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THE ADVOCATE

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Cal Bar Exam scrutinized

by R. Malhotra, staff writer

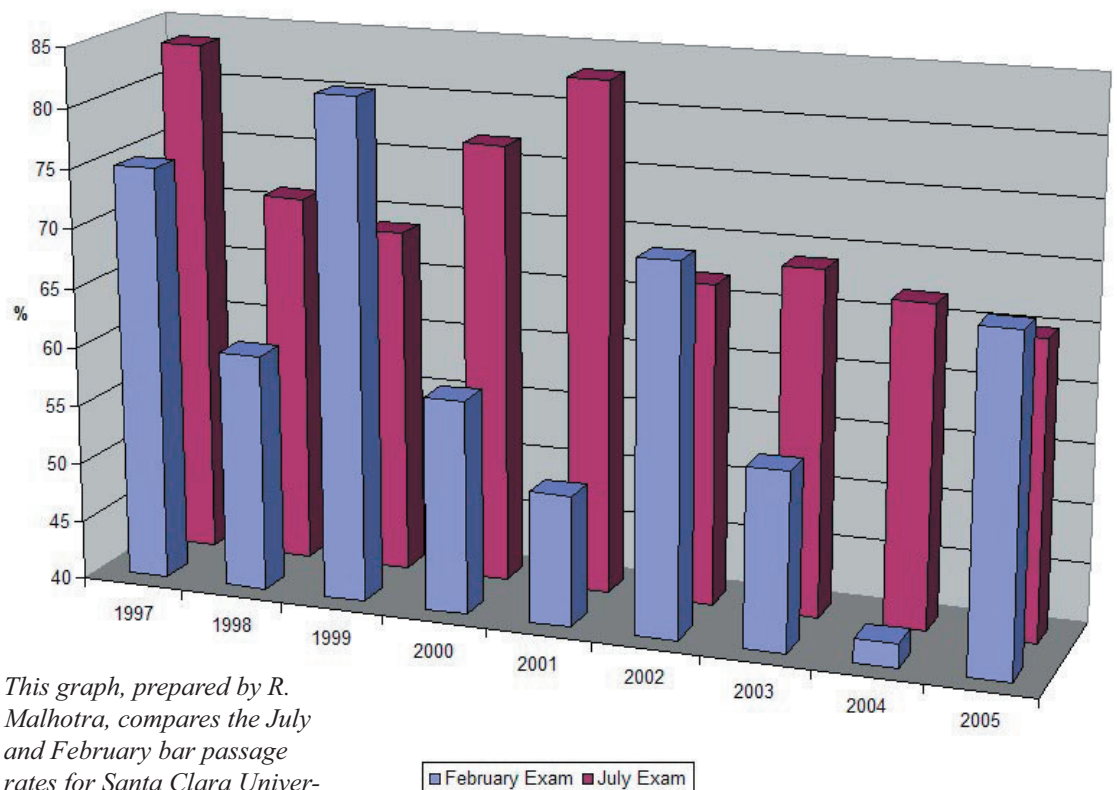
The California Bar Examination has received a notably increased amount of attention in the past year, particularly after the *New York Times* broke the news that Kathleen Sullivan, former Dean of Stanford Law School and former Harvard Law School professor, who fell within the 72% of attorney test takers who did not receive a passing score for the July 2005 Attorney's Bar Exam. Suddenly the difficulty of the California Bar was considered front page news at the *Los Angeles Times* and the *Wall Street Journal*.

Dean Sullivan, who was at one point rumored to be a potential Democratic nominee for the Supreme Court, is not the only accomplished victim of the examination either. The *LA Times* ran a front page story of California notables who have failed the test.

Former California Governor Pete Wilson, a graduate of Boalt Hall, repeated the bar exam four times before receiving a passing score. Oakland Mayor Jerry Brown, a graduate of Yale Law and former CA governor, required a second attempt at the test before passing. Los Angeles Mayor Antonio Villaraigosa, though attempting the exam four times, has yet to receive a passing score. Former San Francisco Board of Supervisors President Angela Alioto, twice nominated for National Trial Lawyer of the Year, will

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Pass Rate of Santa Clara Law Graduates



This graph, prepared by R. Malhotra, compares the July and February bar passage rates for Santa Clara University School of Law graduates.

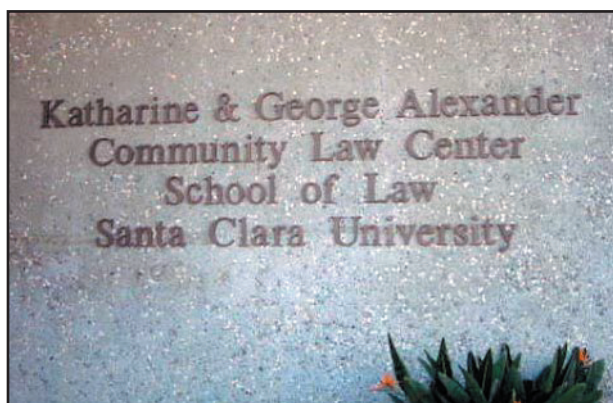


photo provided by Jaya Badiga

Community Law Center makes a difference

**Santa Clara University
Law students help
disadvantaged clients
while gaining practical
experience**

by Jaya Badiga, staff writer

What are students' reasons for spending three (or four for part-time students) grueling years of surviving the Socratic method of teaching, reading cases, learning black letter law, mastering the hypo-based exam and struggling with writing assignments? Added to this is the constant pressure to perform, to get the most coveted internships, to be the first to announce the six figure starting salary at a big firm and more importantly, to pass the California Bar Exam. Is there any reason that is compelling enough to endure the stress, the gray hairs, the lost tempers, and the bouts of depression and anxiety?

Students at the Katharine and George Alexander Community Law

Center (the Center) answer with a resounding yes. They make a difference to real people: those struggling to make ends meet, those that are regularly taken advantage of, those that Silicon Valley hides in the recesses of San Jose and Santa Clara.

Most of the people who come to the Center speak little to no English. Michael Miranda, a second year law student at Santa Clara University, is working at the Center, working in the immigration skills clinic. He advises future students to not have any preconceived ideas about the Center or its clients. One of his assumptions before coming to the Center was "that most people know basic things about the law, but the average person doesn't know much at all. You also see that there are so many decent people struggling to make it in this country and you see the big disconnect between how they portray certain types of people on television, and it's in contrast to the people that come in here. Those that come in here are real, honest, hard-working people. Some of them are making less than minimum wage. You see someone who makes \$600

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not even comment on the exact number of times she attempted the exam before passing.

So how well did Santa Clara Law graduates fare on this recent exam? The results for July 2005 show an SCU pass rate of 65% for first-time takers and 33% for repeat takers. A comparative review of the July 2005 results from all ABA schools in California is shown below.

Nationally, Yale and Brigham Young graduates achieved the highest passage rate on this particular California Bar (95-94%), while graduates of New York Law, DePaul, and Vermont Law reported a passage rate of zero. Other schools reporting a passage rate comparable to SCU's 65% included Northwestern University as well as University of Texas.

So what about the headlines screaming passage rates of the California Bar of only 40%? First, these statistics factor in the pass rates of repeat takers of the exam, which tend to be lower than that of first-time takers. The theory is that a taker who has already failed the exam once is likely to fail again, which also partially explains the lower passing average on the February exam compared to the July exam.


