

## MIGUEL A. MÉNDEZ

### MAILING ADDRESS:

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**BAR MEMBERSHIPS:** Texas (1968), California (1972)

### LEGAL EDUCATION:

J.D., 1968, The National Law Center, The George Washington University

Order of the Coif

Academic Scholarship, 1966-67, 1967-68

*Meeting Competition under Section 2(b) of the Robinson-Patman Act*, 35 GEO. WASH. REV. 618 (1967) (co-author)

Phi Delta Phi Legal Fraternity

International Law Society

Editorial Staff Member, *Studies In Law & Economic Development*

### COLLEGE EDUCATION:

A.B., 1965, The George Washington University  
MAJOR: International Affairs & Latin American Studies

A.A., 1963, Texas Southmost College  
Salutatorian  
Phi Theta Kappa Honorary Society  
Freshman Class President  
Editor, College Newspaper

### EMPLOYMENT:

July 2009 to Present Professor of Law, U.C. Davis School of Law; Principal subjects: Evidence, Criminal Law, Advanced Evidence

July 1977 to August 2009 Adelbert H. Sweet Professor of Law, Stanford Law School, Emeritus;  
Principal subjects: Evidence, Criminal Law, Trial Advocacy, Advanced Evidence

August 1990 to July 1991

Visiting Professor, University of San Diego School of Law

August 1986 to December 1986

Visiting Professor, Vermont Law School

January 1982 to June 1982

Visiting Professor, Boalt Hall School of Law

January 1977 to June 1977

Visiting Professor, Santa Clara University Law School

January 1975 to December 1976

Deputy Public Defender, Office of Monterey County Public Defender. As counsel for indigent defendants, I pre-trialed several hundred cases, tried numerous felony and misdemeanor cases before juries, argued many pretrial motions (including motions to strike and suppress), appealed orders denying motions, and prepared and argued writs to obtain relief denied by the trial courts.

Additionally, I was defense counsel in innumerable preliminary hearings involving a variety of charges and defended against petitions to revoke probation. I also defended clients against whom the county had filed civil commitment proceedings. Several of these cases proceeded to jury trial.

June 1972 to September 1974

Deputy Director, California Rural Legal Assistance (CRLA), a federally funded program that provides free legal assistance to California's rural poor, especially farm workers.

I participated in all policy and administrative decisions that had a substantial effect on the program. My specific duties included hiring attorneys and chairing the civil rights task force. Made up of CRLA attorneys and community workers, the task force was responsible for identifying key civil rights issues confronting our clients and for formulating litigation strategies to resolve them favorably. Our principal accomplishment was obtaining a California Supreme Court order mandating legislative reapportionment in a manner that did not dilute minority voting strength. My duties also included periodic evaluations of the work of each of the ten regional offices.

My work as an attorney included representing clients on individual matters and as class members. I was part of a three-attorney team that successfully certified consumers as a plaintiffs' class (at the time a rare occurrence) and of a two-attorney team that successfully desegregated the Stockton Unified School District, one the largest districts in the state.

June 1971 to June 1972

Staff Attorney, National Office of the Mexican American Legal Defense and Educational Fund (MALDEF), a tax-exempt organization founded in 1967 to advance the civil rights of Chicanos and other Latinos through litigation and legal education.

MALDEF relies principally on class actions to end discriminatory practices. I helped prepare actions designed to remedy the denial of due process and equal protection in areas of vital concern to Chicanos and other Latinos. These include employment, education, housing, public services, the administration of justice, and the exercise of political rights.

From November 1971 to June 1972, I served also as the administrative assistant to the General Counsel, MALDEF's chief executive officer. My duties were to establish uniform administrative practices in all MALDEF offices and to coordinate two of MALDEF's three programs C the Educational Grants Program (a law scholarship program) and the Fund-Raising Program. I prepared and helped negotiate MALDEF's refunding proposal with the Ford Foundation, as well as the initial Rockefeller grant establishing the Washington, D. C. Office.

#### September 1969 to June 1971

One of four Legislative Assistants to U.S. Senator Alan Cranston of California. I evaluated legislation referred to the following committees and, to the extent desired by Senator Cranston, prepared bills within their respective jurisdictions: Judiciary, Post Office and Civil Service, and the Education Subcommittee of the Labor and Public Welfare Committee.

