

# THE ADVOCATE

SANTA CLARA UNIVERSITY SCHOOL OF LAW

School of Law Newspaper Since 1970

THURSDAY, SEPTEMBER 29

Volume 42 Issue 1

## Remembering Mary Emery . . .

### Dean Donald Polden's Eulogy for Mary Emery from August 12, 2011

I have been asked to do the impossible. To sum up in a few minutes Mary Emery's legacy – her contributions to her communities and the law school, her qualities as a friend and a colleague; and the many reasons we'll miss her as much as we have loved her.

I came here in 2003 to serve as dean. Mary was on the Dean's Search Committee and, as I learned, she unquestionably had the President's ear. Paul Locatelli trusted Mary as she earned his confidence because of her honesty – some called it brutally honest – and her absolute loyalty to him and this institution. Since 2003, I have enjoyed working FOR Mary. Many, correctly, referred to her as “the real dean” and while I got to do the speeches and lead the meetings, everyone knew that Mary was the one who got things done here. No one I know cared more about the law school than she did and few knew the law school as well as she did.

Her contributions to the law school are innumerable, so it is a matter of describing the most enduring ones – and perhaps the ones that meant the most to her. One of Mary's proudest accomplishments was her role in skillfully negotiating a funding arrangement between the law school and the university that, after approval by President Locatelli, ended periods of disagreement and division between the law school and the university. Mary witnessed the effects

of her work – tremendous growth and prosperity of the law school and greater cooperation between her university and her law school. Mary was a fierce advocate for what she believed in, but she preferred harmony and cooperation.

Perhaps the second greatest contribution that Mary gave the school was the transformation of our student body and the composition of the law school's faculty and staff into a major and contemporary American law school. Mary, together with my predecessors George Alexander and Jewry Uelmen, was a major agent for this significant change in what our law school looks like – diverse, inclusive with engaged and passionate men and women training to be lawyers. She was a champion of greater opportunities for women and people of color in the profession and through her leadership positions at the law school she was able to lead that change. Our law school and the legal profession are better for it.

Her classmate, Leon Panetta, commented that Mary “devoted her life to

helping students become good lawyers and, more importantly, god citizens. Mary Emery and Santa Clara Law

a sculpture that Jerry created depicting the history of the law school. He was the artist and she was his muse. I think of Mary every time I see that sculpture.

For many people here today, and others in our community, Mary was “Santa Clara's law school”. Her selfless service to many organizations and volunteer boards and political organizations was legendary: and I remember numerous times where meeting with community leaders I would hear “yes, Mary Emery used to be on our board” or “Mary Emery chaired the important commission that improved things in Santa Clara.” The legal Aid Society, Bill Wilson Center, Santa Clara County government and others come to mind.

Mary believed in serving others and these actions reflected one of Mary's most important attributes – her humanity. Mary would have made a wonderful Jesuit – she believed that our fundamental mission was to serve others, that God was in all things, and that, in the words of Richard Foster, “each activity of daily life in which we stretch ourselves on behalf of others is a prayer in action.”

Her legacy as a lawyer who cared and a lawyer who served will endure and she will be remembered for those whose lives she affected in helpful, positive ways. But for many here today, she will be remembered for much more.

She was a lifelong Democrat who felt it was our destiny to redistribute wealth to the less fortunate, yet she counted among her friends the rock-ribbed Republicans such as BT Collins,

Continued on Page 5  
See “Eulogy”



PHOTO COURTESY: NANCY DIAZ

School will always be one – now and forever.” She was looking forward to the Centennial Anniversary Gala this September and has been chairing the planning committee with her longtime friend and classmate, Ted Biagini. Mary's last major project at the law school was working with Jerry Smith on

## Update on Proposition 8

### Standing and Rights of Initiative Proponents to Intervene

By Robyn Morris

The debate over Proposition 8, California's ban on same-sex marriage, resumed on September 6, 2011 when the California Supreme Court



heard arguments on whether supporters of the ban can legally defend the initiative they sponsored.

Perry v. Brown (formerly Perry v. Schwarzenegger) centers around the Proposition 8 initiative, passed in November 2008 with 52% of the votes, which declared a union between a man and a woman as the only legally rec-

ognizable marriage in the state. The proposition was found unconstitutional by U.S. District Court Judge Vaughn Walker, and the Yes on 8 movement swiftly appealed the decision to the 9th circuit. The 9th circuit then requested the California Supreme Court to determine whether, as a matter of state law, initiative proponents have the power to defend the enacted initiative in federal court when the State declines. Here, Both Governor Jerry Brown and Attorney General Kamala Harris have refused to support the initiative, and it is questioned whether or not state law allows proponents of ballot measures to step in and defend them on appeal.