Second, California is comparatively liberal with respect to who it allows to sit for the exam. Several states have rules dictating the number of times a taker is allowed to repeat the exam, whereas California has none (which allowed the famed Maxcy Filer, 75, of Compton, to take the exam *48 times* before receiving a passing score).

Also, California allows students from non-ABA approved and correspondence schools – generally less competitive in nature – to sit for the bar, as well as students who have completed four years of law study without graduating from a law school. Though these students may be well trained in other areas of the law, they are often ill-prepared for the types of questions asked on the California Bar.

Finally, the headlined 40% pass rate factors in the statistics for the Attorney's Examination, which is meant for those who are already licensed to practice law in other states. Though it may seem counterintuitive for practicing attorneys to score lower than recent law school graduates, recent students generally display better test-taking skills and are more appropriately prepared for the types of questions asked on the Bar, as opposed to licensed attorneys, who may have a wealth of practical legal experience in other states, but who are not prepared for the nature of the exam.

Of course, there are always rumors of grading bias, restricting the number of passing scores to limit the number of attorneys within the state, and the California Bar simply being longer and more difficult

than bars of other states. It is, in fact, one of the only exams across the country to have an urban myth attached to it (the law students who stopped writing their exams in 1993 to assist another test taker undergoing an epileptic seizure did *not* all fail their exams).

Regardless, instructors recommend a meticulous, thorough study period before attempting the exam, even for brilliant constitutional law scholars such as Kathleen Sullivan. With that in mind, the following information will be of use to those taking the Bar on or after July 2007: (1) "Corporations" will be renamed "Business Associations" and the scope will include partnerships of all forms, limited liability entities, related agency principles and uniform acts; (2) "Civil Procedure" will include the California Code of Civil Procedure; and (3) "Evidence" will include the California Code of Evidence. 

LAW SCHOOL	1st time takers passage %	Repeat takers passage %
UC Los Angeles	89	15
Stanford	88	40
UC Berkeley	87	46
Hastings College	84	30
Univ. of Southern California	82	15
Univ. of San Diego	80	9
Loyola	75	27
UC Davis	74	21
Univ. of San Francisco	74	24
Pepperdine University	73	17
Southwestern University	66	20
Santa Clara University	65	33
McGeorge	64	27
Chapman University	59	8
California Western	58	19
Golden Gate University	44	14
Whittier	40	11
Thomas Jefferson	38	7
Western State	25	6

compiled from data at www.calbar.ca.gov

Law Center from 1

a month and you find out how strong people are. You see that there are three families living together in one house in East San Jose and they pull enough resources together to buy enough rice to make it through the week."

One of the cases that the Center is currently working on involves clients who bought a car and fell behind on the payments. The finance company called the clients repeatedly and left harassing messages on one of the client's cell phone and accused her of committing a felony. They even left desultory messages, one of them saying that she was less than a woman. Because they had her credit application and her phone number they were able to establish an online password and viewed her phone bill. They called every person that she had called in the past two months and told them that she had committed a felony. Scott Maurer, supervising attorney for Consumer Law at the Center is planning to file a case against the finance company for debt collection harassment.

The students, depending on the length of time that they spend at the



Isaiah Boyer prepares at the Community Law Center.

photo provided by Jaya Badiga

Center are transformed by their experiences. At first, they are uncertain, unsure of their abilities and their impact on the clients. Additionally, the burden of being in charge of clients and having the sole responsibility to take on their cases from start to finish gives them a taste of what's to come in the real world. Isaiah Boyer, a third year law student at Santa Clara, is going to graduate in a few months. He went through the Immigration advice clinics and is now participating in a skills workshop in Consumer Law.

According to him, working at the Center is "the best kind of experience I can get before practice because I'm doing things under the supervision of an attorney that I will be doing in practice and it's not the first time that I'll do it in practice. We don't get any experience doing pleadings in law school, maybe over the summer as an intern, but a lot of attorneys do the important things on their own. A student may never really get to do enough pleading. Here it's like a whole different level. You feel like you are responsible for a case and you take pride in your work. It's great experience for any field."

The Center grew from humble beginnings. A group of La Raza students in 1993 recognized the need for legal services in their community and through sheer force of will, hard work, and legal expertise started the concept and put into effect what would become the Center. The power of a good idea and the desire to translate theory into practice established the Center and students today reap the benefits.

Areas of expertise offered by the Center's supervising attorneys are:



Consumer Law headed by Scott Maurer, Worker's Rights Law led by Margarita Alvarez, Worker's Compensation by Susan Levin, and Immigration by Lynette Parker. These supervising attorneys also teach classes in their areas of specialization and help the students on the right path in their work with client.

"I practiced law for 23 years and 15 years of that I had a solo practice so the hardest part for me is sitting back and asking students questions and letting them handle it," said Margarita Alvarez, a supervising attorney for Worker's rights, whose "biggest challenge is to stand back," when students take up clients' cases and their related work loads.

Susan Levin, a supervising attorney for Workers Compensation recalls a situation where she had to stop herself from taking over from a student due to an overly aggressive opponent. "We were in some negotiations that had gone very badly and a new attorney came in and I thought was just brow-beating this student so I just jumped in and I was engaged. The student looked at me from the corners of her eyes and I understood that she was saying I should stay out of it and leave her be, so I just walked out of the room and let her do it and she just got a fabulous result. I jest about it, but it was very hard for me because I wanted to protect her. But she just let me know not to worry about it, and she did a great job."

"There is great need among low income members of our community for services," said Alvarez. "There is always pressure to see more clients than we can handle. Students at the Center learn how to interact with clients and gain valuable skills in handling all the elements involved with their cases."

"The benefits are tremendous," says Levin, and students often dispel stereotypes and gain valuable knowledge.

There are some misconceptions among law students that the Center is essential to only those students that want to practice in the public sector or in public sector jobs. "That's looking at it extremely narrowly," said Alvarez. "Our job is to assist students in learning practice skills... In the process we undertake representation of low income members of the community and in that sense we do what I consider an important job of serving an underserved part of the community that enters into the public interest. The whole aspect of social justice is at the core of the university's philosophy, but the skills that we teach are not limited in any way to serving that population. We serve that population the same as we



Michael Miranda prepares at the Community Law Center.
photo provided by Jaya Badiga

would serve any other population. Skills are skills and the law is the law and advocacy at the highest level is the same and that's what we teach here. We teach advocacy skills, we are an entry-level, practice-oriented center. So I think any student should want to come here, even students who don't want to have active litigation practice – they should come to find out whether that's true. They may find that they have skills in some areas that in fact would make them a perfect match for a particular field of litigation. I think it's a really good place to explore what you like."

The life experiences that a student gains at the Center are priceless. In one case, Boyer helped provide valuable legal advice to an abused immigrant from Guatemala to enable her to stay in the country. Another case appeared to be "straight out of Law and Order," to Miranda. In this case, the plaintiff was deaf, mute and illiterate. He did not have an adequate knowledge of sign language and was unable to communicate any vital information related to his place of birth or nationality. The government had the burden of proof to show he was born in Mexico--they assumed he was because of his appearance--to deport him, but they failed because of the "uniqueness" of this case, as no one knew where he was from. The Center's client won his case and was allowed to stay in the United States.