I wrote floor statements and press releases, and supervised the correspondence personnel responsible for answering constituent mail on matters that fell within my area of responsibility. I dealt extensively with constituents and served as liaison officer with those federal agencies under the oversight jurisdiction of the committees assigned to me. I advised Senator Cranston on issues that did not fall within the purview of a single legislative assistant and on matters that affected the interests of the Chicano community.

Among my accomplishments was originating and preparing an amendment to the Equal Rights Amendment giving Congress the power to enact measures implementing the amendment. The principal author of the Equal Rights Amendment, Senator Eugene McCarthy, accepted the amendment. I also prepared a floor statement explaining why a measure proposed by Senator John Stennis of Mississippi, ostensibly calling for the equal application of federal desegregation guidelines in Northern and Southern schools, would have had the effect of precluding the use of the guidelines in all schools. As a result of my statement, the Senate declined to adopt the measure.

#### July 1968 to July 1969

Law Clerk, United States Court of Claims. I assisted several trial judges prepare findings of fact and opinions in cases involving claims against the federal government.

**MEMBERSHIPS:** Texas State Bar (1968),  
California State Bar (1972)  
Hispanic National Bar Association  
The American Law Institute

**BOOKS:**

EVIDENCE—A CONCISE COMPARISON OF THE FEDERAL RULES WITH THE CALIFORNIA CODE (West 2011 ed.)

EVIDENCE—A CONCISE COMPARISON OF THE FEDERAL RULES WITH THE CALIFORNIA CODE (West 2010 ed.)

EVIDENCE—A CONCISE COMPARISON OF THE FEDERAL RULES WITH THE CALIFORNIA CODE (West 2009 ed.)

EVIDENCE—A CONCISE COMPARISON OF THE FEDERAL RULES WITH THE CALIFORNIA CODE (Thomson-West 2d ed. 2008).

EVIDENCE: THE CALIFORNIA EVIDENCE CODE & THE FEDERAL RULES—A PROBLEM APPROACH (Thomson-West 4th ed. 2008).

EVIDENCE—A CONCISE COMPARISON OF THE FEDERAL RULES WITH THE CALIFORNIA CODE (Thomson-West 2007).

EVIDENCE: THE CALIFORNIA CODE & THE FEDERAL RULES—A PROBLEM APPROACH (West Group 3d ed. 2004).

EVIDENCE: THE CALIFORNIA CODE & THE FEDERAL RULES—A PROBLEM APPROACH (West 2d ed. 1999).

EVIDENTIARY FOUNDATIONS: PROVEN STRATEGIES AND TECHNIQUES [A practice treatise in the form of an interactive CD-ROM by Tim Hallahan featuring expert commentary by Professors Edward J. Imwinkelried, Suzanne Mounts, and Miguel Méndez] (Practising Law Institute 1998).

EVIDENCE: THE CALIFORNIA CODE & THE FEDERAL RULES—A PROBLEM APPROACH (West 1995).

CALIFORNIA EVIDENCE (West 1993) and Supplements.

### **BOOK CHAPTERS:**

*Prueba Pericial en los Estados Unidos de América* in LA PRUEBA EN EL NUEVO PROCESO PENAL ORAL (Lexis Nexis 2003) (Rodrigo Coloma Correa, Editor).

### **ARTICLES:**

*The California Supreme Court and the Felony Murder Rule — A Sisyphean Challenge?*, 5 CALIF. LEGAL HISTORY 241 (2010).

*IX. General Provisions: Conforming the California Evidence Code to the Federal Rules of Evidence*, 44 U.S.F. L. REV. 891 (Spring 2010).

*Shifting From the Inquisitorial to the Adversarial Model in Criminal Cases: Is a Hearsay Rule Indispensable?*, 5 FIU L. REV. 13 (Fall 2009).

VIII. *Judicial Notice: Conforming the California Evidence Code to the Federal Rules of Evidence*, 44 U.S.F. L. REV. 141 (2009).

*La Prueba de Referencia y el Derecho del Acusado a Repreguntar a Testigos Adversos en los Estados Unidos de América*, 8 ITER CRIMINIS 11 — REVISTA DE CIENCIAS PENALES, INSTITUTO NACIONAL DE CIENCIAS PENALES (Marzo - Abril 2009).

*Forfeiture of Cross-Examination Rights in California*, 20 STAN. L. & POL'Y REV. 501 (2009).

