. The 12-part series portrays a formidable group of law students finding their voice in the face of competition.

"We got beat up—bad. [To] the point where we're like, 'Oh, it can't get any worse.' Until it did and then it did again," St.

Mary's student Jasmin Olguin says within the first few minutes of the podcast's first episode. "Then we're just like, 'You know what? Let's do this. We know what we need to fix. We got this. Let's believe in ourselves. And it's been good.'"

Struck by a sort of underdog story, *Class Action* producers chose to feature the St. Mary's national trial team, which comprises Olguin, Andy Vizcarra, Mariela Encinas, Cole Davila, and coach A.J. Bellido de Luna. The team of 2Ls and 3Ls, entirely Hispanic, represents a small percentage of about 7.1% of Hispanic students entering law school in 2020.¹ In the profession, about 4% of practitioners are Hispanic, according to a 2020 study by the American Bar Association.²

Bellido de Luna, who is also the law school's assistant dean for advocacy programs and a Hardy Service Professor of Law, said the number of Hispanic lawyers in decision-making positions and partners in firms and government is small. As a Hispanic-serving institution, he said, St. Mary's "has a unique opportunity to increase the number of people that can rise to the highest levels of our profession and become important leaders in our communities."

What does St. Mary's Law's appearance in *Class Action* mean for the school?

"I hope [prospective law students] say they like what we are doing here and will want to come to school here," Bellido de Luna said. "I hope firms in [San Antonio] find out the kind of training we are giving our students and give them a chance, and I hope the community gets a better idea what is happening in their hometown institution and like it."

Preparations for the National Trial Competition began with team tryouts. They're open to 2L and 3L students only and occur in the spring. In August, 2Ls enrolled in a trial advocacy class taught by Bellido de Luna. For one week right after class, they jumped into boot camp, where they were drilled on everything from courtroom decorum and procedures to evidence and cross examinations. In one test, during bootcamp, students must recite rules of evidence verbatim before even being considered for the team.

Encinas, who was a 2L during *Class Action* and spent the summer interning at the Pima County Attorney's Office in Arizona, said the hardest part about boot camp was how fast it went by. Putting all the information and argument techniques together in one week is challenging, she said.

"We forget that not every law student chooses to be on the national team or put that extra work on their plate," Encinas said. "It was a reality check when the podcast team would say, 'That sounds like a lot of extra work,' or ask, 'How are you holding up having to deal with this extra time commitment?' It took a person from the outside to appreciate the craziness of mock trial and for me to realize how much of myself I was putting into it."

So why all the extra work from students? And why the focus on mock trials by *Class Action*? Looming over the series is the



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reality of declining jury trials in the U.S. In 2020, a study by the ABA Commission on the American Jury found that “[t]he number of jury trials has dropped so dramatically in recent years in both federal and state courts that the jury trial is an exceptional rather than a commonplace outcome.”³ However, high-profile verdicts in recent years have ushered a new wave of trial advocacy in law schools. According to the *Class Action* website, “[m]ock trial tournaments are quickly becoming a necessary and exciting kind of collegiate sport.”

Vizcarra, who captained the national trial team before graduating in the spring, plans to become a litigator after passing the bar. All the skills she learned have become muscle memory, she said, guiding her through the unexpected as she has since taken the deposition of a hostile witness and has assisted in criminal trials in Bexar County.

“The idea that a truly impartial jury of your peers gets to decide what the law is, gives me chills. I understand that the justice system needs work, but this system—built on the concept of trial by jury—it’s still the best system in the world,” she said. “So I also feel galvanized to get in the ring and do my part to make the system work the way it was supposed to.”

Davila, who also plans to go into litigation after passing the bar exam, called the experience of being in trial competitions the best part of law school. The work prepares the team more for application of legal theory, rules, and case analysis in the

real world in ways the classroom cannot. The experience of being featured on *Class Action* will show St. Mary’s as more than a random law school when pitted against higher ranked law schools with more attention, he said.

“The fact is that schools like St. Mary’s that put the time into students to actually make them good not just at the academics of law but [at] the actual practice of law, are the schools that truly deserve the attention and praise,” Davila said. “It is one thing to be able to recite a constitutional provision or a court case by memory; it is something else entirely to present it to a jury and bring them over to your way of thinking, which is what St. Mary’s teaches us to do.”

To follow the St. Mary’s national mock trial team on *Class Action*, go to iheart.com/podcast/11119-class-action-97574053. **TBJ**

NOTES

1. Susan L. Krinsky, *The Incoming Class of 2021—The Most Diverse Law School Class in History*, Law Admission Council (Dec. 15, 2021), <https://www.lsac.org/blog/incoming-class-2021-most-diverse-law-school-class-history>.
2. The Men of Color Project, *Lawyers by Race & Ethnicity*, American Bar Association (2020), https://www.americanbar.org/groups/young_lawyers/projects/men-of-color/lawyer-demographics/.
3. Shari S. Diamond and Jessica M. Salerno, *Reasons for the Disappearing Jury Trial: Perspectives from Attorneys and Judges*, 81 La. L. Rev. at 122 (2020), available at https://www.americanbar.org/content/dam/aba/administrative/american_jury/2020-reasons-for-the-disappearing-jury.pdf. “In states that maintain accurate records of bench and jury trials, jury trial rates also declined. From 1976 through 2002, civil jury trial rates fell from 1.8% to 0.6% in courts of general jurisdiction in the 22 most populous states, while felony jury trial rates declined from 3.4% to 1.3%. Bench trials have not taken the place of jury trials. Rather, the trial itself has been disappearing.”

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