There is a downside that some students face at the Center. It is hard to juggle the workload of handling cases and regular law school courses. There have also been times when things don't go well for a client, when students encounter unprofessional behavior from opposing counsel or defendants. This, however, is another example of the "real-world" experiences that students face at the Center. The students learn early on to deal with winning and losing. They learn to balance their responsibilities as practicing attorneys would. They also come to terms with bigger picture issues such as poverty, injustice and inequality, among others. Many students credit their work at the Center as providing the competitive edge required to obtain legal jobs after graduation, but for most, the Center offers them the personal satisfaction of serving the underprivileged of our community. 🏠

Next year's editorial board named by Adam Heller, editor-in-chief

I would like to welcome the student body to the new Advocate Editorial Board. The new Editor-in-Chief is Meg vanSteenburgh, who brings extensive experience from working for Penguin Publishing.

Jonathan Sip is taking over the Managing Editor position and he has worked as a freelance writer for various local newspapers. Steve Jacob, Senior Production Editor, has previous experience copyediting and designing layout of his high school newspaper. He is responsible for the revamped look of the paper.

Associate Editor, Ahamed Iqbal, who just like me, has no prior publishing experience but has a lot of talent and has exhibited proven dedication to the paper.

Expect high caliber content, continued professional layout, and greater reader circulation from this exceptional crew. 🏠

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Adam Heller

Staff Writers
Ahamed Iqbal
Jonathan Sip
Megan vanSteenburgh
Roopali Malhotra
Jaya Badiga

Layout Editor
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Anna Nicole Smith case mooted at SCU

Star lawyer takes opportunity to prep Supreme Court case

by Jonathan Sip, staff writer

In preparation for his oral argument before the Supreme Court of the United States representing Anna Nicole Smith, Attorney Kent Richland was mooted by a panel of Santa Clara's Law School Faculty.

Richland, a partner of a leading Los Angeles appellate law firm, was recently granted review of Smith's case by the Supreme Court of the U.S. regarding the Ninth Circuit Court of Appeals decision that reversed an \$88 million Federal District Court award in favor of Smith and against her stepson, E. Pierce Marshall.

Smith, identified by the court as Vickie Lynn Marshall, has not received a penny from the estate of oil tycoon J. Howard Marshall I, who was said to be one of the richest men in Texas with a \$1.6 billion fortune. She married the Texas billionaire in 1994 at the age of 26 when Howard was 89. The couple was together for just over thirteen months before Howard passed away. Soon thereafter, Smith began to battle with Pierce, Howard's second son from a prior marriage, for half of her late husband's estate.

Although Howard updated his trust and will weeks after the marriage, Smith was surprisingly not included. Smith argues that her late husband verbally promised her half of his estate if she married him.

The case, which has visited five courts and been in litigation for over ten years, primarily involves difficult subject matter jurisdiction questions. Litigation began in Texas Probate Court when Smith sued Pierce for tortious interference with an inter vivos gift, which was essentially the alleged promise of half Howard's estate. Simultaneously, Smith filed for bankruptcy in federal bankruptcy court in California, which issued a decision on the probate matter sooner than the Texas court and awarded Ms. Smith with \$449,754,134. She then filed a non-suit for her claims still pending in the Texas probate court, but Pierce counterclaimed and received a favorable judgment.

This is where the conflicting subject jurisdiction problem arose. Which court had proper jurisdiction over the probate matter, the Texas state probate court or the Federal bankruptcy court in California?

Pierce and his lawyers apparently noticed this discrepancy and rightly appealed to a federal district court the decision of the bankruptcy court on the grounds that it lacked jurisdiction to decide the case because it involved probate issues that should solely be determined in state court. Nonetheless, the court thought otherwise and ruled against Pierce, holding that the bankruptcy court had jurisdiction. Still, the court reduced Smith's award to \$88 million.

An appeal to the Ninth Circuit Court of Appeals resulted in a reversal of

the district court's decision, leaving Smith with nothing and her appeal to the US Supreme Court soon followed.

The main area of law being argued in this case has to do with a conflict between federal and state courts and their jurisdiction over probate matters. The so-called probate exception is a well established rule of law that allows state courts to have exclusive jurisdiction over probate proceedings and bars federal courts from interfering because the laws governing wills are exclusive to each state. However, the exception has certain limits. When bankruptcy proceedings have probate issues, there have been instances where some federal courts have heard probate cases on the theory of federal question jurisdiction.

This is similar to the scenario in Smith's case, but as it turned out, the Ninth Circuit Court agreed with the probate exception, and not the exception to the probate exception, and held that no federal court may decide matters involving a state's probate laws, regardless of how the issue may be framed

by the parties.

Ms. Smith's Attorney, Kent Richland, argued his case to the Santa Clara Law School faculty panel in opposition to the Ninth Circuit Court ruling. He began his moot session with a brief opening statement. "The central issue in this case is bankruptcy and probate," said Richland. "The legislative history did not allow an exception in cases like these. If the exception was granted, it was intended in matters of strict probate."

Professor Gerald Uelman interrupted Richland to ask whether the probate exception was intended to reduce forum shopping, Richland answered that it was not.

If one looks to the rule's outcome in keeping probate cases out of federal court and in state court, forum shopping in actuality is reduced, whether or not that was the original legislative intent. Under the rule, a party will have to forgo the removal of probate cases to federal court based on diversity jurisdiction, which narrows the forum available to bring a lawsuit. Richland therefore must believe that the outcome of the probate exception in keeping federal courts out of the probate arena must have stemmed from some other legislative intention.

Christian J. Grostic, a scholar on the probate exception at the University of Michigan, understands the probate exception to originate from statutory interpretation of the Judiciary Act of 1789. Grostic explains that the Act gave federal courts jurisdiction over diversity suits "of a civil nature at common law or in equity." At that time in England, probate matters were exclusively handled by ecclesiastical courts, not courts of law or equity, so the Supreme Court held that the Act hadn't granted federal courts diversity jurisdiction over probate matters.



Kent Richland presents his case before a panel of area law school faculty members in preparation for arguing before the Supreme Court in February.
photo by Jonathan Sip



However, Grostic cautions that what constitutes a “probate matter” is far from clear. Furthermore, he argues that in Ms. Smith’s case the federal bankruptcy court had jurisdiction under federal question, not diversity jurisdiction, so the probate exception shouldn’t apply.

Richland offered his explanation for withholding the probate exception by pointing to the fact that federal diversity jurisdiction applied in this case allows the removal of bias due to a powerful individual. He illustrated the remarkable details regarding the quality of Howard Marshall’s estate at the time of his death and the questionable actions of his son Pierce.

“Howard Marshall essentially died penniless. He was stripped of all his assets by Pierce before he died,” said Richland. “All assets were removed from trust and sold for a \$20 million note with annuity.”

Professor Alan Morrison from Stanford Law School noticed the peculiarity of the transaction and remarked, “Annuity ... for a ninety-six year old man!”

Throughout the fifty-minute session, Richland hurried through questions from the panel which were fired off rapidly and sometimes interrupted him


in mid-sentence. He appeared to handle the barrage with composure and did not hesitate during the onslaught of interjections.

Professor Paul Goda commented on Richland’s style, “I see that it is very tricky at asking you questions as was mentioned by the previous court.”

The moot exercise was intended to practice the advocate’s argument and expose weaknesses in preparation for his actual oral arguments before the Supreme Court. There, Richland was only permitted twenty minutes to present his case.

Oral arguments for *Marshall v. Marshall* took place on Tuesday, February 28 and a decision should be returned by June.

Grostic predicts that the Supreme Court will hold the probate exception to apply in Smith’s case, which would not be in her favor. He reasons that the early diversity cases essentially took federal courts out of the probate business, and bankruptcy had the potential to bring a fairly large number of probate-related cases back into federal court.