*Comparing the Federal Rules of Evidence with the California Evidence Code—Proposition 8 and the Wisdom of Using Initiatives As A Rule-Making Device*, 36 SOUTHWESTERN L. REV. 571 (2008).

VII. *Relevance: Definition and Limitations—Conforming the California Evidence Code to the Federal Rules of Evidence*, 42 U.S.F. L. REV. 329 (Fall 2007).

*Los Principios del Proceso Penal Estadounidense y El Caso de Michael Jackson*, 11 CUADERNOS UNIMETANOS 139 (Septiembre 2007).

VI. *Authentication and the Best and Secondary Evidence Rules: Conforming the California Evidence Code to the Federal Rules of Evidence*, 41 U.S.F. L.REV. 1 (Summer 2006).

*Teaching Evidence: Using Casebooks, Problems, Transcripts, Simulations, Video Clips and Interactive DVDs*, 50 ST. LOUIS U. L. J. 1133 (Summer 2006).

*La Intoxicación en el Derecho Penal Estadounidense*, 13 DERECHO PENAL CONTEMPORÁNEO Revista Internacional 5 (Editorial LEGIS Octubre-Diciembre 2005).

V. *Witnesses: Conforming the California Evidence Code to the Federal Rules of Evidence*, 39 U.S.F. L.REV. 455 (Winter 2005).

*Crawford v. Washington: A Critique*, 57 STAN. L. REV. 569 (2004).

*On Teaching Criminal Law from a Trial Perspective*, 48 ST. LOUIS U. L. J. 1181 (2004).

IV. *Presumptions and Burden of Proof: Conforming the California Evidence Code to the Federal Rules of Evidence*, 38 U.S.F. L.REV. 139 (Fall 2003).

III. *The Role of Judge and Jury: Conforming the Evidence Code to the Federal Rules*, 37 U.S.F. L.REV. 1003 (Summer 2003).

II. *Expert Testimony and the Opinion Rule: Conforming the Evidence Code to the Federal Rules*, 37

U.S.F. L.REV. 411 (Winter 2003).

*I. Hearsay and Its Exceptions: Conforming the Evidence Code to the Federal Rules*, 37 U.S.F. L. REV. 351 (Winter 2003).

*Toward a Statistical Profile of Latina/os in the Legal Profession*, 13 BERKELEY LA RAZA L. J. 59 (2002) (L. Martínez, co-author).

*Solving California=s Intoxication Riddle*, 13.2 STAN. L. & POL=Y REV. 211 (2002).

*Character Evidence Reconsidered: A People do not Seem to be Predictable Characters,* 49 HASTINGS J. OF LAW 871 (1998).

*Lawyers, Linguists, Story-Tellers, and Limited English-Speaking Witnesses*, 27 NEW MEX. L. REV. 77 (1997).

*The Law of Evidence and the Search for a Stable Personality*, 39 EMORY L. J. 221 (1996).

*A Sisyphean Task: The Common Law Approach to Mens Rea*, 28 DAVIS L. REV. 407 (Winter 1995).

*People v. Ewoldt: The California Supreme Court's Aboutface on the Plan Theory for Admitting Evidence of the Accused's Uncharged Misconduct*, 28 LOYOLA L. REV. 473 (1995) (E. Imwinkelried, Co-Author).

*Hernandez v. New York: The Wrong Remedy at the Wrong Time*, 4 STAN. L. & POL=Y REV. 193 (Winter 1992-93).

*Resurrecting California's Old Law of Character Evidence*, 23 PAC. L. J. 1005, Symposium on Victim's Rights (1992) (E. Imwinkelried, Co-Author).

*Diminished Capacity: Premature Reports of its Demise*, 3 STAN. L. & POL=Y REV. 216 (Fall 1991).

*The Civil and Common Law: Differing Approaches to Some Aspects of Credibility*, 20 STAN. J. OF INT'L LAW 1 (1985).

*California's New Law on Character Evidence: Evidence Code Section 352 and the Impact of Recent Psychological Studies*, 31 U.C.L.A. L. REV. 1003 (1984).

*Presumptions of Discriminatory Motive in Title VII Disparate Treatment Cases*, 32 STAN. L. REV. 1129 (1980).

*"Memory, That Strange Deceiver"*, 32 STAN. L. REV. 445 (1980).