Attorney Ted Olson, on behalf of the

Continued on Page 3  
See “Prop 8”

## Direct Examination:

### Professor Talia Einhorn

Visiting Professor from  
Ariel University Center,  
Israel answers questions.

By Amy Askin

Professor Talia Einhorn, a visiting professor from Ariel University Center in Israel and Visiting Senior Research Fellow at Tel Aviv University Faculty of Management, joined the Santa Clara faculty for the fall semester to teach European Union Law. With an extensive background in international business



and academia, Professor Einhorn authored four books and numerous articles in international, European and Israeli law journals and scientific publications. Professor Einhorn agreed to discuss her personal background and offer her unique perspective on the high-tech boom in Israel and the prospects for the Middle Eastern economy.

**How did you become involved in the field of conflict of laws?**

Before becoming an academic I worked for six years as a litigator in Israel and five additional years at an Israeli industry (IMI), responsible for negotiating and drafting international business transactions. These experiences provid-

Continued on Page 3  
See “Einhorn”

**STAFF**

**Editor-in-Chief**  
Martin Behn

**Managing Editor**  
Amy Askin

**Executive Managing Editor**  
Robyn Morris

**News Editor**  
B.P. Broadmeadow

**Feature/ Entertainment Editor**  
Matthew Dedon

**Opinion Editor**  
Gregory Williams

**Photo Editor**  
Matt Izzi

**Staff Writers**  
Jordan Barbeau  
Michael Bedolla  
Barrett Bisignano  
Michael Branson  
Collin Glassey  
Amanda Gordon  
Robert Klein

**Guest Writers**  
Gus Keller  
Marty Kopp

**Editor Emeritus**  
Dominic Dutra

*The Advocate* is the student news and literary publication of Santa Clara University School of Law, and has a circulation of 1,000. The Features, Opinion, & Entertainment sections of *The Advocate* are articles that reflect the viewpoint of the authors, and not the opinion of Santa Clara University, *The Advocate* or its editors. *The Advocate* is staffed by law students. Printing is contracted to Fricke-Parks Press of Union City, California.

Article submissions to *The Advocate* are encouraged and welcomed from all law students, faculty, alumni, and administrators. Please contact the Editor-in-Chief about format requirements and submission dates. Letters to the Editor are encouraged. Letters should not exceed 250 words. All submissions are published at the sole discretion of *The Advocate* and may be edited for length, grammar and clarity.

If interested in placing an advertisement with *The Advocate*, please contact the Editor-in-Chief by e-mail for advertising rates. *The Advocate* reserves the right not to accept an advertisement for any reason.

Santa Clara University  
School of Law  
500 El Camino Real  
Santa Clara, CA 95053-0426

Contact *The Advocate* at  
[SCUAdvocate@gmail.com](mailto:SCUAdvocate@gmail.com)

Copyright 2011.

# State, Nation and World Report

## STATE & LOCAL

**PALO ALTO** - Facebook.com launches the new "Timeline" service for all members of the social networking site soon.

**CUPERTINO** - On June 4th Apple had preliminary approval of their new project, dubbed "iSpaceship" by the media. This new campus house more of their operations in a single location, and be located just three miles from SCU campus.

**SILICON VALLEY** - Symphony Silicon Valley will begin their season on time, despite financial hardships this Saturday and Sunday performing Hoist's: *The Planets*.

## NATIONAL

**ATLANTA** - The CDC has linked the Listeria bacteria to Cantaloupes. States are reporting that at least 13 people have died from this outbreak, the deadliest in over a decade.

**WASHINGTON D.C.** - The Justice Department asked The Supreme Court to review the 11th Circuit decision on the Health-Care law passed during the early years of the Obama administration.

**BIRMINGHAM** - Judge refuses to block in part the toughest immigration law. One provision will still allow immigration checks at public school sites.

## INTERNATIONAL

**HAVANA** - In another surprise, the government of Cuba has legalized the sale and purchase of cars. Most car sales and purchases have been illegal since the 1960's.

**NEW YORK** - Amazon Inc. has unveiled a new tablet device called Kindle Fire. Starting at \$199, the color display has a seven-inch display, access to Amazon's Instant Video store, as well as Kindle e-books. The tablet will also allow users to access email and web.

**ITALY** - The trial of Amanda Knox will be over soon. Knocks is a US Citizen on trial for murder. The proceedings have been going on for over four years.

## ENTERTAINMENT

**FOX NEWS** - The new pilot series "The New Girl" featuring Zooey Deschanel has been extended to a full season after a successful first run.

**LOS ANGELES** - Former Dodger Milton Bradley has been arrested for allegedly swinging bats at his wife. He was released on \$30,000 bail on Tuesday.

**SAN DIEGO** - The new season of Real World San Diego premiered Wednesday, September 28 on MTV. This season will be the second time that MTV has visited the city for the show, the last time being in 1994.