“I think the Court will affirm with a narrow holding that the exception applies to cases filed under the Bankruptcy Code,” said Grostic. 

A Prescription for Intellectual Property

Steven Collier, an attorney for Chiron discussed Intellectual Property issues in the pharmaceutical industry

by Ahamed Iqbal, staff writer

On February 14, 2006, Steven Collier, an attorney with Chiron spoke about pharmaceutical IP practice during a High Tech Tuesday event. In a presentation titled “Intellectual Property Law in the Pharmaceutical Industry,” Collier addressed the unique legal issues within the business of making drugs.

Having worked as a researcher for a number of years prior to obtaining his law degree, Collier was well qualified to address both the industry in general and the specific legal challenges pharmaceutical development entails. With a very candid delivery, Collier gave an honest and sometimes blunt appraisal of what practicing in the industry involves.

Collier explained that the IP attorney faces a number of challenges including a highly competitive and highly regulated industry and a highly litigated subject matter. While this structure involves significant pressure on the legal department, there are certain benefits. As Collier put it, “everyone’s suing everyone else, that’s what I like about it.”

In addition to the stimulating daily challenges, Collier expressed that the very competitive compensation and ability to be involved in a life-saving industry were significant benefits. Additionally, the range of available careers as a patent attorney allows for significant variety. Depending on individual abilities and experiences, attorneys could be working on regulatory filings, drafting patent applications, involved in litigation or simply “taking lunch orders from the real attorneys.”

Collier went on to give a general overview of the drug discovery, development, and delivery process and its significant impact on IP. The extensive regulation and testing required to get a potential drug to market

generally takes 10 to 15 years from the discovery phase. According to Collier, “some estimates for a major drug are \$800 million, whether or not they are eventually successful.”

The considerable investment of both time and money by pharmaceutical companies in the development of drugs makes it critical that they

have some protection for future profit when and if the drug becomes successful. Patents ensure exclusivity and last for 20 years; but the nature of the industry cuts the actual length considerably. A patent begins to run from the date of first filing, generally during the early stages of development. The usual end result is that after 15 years of investment, a pharmaceutical company is left with 5 years or less to sell their drugs without competition.

The impact of this limited window is that in order to recoup losses on unsuccessful drugs and to turn a profit, pharmaceutical companies must charge customers high costs that far exceed the actual cost to produce the drug. Collier explained that the Hatch-Waxman act of 1984 was passed in order to address the high cost of prescription drugs without eliminating the incentives for producing novel drugs. With a number of reforms, the act fostered competition by providing incentives to generic manufacturers in order to reduce drug prices.

At the same time, the act permitted pharmaceutical companies to add onto their existing patent protection any time it took for their drugs to get FDA approval. While this means an additional 2-5 years of patent protection, the ramifications are huge given the size of the prescription drug market. In order to illustrate the significance of



Steven Collier explains IP concepts in Bannon Hall on February 14, during his presentation to SCU law students.

photo by Ahamed Iqbal



Thoughts on selective racism

Why Asian Americans need to speak up

by Benjamin Kuo, guest writer

In the last few weeks, I had been eagerly anticipating the arrival of distinguished advocate Morgan Chu and the opportunity to hear him speak. Here was someone who was like who I wanted to be, a litigator interested in technology law but, perhaps more importantly, an Asian American. He was someone who'd been in the trenches before my time and made it big. The fact that a person like Mr. Chu exists is enough to get me excited about the future.

I couldn't resist asking him what it was like to go through the profession as an Asian American. He replied with good humor, sharing anecdotes about jury selection in far off Midwestern states, and eventually recounted jogging with his two brothers on the Stanford campus. One of them was a Nobel laureate. The other was a physics professor. No slackers in this family.

Some workers at a construction site jeered at them by making a "Ching-chong Chinaman" type of comment. This surprised me, especially given our location – smack in the middle of one of the most progressive areas of the country, at arguably one of its best institutes of higher learning.

I leaned forward. I presumed he wasn't going to take this one lying down. But he said, "I thought of what a wonderful jog I'm having," and ended the story there.

I nearly fell out of my chair. He's a trial lawyer, I thought. He's not a new arrival who runs a Laundromat. Laundromat owners glare and walk by without a word. Trial lawyers write a letter to the construction company demanding sensitivity training.

While I wasn't about to challenge Mr. Chu on that point, it got me thinking, as I often do, about race relations in America and the ways different races deal with overt racism or implicit stereotypes. And I was forced to come to the inevitable conclusion that Asian Americans have done a particularly poor job of standing up and speaking for themselves.

Years ago, a friend of mine, who worked at Hyundai before attending Columbia Law, sent me a copy of a letter addressed to the company's customer service department. It was in response to a TV ad about how a kid came home to his father with a "student of the month" bumper sticker. The kid asked to put the sticker on his dad's new Hyundai. The dad hesitated, and said, "Let's go put it on mommy's car." Incidentally, the family was African American.

The letter complained of the negative way blacks were portrayed in the ad, stating that, more or less, "you create a stereotype that blacks care more about the appearance of their cars

than their children's education." My friend sent it as an entertaining example of how an ad having nothing to do with race – at least reasonable people might agree – could be misconstrued to perpetuate stereotypes. I thought of it another way. The letter was a reflection of how African Americans are concerned about the way they are portrayed. Regardless of what Hyundai did with the letter, it probably made them think twice about how they would use minorities in future advertisements.

Indeed, Native Americans raised a ruckus over Indian tribal names being used as school mascots. Latinos organized huge voter registration drives after Propositions 187 and 209, helping make California the Democratic-leaning state it is today. In contrast, the silence from Asian Americans has been nothing short of deafening.

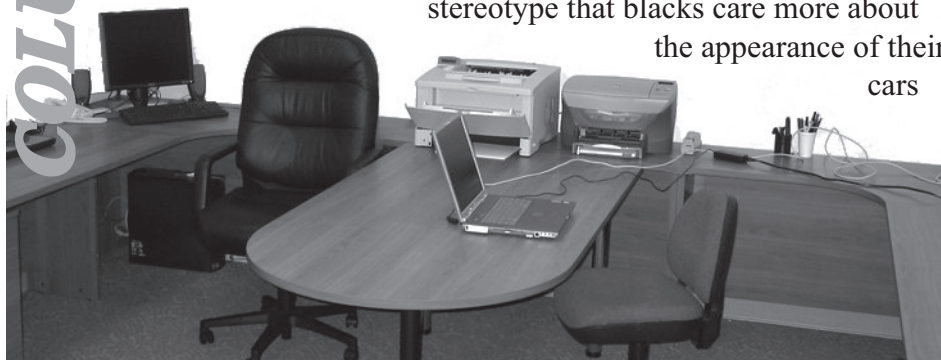
It's bad enough to stay silent on issues, but being an unwitting facilitator of racism is worse. A cousin of mine, a doctor living in North Carolina, recently sent me a rah-rah flag-waving email about how 9/11 was all the fault of the Democrats. Never mind that he was really way beyond himself to be engaging in political discourse with somebody

who is likely to be doing this for a living. It took about five seconds of fact checking on Wikipedia to verify that the whole piece was a distorted lie. I replied to him as nicely as I could about how there were still people alive in the world that paid attention. And then I thought about the fundamental paradox of Asian American Republicans. Granted that Democrats weren't always on the side of ethnic minorities, but at least they weren't the party who left blacks for dead at the Superdome. I don't see how Asian Americans can in good faith support the conservative agenda and help perpetuate a public policy of, if not overt racism, perhaps criminal negligence and certainly active indifference.