*Meeting Competition Under Section 2(b) of the Robinson-Patman Act*, 35 GEO. WASH. L. REV.

618 (1967) (co-author).

### **PAPERS:**

*Notas Sobre el Procedimiento Penal Norteamericano* (paper delivered at the Facultad de Derecho de la Universidad Metropolitana de Venezuela (2005)).

*Higher Education in the Rio Grande Valley CA Promise Fulfilled*. Distinguished Alumnus Lecture, Texas Southmost College (1999).

*Yo si puedo; tú si puedes; todos podemos* (paper delivered at the 1993 annual conference of teachers of the Brownsville, Texas Independent Consolidated School District).

*MALDEF Comes of Age* (paper delivered at ceremony honoring Antonia Hernández, the 1993 recipient of the Ernesto Galarza Award given by the Stanford Center for Chicano Research).

*Proof of Discrimination under Sections 1981, 1982, 1983 & 1985* (paper delivered at the 1982 Practising Law Institute on Federal Civil Rights Litigation).

### **SELECTED PRESENTATIONS:**

Lecturer, *AEl Proceso Penal Estadounidense y el Derecho Común en los Estados Unidos*, @ Facultad de Ciencias Jurídicas y Políticas, Universidad Central de Venezuela (January 2005).

Lecturer, *ALa Prueba en Chile en Materia Penal*, @ Universidad Católica de Temuco (August 2000).

Panelist, *ACharacter Evidence Reconsidered*, @ Conference on ATruth and Its Rivals, @ Hastings Law School (September 1997).

Panelist, *ALawyers, Linguists, Story-Tellers, and Limited English-Speaking Witnesses*, @ Issues of Legal, Technical, and Scientific Translation at First Symposium on Translation and Interpretation Sponsored by Stanford Law School, the Stanford Language Center, the Division of Literature, Cultures, and Languages, and the Department of Spanish and Portuguese (1997).

Panelist, *ACharacter Evidence and Emerging Social Science Findings*, @ Association of American Law Schools, Evidence Section Conference, Washington, DC, October 1996.

Faculty Speaker, *Examining Expert Witnesses*, California Continuing Education of the Bar (1995).

Faculty Speaker, *Developing Basic Evidence Skills*, California Continuing Education of the Bar (1993).

Faculty, California Center for Judicial Education and Research (1992, 1993).

Section Leader and Faculty, National Institute of Trial Advocacy (1980, 1983).

Section Leader and Faculty, Legal Services Corporation Trial Advocacy Workshop (1978, 1980, 1981).

Section Leader and Faculty, Equal Employment Opportunity Commission Trial Advocacy Workshop (1979, 1980).

Faculty, National Institute of Trial Advocacy Workshop for Teachers (1980).

**HONORS:**

MALDEF Legal Services Award, 1989.

Certificate of Appreciation presented by Derechos, the Stanford Undergraduate Pre-law Society, for Mentoring Members (1993).

National Hispanic Bar Association Pioneer Award acknowledging my Role in Founding and Supporting the Association (1993).

Member, American Law Institute (1994).

Distinguished Service Faculty Award presented by the Chicano-Latino Stanford Undergraduate Graduating Class of 1995.

Adelbert H. Sweet Professor of Law (1996).

Appreciation Award presented by the Board and Staff of Public Advocates for over Twenty Years of Service as a Board Member and Board Chair (1997).

Resolution by the Assembly of the California Legislature Recognizing my Contributions on my Twentieth Anniversary as a Stanford Law School Professor (1997).

Selected by *Hispanic Magazine* as one of the 100 most influential Latinos in the U.S. (1997).

Distinguished Alumnus Award, Texas Southmost College (1999).

Outstanding Mentor Award, Stanford University Native American Community (2001).

Mathew O. Tobriner Public Service Award, presented by the Legal Aid Society and the Employment Law Center of San Francisco (2003).

Voice of Conscience Award, presented by Public Advocates, Inc. in recognition of contributions to public interest law and practice (2003).

Outstanding Mentor & Padrino Award, Stanford Law School Latino Alumni Association (2004).

Lifetime Achievement Award, National Hispanic Bar Foundation (2008).

Faculty Award, UC Davis Law School La Raza Law Students Association (2011)

**REFERENCES:** Furnished upon request.