## Construction Overtakes Campus

Construction is taking over all around campus. New buildings, renovations, and replacement buildings are going up everywhere. In the works is also a new Law School building. The architects are thus far unwilling to release photos or drawings, but the administration is excited. Pictures clockwise: (1) New administration building transforms over Summer from a parking lot to structural frame, (2) undergraduate housing is torn down and the foundation laid for a new one, (3) a new entry way goes up for Santa Clara University's bookstore.



## Stafford Loan Changes to Affect Students in 2012

By Benjamin Broadmeadow

Starting July 1, 2012, the Budget Control Act of 2011, signed August 2 of this year, goes into effect. This is all in an effort to reduce the government spending and chip away at the government debt. The Budget Control Act initiates a complete overhaul of the federal education loan system.

Section 502 of the Budget Control Act terminates section 455(a) of the Higher Education act of 1965. The previous section authorized the government to subsidize loans to graduate and professional students.

With passage of the act the government will no longer subsidize federal loans. Law students, graduate students, and other professional level students



will soon have to pay the per-month interest that accumulates on their loans.

Currently, law and graduate students may take out \$20,500 of loans per year. If they meet financial need, up to \$8,500 can be subsidized, in which the government will pay for the monthly interest while the students are enrolled and through the six-month grace period upon graduating. When the new changes take effect, students will now be fully responsible for paying the monthly interest.

With the dissolution of the Stafford loans subsidy, graduate students could see a dramatic increase in the amount they will now be required to pay back. The current option for unsubsidized loans, whether to pay the interest on an ongoing basis or as one lump sum upon graduating, will become standard procedure for all loan payback.

As of now, there is 1 percent interest fee associated with the Stafford loans. Under the new changes, students taking the full loan amount of \$20,500 will end

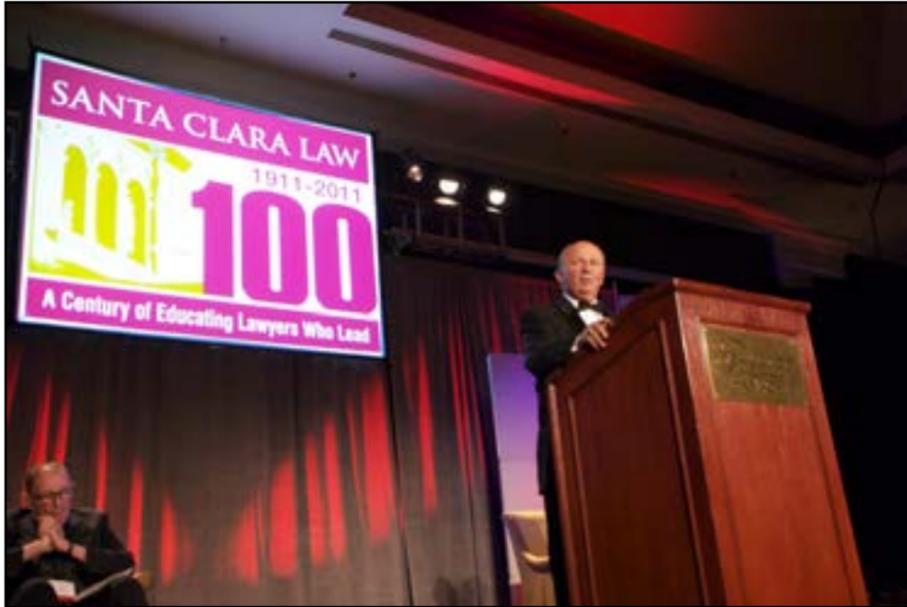
up paying approximately \$1,230 a year, or in the case of law students or an additional \$3,690 for the entire three years of law school.

This does not include the interest many students accrue in taking on GradPLUS loans in order to cover the full cost of a graduate education. GradPLUS loans have fixed percent interest rate at 7.9 percent per year. With a lower estimate of \$20,500 for the Grad Plus loan, the total interest for three years amounts to \$4860.

Students currently having holding subsidized will have those subsidies honored. Loans taken after July 1, 2012 will no longer be subsidized.

Under this new set up, law students could face paying interest amounts of at least \$10,000. In an environment where students are accruing greater debt in order to pursue opportunities in higher education, the government's withdrawal of loan subsidies could not have come at worst time.