I wonder if America, in its quest to become a society of fewer racists, has instead become a society of selective racists. If I call you a racist, you would probably object vehemently. But if I ask you to explain why you shouldn't tell a "Confucius say" joke, you might be at a loss. The inability to discern why a particular joke is offensive toward a certain ethnicity is the hallmark of a selective racist.

Apparently CNN, like most people, is guilty of this selectivity. I was shocked to find that CNN titled one of its articles having to do with Chinese Americans "Confucius Say..." However, that wasn't quite as bad as Abercrombie and Fitch, which in a lapse of sanity a few years back, decided to sell a t-shirt emblazoned with "Wong's Dry Cleaning Service: Two Wongs will make it white." That item, to my relief, resulted in protests in front of A&F's San Francisco store. Apparently their spokesperson still didn't realize why it was offensive, "We thought it'd be cheeky humor that Asian Americans would buy." After all that, I wonder why any Asian would still fork over cash for A&F gear. It would definitely offend the average person to see a t-shirt of blacks eating watermelons or Latinos climbing over barbed wire fences. Asian Americans still seem to be fair game, intentional or not.

Part of the legal profession is to speak out for people who cannot speak for themselves. When a particular member of the Asian American community chooses to contribute to the deafening silence, he does every other member of that community a disservice. It would do well for us to learn from the Civil Rights Movement – that rights and respect can only be fought and won. Rarely are they given, and never should they be taken for granted. 🏠





Second Amendment redux

The current state of gun control litigation and the debate of individual liberty

by Meg vanSteenburgh, staff writer

“A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.” That is the text of the Second Amendment, and it is fired back and forth across the lines of the raging debate on gun control in this country. Proponents of stricter gun control laws and weapons bans stress the first part of the Amendment. They argue that the framers intended the right to extend to participants in an active militia and that the type of assault-style weapons commonly banned could not have been envisioned by our founding fathers.

On the other side are collectors, sportsmen, and advocates of a plain text reading of the Amendment which implies an absolute right to acquire and possess “arms” of any kind. This plain text reading finds support in comments like, “To preserve liberty, it is essential that the whole body of the people always possess arms, and be taught alike, especially when young, how to use them.” (Richard Henry Lee, Virginia delegate to the Continental Congress, initiator of the Declaration of Independence, and member of the first Senate, which passed the Bill of Rights.). However, advocates of a heightened standard of gun control and selective weapons bans are quick to point out that such statements should be considered in their historical context. A plain reading of the Constitution, only one hundred years ago, disenfranchised women and valued a black man as little more than chattel. In our newfound global community it is important to remember that the genius of the Constitution is its ability to accommodate social evolution.

The Supreme Court last addressed the applicability of the Second Amendment in 1939 in *U.S. v. Miller* (307 U.S. 174). In *Miller*, the Court rejected a Second Amendment challenge to a federal law prohibiting the interstate transportation of sawed-off shotguns (which are defined as shotguns having a barrel length of less than 18 inches), holding that the “obvious purpose” of the Amendment was to “assure the continuation and render possible the effectiveness” of the state militia, and it “must be interpreted and applied with that in view.”

Since *Miller*, over 200 state and federal appellate cases uniformly refused to allow Second Amendment challenges to laws that ban assault weapons, prohibit firearm possession by people who have been convicted of a felony or a misdemeanor of domestic violence, require handgun owner identification cards, and require permits to carry a concealed weapon. However, the rulings in those cases were hardly unanimous.

It seems that even the best legal minds in our country cannot agree on an interpretation of the Second Amendment. For example, in *U.S. v. Emerson* (270 F.3d 203) the Fifth Circuit Court of Appeals considered the constitutionality of a 2001 law prohibiting firearms possession by persons subject to a domestic restraining order. Although three judges on the panel agreed that the law was constitutional, two of the judges expressed their view in dicta that the Amendment protects an *individual* right to possess firearms.


Judges aren’t the only ones who are struggling with the meaning of the Second Amendment. According to a 1999 *USA Today Weekend* poll, 89 percent of Americans favor restrictions on gun ownership, yet 52 percent believe the “right to bear arms” would need to be eliminated or modified to enable such restrictions to be lawfully pursued. The National Rifle Association (NRA) has long taken the position that the Second Amendment guarantees the absolute right of every American to privately possess fire-

arms. However, former U.S. Supreme Court Chief Justice Warren Burger once characterized the NRA’s interpretation of the Second Amendment as “one of the greatest pieces of fraud, I repeat the word *fraud*, on the American public by special interest groups that I have ever seen in my lifetime.” So, who makes gun policy in this country?

Some say the courts and others say the legislature, but for the clever litigator there is a third option. Suits are constantly brought against gun companies much in the same vein as against the tobacco industry and asbestos manufacturers. After all, it wasn’t the courts or the legislatures that banned asbestos. It was only banned after the tort system removed it from the marketplace. What about grassroots movements to enact county and city level firearms legislation? Contra Costa County and San Francisco prohibited the transfer of .50 caliber rifles, but repealed their bans once California’s ban on the transfer or distribution of .50 caliber rifles took effect on January 1, 2005 (Cal. Penal Code §§ 12275 through 12290). Is that the best way to ensure that each community is being served by custom tailored firearm regulation, or is it simply a way of allowing state’s rights to overshadow an essential federally guaranteed liberty?

Are guns truly necessary to preserve the safety of our society? The answer to that question in the Bay Area seems to be yes, at least for Lawrence Livermore Laboratory, which is located about 45 miles east of San Francisco. Rooted in fears of a terrorist attack, the nearby nuclear weapons lab will soon install high powered machine guns, known as Gatling guns, on its perimeter capable of hitting land vehicles or aircraft almost a mile away. One lab critic called the plan a threat to innocent men, women and children, particularly with the lab being across the street from suburban homes. Livermore Lab is not subject to California’s ban on assault weapons because the U.S. National Nuclear Security Administration, a quasi-independent agency that oversees the nation’s nuclear weapons complexes for the U.S. Department of Energy, ordered the weapons. California’s ban on assault weapons is one of the few that significantly exceeds the Federal Assault Weapons Ban, which expired in 2004.

Advocates for stronger state and county weapons bans, like the Legal Community Against Violence (LCAV) based in San Francisco, point to evidence that, since the Federal Assault Weapons Ban went into effect in 1993, the percentage of crime related gun traces involving assault weapons dropped 79% for assault weapons named in the ban and 58% when both named weapons and copies or duplicates of those weapons were counted. LCAV stresses the importance of locally tailored laws, not only to close the loopholes in federal regulation, but also to make sure that the restrictions on firearm use truly serve the community by reducing gun related crime as well as gun-related accidents.

The opposition believes that an essential part of checks and balances is the idea that government should fear the people and not vice versa. These aren’t just the people building bomb shelters and stockpiling canned goods; they are a strong percentage of our population, they are our policemen, our firefighters, our family members. They are people who believe that a strong militia is essential to a free democracy. The debate still rages, not only about the Second Amendment, but about how, and if, it should be effectuated, and it is up to future generations to decide where to find the balance. Benjamin Franklin once said that: “They that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety.” Guns; are they an essential liberty, or is their presence in our society merely a measure of temporary safety? 



Advice for 2Ls

Suggestions from an old law school alum

by Judge Mark Thomas, guest writer

Judge Thomas, class of '56, served as a platoon leader in the Korean War. Judge Thomas has also served as the president of the West Valley Bar Association and the Santa Clara County Bar Association. Thomas has served on the bench as a municipal court judge and later as a superior court judge in Santa Clara County. He is the author of From Promise to Prominence – a book about the history of the law school.

As an undergrad I was jealous of classmates who achieved more while studying less. But by the time I got to Santa Clara University Law School in 1953, the Marine Corps had knocked a lot of that goofiness out of me. By then I realized each student must do his or her own thing. If it took me twice, three times as long to prepare - fine - so long as I could succeed. More power to those others. Forget them.

This change of viewpoint was especially important as I finished my second year of law school. Some of my profs hadn't even completed covering their course. For torts, in particular, we had only studied 2/3 of the subject. Most of my fellow students were seeking law jobs as I had done during the summer after first year. But I realized that if I didn't somehow put together my first two years of law school study, I was going to be in serious trouble come time to take the bar exam.

That summer I got a part-time job at a hamburger stand in downtown San Jose and spent the remaining hours reviewing and revising class notes. I finished reading *Prosser* and checked to be sure that I had covered the entirety of each course that would be on the bar. I also reorganized many of my notes and put each set in binders so that

I could actually access and use them. That process, plus an excellent bar review course, all worked. I passed the first time.

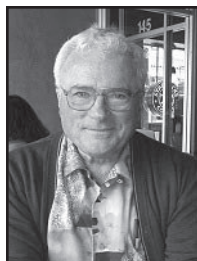
You don't have to be as paranoid as I was, but here is a positive suggestion for your bar studies: at the end of this semester allocate a few days to going over each of the bar courses you have taken. Did you get through the entire course? Are your notes organized and readable? Is there any area in any of those courses where you need further time and study? If so, allocate the time to work on it. Reviewing this summer when you don't have the pressure of having to go over so much else could pay immense dividends.

And I don't mean just think about it, DO IT. Reality time is approaching. Some very brainy Santa Clara Law students have flunked just from overconfidence.

You MUST MUST MUST take a good bar review course after you graduate. If your law school notes and stuff are in order, you will be able to concentrate more clearly upon what the bar review teacher is talking about. You won't be scrambling just to keep up, but will be able to better listen and absorb. Hopefully, the amount of *new* material you will have to learn will be minimal (But it will be there).

At this point in your studies there seems to be an overabundance of time in which to do everything. But when you have graduated and are beginning your bar review course, you will be saying to yourself, "How will I ever have time to get all this done?"

In what will seem like the blink of an eyelash you will receive a notice from the bar examiners. Your chances of getting a nice "Yes, oh yes, you passed" will be improved if you follow these suggestions. Maybe improved only a little bit? How near is 69% to 70%? 🍀



Voices on Campus:

Compiled by Tim Wagstaffe, ILSA Booksale Volunteer



"I would reduce property because I think it could be easily condensed."

– Jennifer Leung, 1L



"Torts should be reduced. It is a big mistake to reduce property to one semester."

– Celeste Kelly, 3L



"Property because you can teach it to yourself and we did not even cover the interesting stuff like housing discrimination."

– Monica Bernal, 2L



"All of them because we are going to forget them all anyways. We could then take more meaningful courses."

– Devin Brown, 3L



"Civil procedure because it is better learned in practice."

– Jalila Sparks, 2L



"I would reduce property because it is very rule based with not much analysis. That would explain my B- in the class."

– Maya Perkins, 3L



"Maybe torts. The concepts in torts were easier for me to pick up in one semester. But crim law should be a year. That's just my opinion."

– Jenny Hughes Fitzgerald, 3L





U.S. News & World Report

Dean Polden on the next rankings and what's happened to change them

by Donald Polden, School of Law Dean

Almost a year ago, the annual US News & World Reports rankings of American law schools was published and all of us were disappointed to learn that Santa Clara Law “fell” out of the top 100 and into the “third tier” of ranked schools. I met with our students in an open forum to discuss the reasons for the lower ranking and the implications of the change on the law school program. I also prepared a detailed analysis and report on the fall in ranking which pointed out that the law school had actually **increased** its comparative ranking in all major categories, except one (placement), in the 2004 report compared to the 2003 report. You can read my spring '06 statement at http://www.scu.edu/law/news/pr/pr_1188.html. I assured our students that the law school would aggressively respond to the change in ranking and I am reporting on the steps that have been taken since my meeting with students.

Following the publication of last year's ranking, I assembled a workgroup of four faculty members, two deans and myself to take a hard look at the one year change and to make specific recommendations for a short term approach to the change in ranking. The workgroup met several times, took a very practical look at several of the issues implicated by the change in ranking, and offered several suggestions—in both the short and long term.

The workgroup discussed the level and quality of law school marketing materials and the dissemination of these materials to individuals and groups who are in a position to influence the US News reputation voting and the voting on specialty programs (such as Intellectual Property). The group stressed the importance of more aggressive collection of information on graduates' employment rates, especially as this seemed to be single factor that precipitated the drop in ranking last year.

The workgroup also discussed steps that could, and should, be taken to increase the number of “high profile” (as measured by the key preadmission indicators: LSAT and undergraduate GPA) students who matriculate at Santa Clara Law. A part of the discussion also involved possible steps that would improve the “selectivity” factor used in the US News methodology.

The law school has implemented many of the recommendations made by the workgroup that met last spring to study and respond to the national rankings “game” and to recommend other changes in the program that may influence the next US News & World Reports issue. Most importantly, many of the steps that we have taken reflect an **improvement in our program** and are actions that we would have undertaken in any event.

- The law school, in the fall, created a stream of new publications intended to improve information about the law school and the prestige and reputation of the school in selected audiences (other law professors and law school administrators, hiring professionals at law firms, etc.). Remember that about 40% of the US News ranking is reportedly attributable to schools' reputation among academics and among lawyers/judges/hiring professionals and that all of the specialty rankings are based on reputation surveys.

- The professional staff in the Career Services office implemented a new strategy for gathering information on placement of our recent graduates. The new strategy resulted in a “nine months after graduation” employment rate of almost 95%, up from 84.4% the year before. Moreover, we have begun to collect “at graduation” figures for our graduates. We discovered last year that while “at graduation” placement figures are not required by US News, they nevertheless use it in the overall ranking for each school.

- Furthermore, the law school's reported “direct expenditure per FTE” increased by approximately 7.6% this year over last year. This component affects the overall law school ranking because direct expenditure per full time equivalent students is thought to be a measure of the school's investment of funds (tuition and non-tuition revenues) into the key aspects of the academic program.


- The entering class demographic information (LSAT scores and GPAs) also changed positively. In the 2005 issue of US News, Santa Clara reported GPA scores of 3.23 at the 25th percentile, 3.30 at the median and 3.61 at the 75th percentile of the entering class. For the 2006 issue, we reported 3.21/3.39/3.6. For LSAT scores, in 2005 we reported 156/159/160 and for 2006 we reported 157/159/161. This increase in the preadmission indicators (GPA and LSAT scores) reflects the increasingly competitive nature of admission into Santa Clara Law. However, last year, the number of admitted students as a percentage of applications increased slightly over 2005.

- Student faculty ratio for 2005 was reported at 19.7:1 while we reported a ratio of 18.5:1 in 2006.



I hope this information is useful to you in assessing how we responded to the effects of last year's US News ranking report. Given the rather unpredictable nature of

the rankings game, no one can be confident that these positive changes in our reported data will result in an improved ranking. Obviously, our program is not driven by US News' methodology or by any ranking system; indeed, like most American law schools, we invest time attempting to “game” the ranking systems and improve the public perceptions of our law school and academic program. However, all of the ranking systems evaluate some aspects of legal education that Santa Clara does well (or wishes to do better) to improve the quality of graduates it sends into the practice of law or other professional settings. So, if we continue to pay attention to the information we receive from all sources about the quality, strengths and weaknesses of our programs and continue our efforts to improve them, I believe that the high quality of a Santa Clara legal education will be reflected in the polls and surveys, and, more importantly, in the qualifications and abilities of our graduates.

After the next rankings report comes out, I will ask the group of faculty and staff to again study them to identify more opportunities to improve our relative position among American law schools and, more importantly, to continue to strengthen our academic and professional programs and activities. Please let me know if you have comments or suggestions as well. 



Law Review holds annual Symposium at Hotel Valencia



Eminent domain and the future

Students and faculty gather for the Santa Clara Law Review's 2006 Symposium during which they attended multiple sessions discussing eminent domain and government taking, past and future. *photo provided by Lisa Chen*

by Lisa Chen, guest writer

The Santa Clara Law Review's 2006 Symposium held on February 3, 2006, was filled with intriguing and stimulating discussions about the role of property redevelopment in society. Featuring preeminent scholars and practitioners from around the country, the 2006 Law Review Symposium, *The Future of Property Redevelopment: From Eminent Domain to Affordable Housing*, addressed questions surrounding the scope of a government's eminent domain power and the effects of the use of such power, especially in light of the recent United States Supreme Court ruling in *Kelo v. City of New London*.

Held at the Hotel Valencia, the Symposium focused on the constitutional, social, and economic consequences of property redevelopment. "The Supreme Court's decision in *Kelo* has sparked a vigorous debate about property rights and economic development around the county, and the speakers at the symposium represented a broad range of the voices in that debate, not to mention several of the participants in *Kelo* itself," said Professor Bradley Joondeph, faculty advisor to the Law Review and moderator of the Symposium's panel on *Kelo*. "The discussions were lively and intellectually exciting, shedding light on a broad range of issues surrounding eminent domain."

The Symposium began with a keynote address delivered by Judge William A. Fletcher of the United States Court of Appeals for the Ninth Circuit. A former property professor at Boalt Hall, Judge Fletcher's keynote address highlighted three seminal property cases decided in the

Supreme Court's spring 2005 term – *Kelo v. City of New London*, *Chevron v. Lingle*, and *San Remo Hotel v. City and County of San Francisco*. In addressing these cases, Judge Fletcher showed the interplay of federal and state courts in eminent domain proceedings and emphasized the tremendous power that state and local authorities now possess to determine what an appropriate "public use" is. With this broad reading of "public use," private property owners are left with little or no bargaining power even though the Fifth Amendment requires that "just compensation" be provided although "just compensation" is often an inaccurate reflection

of the property's value to its owner. Judge Fletcher's keynote concluded with a warning about the current "incoherence and instability in takings law," even with the two recent Court appointees.

Following Judge Fletcher, the Symposium moved on to the first panel of the day, which featured an extensive discussion of the United States Supreme Court's controversial eminent domain ruling in *Kelo v. City of New London*.

In *Kelo*, the Supreme Court, by a narrow 5 to 4 margin, upheld as constitutional the condemnation of real property containing unblighted houses as part of a broader economic development plan. This panel featured many of the parties involved in the *Kelo* decision itself. Scott Bullock, of the Institute for Justice, represented Susette Kelo and other private property owners against the City of New London, which was represented by Daniel Krisch and his firm, Horton, Shields & Knox. Additionally, Professor Thomas Merrill of Columbia Law School and Daniel J. Curtin,

About Kenote Speaker Judge Fletcher

Judge William A. Fletcher was appointed to the Ninth Circuit by President Clinton in 1999. Previously, Judge Fletcher served on the faculty at Boalt Hall School of Law, teaching courses on the federal courts, civil procedure, and constitutional law. A Rhodes Scholar and Yale Law School graduate, Judge Fletcher has also served as a law clerk to United States Supreme Court Justice William J. Brennan, Jr.

-from symposium mailer



Jr., Counsel at Bingham McCutchen LLP, provided their insights into the decision.

Moderated by Professor Joondeph, the *Kelo* panel presented various viewpoints on the *Kelo* decision. Professor Merrill addressed potential reasons for the negative reaction to the decision, arguing that the decision is not entirely inconsistent with the original meaning of “public use” in the Constitution. Mr. Curtin spoke on the deference by the Supreme Court to local authorities as to what the scope of “public use” is in their communities. Mr. Bullock criticized the *Kelo* majority opinion, arguing that the majority lacked a true understanding of the eminent domain process, resulting in a disconnect between what actually happened with the New London authorities and what the Court believes happened. In addressing the backlash caused by *Kelo*, Mr. Krisch attempted to dispel the myth that there is something new and radical about private economic development as a justification for eminent domain.


The second panel of the Symposium, moderated by Professor Margalynne Armstrong, focused on the economic and social consequences that follow a government’s exercise of eminent domain. Often, local governments will use eminent domain to condemn “blighted” properties, which provide housing for low-income residents. By condemning these properties, these low-income residents are left with no replacement housing. This panel featured Professor Judith Koons of Barry University School of Law, who presented a case study of a grassroots movement in Cocoa, Florida, to challenge a city’s plan to “redevelop” the city’s historic African American community. Additionally, Professor Matthew Parlow of Chapman University commented on the unintended consequences of eminent domain on affordable housing and provided a note of caution about the potential long-term negative effects of condemning low-income housing on a city’s economic health, some of which include disrupting the local job market. Roger Marzulla, a long-time

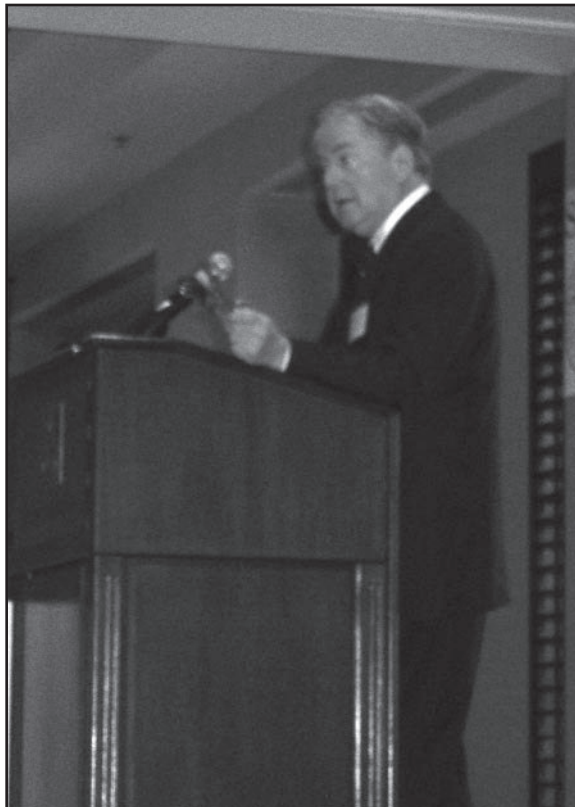
advocate for property rights, provided an insightful analysis into both the constitutional law surrounding eminent domain and the social implications of eminent domain.

The Symposium concluded with a panel addressing the impact of *Kelo* on local land use law. Norm Matteoni, a long-time land use attorney, presented a case study of the attempted redevelopment of the Tropicana Shopping Center in East San Jose. Furthermore, Professor Eric Claeys of St. Louis University commented upon the various proposals in state legislatures to limit the scope of the *Kelo* holding. Lastly, Debra Saunders, a San Francisco columnist who has covered eminent domain abuses in the Bay Area, provided a layperson’s view on a government’s use of eminent domain.

Many of the attendees at the Symposium were impressed with the caliber of speakers and the insightful discussions throughout the day. “The Symposium was notable for having speakers that managed to be both knowledgeable and inspiring,” commented Professor Dorothy Glancy, the faculty advisor for the Law Review Symposium and moderator of the land use panel. “The voices at the Symposium came from so many different perspectives. And yet they all seemed to agree on how important redevelopment can be to a community.”

Each year, the student board members of the *Santa Clara Law Review* organize the Symposium to facilitate dialogue within the legal community on issues of contemporary significance. Topics from past symposia include education in California, national social welfare, and interna-

tional law. The fourth issue of the *Law Review*’s Volume 46 publication, to be released this summer, will be devoted to articles written by symposium speakers and promises to be an influential commentary on the current state of property redevelopment and eminent domain law. An audio recording of the entire Symposium can also be found at <http://www.scu.edu/lawreview/symposium>. 



The Honorable William A. Fletcher addresses the Symposium on February 3, 2006.

photo provided by Lisa Chen

IP Prescription from 5


the extension, Collier mentioned that Pfizer, his former employer, makes over \$11 billion per year just from its cholesterol lowering drug Lipitor.

Apart from patent protection, Collier outlined additional benefits from merely filing a patent application. Filing a patent application ensures freedom to operate, allows a company to scare or even deceive the competition, helps advertise the product or technology, and attracts investors. As Collier put it, “your competition picks up the paper and their hearts sink.” In the highly competitive pharmaceutical industry, causing another company to cease its research because of anticipation of your company’s impending patent is nearly as important as the protecting the IP interest itself.

Collier ended his presentation by discussing some major challenges to the pharmaceutical industry as a whole. First, he mentioned that current public opinion favors low cost generics as opposed to higher cost ‘name

brand’ pharmaceuticals. This stems from the difficulty in pricing fairly while encouraging further research and development.

Another major issue is the increased regulation the industry faces from various governmental agencies in addition to the Food and Drug Administration. Collier noted that the Federal Trade Commission has proposed limiting certain pharmaceutical practices because they are contrary to free trade. In light of this mounting regulation, Collier joked that “maybe the FCC will regulate us as well since some packages have RFID tags.”

Despite increasing regulations and the rise of generics, pharmaceutical companies consistently spend record amounts on research as they seek to find new and better drugs. This culture of learning and expansion has continued to attract investors and fueled growth in this constantly evolving industry. As far as IP lawyers are concerned this ever-changing climate is good news. Steven Collier expressed this view in his conclusion, “for pharmaceutical attorneys, change is good!” 



Escape to Alcatraz

by Adam Heller, editor-in-chief

“Alcatraz was never no good for nobody.”

-Frank Wathernam, former inmate, March 21, 1963

Although this may have been true in 1963 when Frank Wathernam stepped off Alcatraz Island as the prison’s last inmate, today this infamous landmark is one of California’s largest tourist attractions – it draws over a million visitors per year.

“The Rock” is the attraction that usually tops the list of tourist spots recommended by fellow law students who are Bay Area natives. As a tourist sap, it has come to top my list of the region’s must-see attractions as well.

Alcatraz is best suited for those of you who are history aficionados or scenic photographers.

Alcatraz’s rich history makes it the most well-known prison in the United States, and perhaps the world. The island was discovered by Spanish Explorer Juan Manuel de Ayala in 1775 while charting San Francisco Bay. He coined the tiny fragment of land – La Isla de los Alcatrazes – named after the strange birds (pelicans) inhabiting the island.

An 1850 presidential order set aside the island for possible use by the United States military. Immediately thereafter, a citadel was erected to protect San Francisco which was booming from the California Gold Rush.

Since Alcatraz is ideally situated at the mouth of the San Francisco Bay, the small island became home to first lighthouse on the Pacific Coast. Construction of the lighthouse was completed in 1854.

The great quake of 1906 caused extensive damage to the structures of Alcatraz. In 1909, the lighthouse that stands today was rebuilt. That same year the citadel was torn down making way for a military prison that became known as “The Rock.”

In 1933, Alcatraz became a federal prison for the system’s most hardened inmates. Notable criminals such as Al “Scarface” Capone, George “Machine-Gun” Kelly, and Alvin Karpis (the first “Public Enemy #1”) called Alcatraz home.

Alcatraz’s most famous inmate is probably Robert “Birdman” Stroud. Stroud was imprisoned for manslaughter in 1911 for brutally murdering a bartender who had allegedly failed to pay a prostitute that Stroud had been pimping in Alaska.

Stroud made headlines for murdering a prison guard at Leavenworth Federal Penitentiary and for later having his death sentence for that murder commuted to life in prison without parole by President Woodrow Wilson. Over the course of thirty years at Leavenworth, Stroud became known as the “Birdman” for his extensive observations of canaries. He authored two books on the bird. When he used his canary cages and instruments to make a home-brew, he earned a trip to Alcatraz for 17 years.

Those less interested in history and prisons and more interested in magnificent vistas of San Francisco will not be disappointed. The breathtaking views of the Golden



Gate Bridge and the city skyline are well worth the \$15 ferry ride.

The clever tourist will wear warm clothing because the wind is chilling. However, with a warm raincoat and blue jeans, I survived rainy, forty-six degree weather during my visit.

Get your tickets at blueandgoldfleet.com. Tickets go fast, so I would recommend ordering tickets at least a few days prior to your visit to get preference on departure time.

The ferry ride is a short ten minutes so even the most fragile of stomachs can handle this sea excursion.

Be prepared for a steep quarter mile ascent to arrive at the prison from the ferry dock. I recommend buying the audio tour for your first visit to Alcatraz. After the audio tour, feel free to walk around.

At the exercise courtyard, there is a door on the southern wall leading to a staircase. Take this often missed route to get a good view of the island’s bird and flower sanctuaries as well as a quiet view of the bay.

Be prepared to spend two to three hours on the island. Go early and leave time to spend a couple of hours walking the wharf. Catch the noisy entertainment of sea lions barking, napping and wrestling on Pier 39.

Beware, parking is expensive. If you are uncomfortable with handling the city traffic, park at the expensive Pier 39 lot or use public transportation. Otherwise, search a few blocks south of Fisherman’s Wharf to find more reasonably-priced parking. A google search found cheaper rates.

It is very crowded. I recommend making a trip as soon as possible to miss the summer crowds. I despise crowds but found my two trips to Alcatraz bearable. However, I personally would skip walking the wharf during the summer.

I find it nice to visit the wharf when it is a little cold. The crowds are smaller and the hot meals for which the wharf is famous for are more enjoyable. Don’t miss the fried, shrimp, fish, and calamari along the wharf.

The sourdough bread bowl chowder soups should also be tried.

The wharf is a tourist trap with inflated prices; the only overpriced item I would recommend is the chocolate at Ghirardelli Square. It is a quaint and worthwhile shopping center about a mile west of Pier 39.

Go for the memories and not for the souvenirs. 🏠

Above: Alcatraz prison viewed from the ferry to the island.

Left: The Alcatraz lighthouse.

photos by Adam Heller