# Santa Clara Law's Centennial Gala



Santa Clara Law hosted the Centennial Gala on September 10th, 2011 at the Fairmont Hotel in San Jose. The event was an ongoing effort for Alumni, Faculty and Students over the weekend to celebrate the law school's 100th anniversary. Other events included the "Trial of the Century" and a golf tournament. PHOTO BY: MATT IZZI

## ABA Awards *The Advocate* Best Student Newspaper for 2010-2011 School Year

The American Bar Association Law Student Division named *The Advocate* as the winner of the 2011 National Law School Newspaper Award. The Division commended *The Advocate* for its well-rounded mix of



PHOTO BY: BENJAMIN BROADMEADOW

articles about national legal news, local legal news, school news and articles that students can use in career development, and to serve the public interest. The ABA praised *The Advocate* for its solid

design, writing style, content and its 41 year history of providing outstanding law school news.

The editors would like to thank the 2010-2011 editorial staff, Dominic Dutra, Nikki Corliss, Martin Behn, Lyndsey Eadler, Robyn Morris, Alex Nowinski and the Editor

Emeritus Allonn Levy. The editors would also like to thank the staff writers, guest writers and faculty for their hard work and support.

### "Prop 8"

Cont'd from Front Page

American Foundation for Equal Rights, asserted that nothing in California law provides the right for private citizens to intervene in the defense of an initiative. Charles Cooper, attorney for the ballot measure's sponsors, countered that Proposition 8 supporters' power to propose and pass an initiative would be "nullified" if state officials refused to defend it, and initiative proponents were blocked from defending it in court. This nullification, he argued, would constitute an injury-in-fact.

Both sides were subjected to intense questioning by the Court. They were concerned with accepting Olson's



argument, fearing that by allowing the Governor and Attorney General sole control over the defense of state laws, initiative rights would be rendered illusory. The Court noted that California traditionally allows for liberal intervention by interested parties. However, they were wary of adopting Cooper's broad interpretation of "injury" and showed doubts as to whether the proponents of Prop 8 will ultimately be able to satisfy the federal standing requirements.

The Court has up to 90 days to issue an opinion. The case will then return to the 9th Circuit who will take the opinion under advisement. Even then, it is anticipated that a decision by the 9th Circuit will not be made until March 2012.

### "Einhorn"

Cont'd from Front Page

ed me with the flavor and a reasonable understanding of some aspects of private international law. I discovered the full scope of the subject and its manifold facets only when I started teaching some twenty years ago. It turned out that the last book covering all aspects of Israeli private international law was published in 1927. This prompted me to author a comprehensive book on the subject. I was very fortunate to have been invited to teach and carry out research in this field in Europe and in the US. Exploring the differences among legal systems is of the essence to in-depth understanding of this subject.

***In the wake of the Arab Spring, what are the biggest issues facing trade relations in the Middle East? In your view, what is the potential for economic prosperity?***

In my opinion, the biggest issue is the establishment of a proper rule of law in all Middle East States, a necessary precondition to economic prosperity that may be enjoyed by the people at large. The successful establishment of trade relations is dependent upon the implementation of an economic order based upon open markets and undistorted competition. However, attaining free trade

Decades ago Israel protected its domestic market from competing imported goods. But the Israeli market is very small and the cost of protection from competing imported goods taxes first and foremost exporters, as they cannot raise their prices to cover these extra costs without being undercut on the world market. Consequently, Israel entered free trade area agreements first with the European Economic Community (now the European Union) and then with the United States. These agreements opened up the Israeli market to imports, but at the same time opened the other markets to Israeli exported goods. The next step came with the Government's liberalization policy which exposed Israeli manufacturers to competing goods from all over the world, enhancing even further Israeli export industries. For a country not endowed (or at least so it seemed until recently) with natural resources, but endowed with industrious and committed individuals, it probably came natural to use this comparative advantage to establish a high-tech industry. Israeli trade relations have flourished not only with the US and the EU but also with other countries, such as China, India and Japan.

***Has anything surprised you about living and teaching at Santa Clara?***

Living and teaching at Santa Clara

has been a wonderful experience, for which I feel most grateful. Meeting my colleagues here has been stimulating both intellectually and socially. Together with Prof. Sloss, Prof. van Schaack and Prof. Diamond, I attended the annual Northern California International Law Scholars workshop, and was deeply impressed with the scholarly work and the level of the debate. I enjoyed my classes at SCU very much. The students were interested and came to class well prepared. The library services were excellent. Ms. Sexton, my library liaison, Ms. Moore, responsible for the inter-library loan system at SCU, and all other library personnel, have done their utmost to provide me with the literature that I needed for carrying out research in the field of private international law. My faculty



PHOTO COURTESY: TALIA EINHORN

assistant, Ms. Whyte, was very efficient and friendly.

***If you could choose one person (living or dead) to have coffee with, who would it be and why?***

I would choose to have coffee with my late husband, Baruch Einhorn z"l, whom I miss on a daily basis. Having completed his M.Sc. studies of mathematics at the Hebrew University of Jerusalem, he then specialized in the development of computer software and later on worked for some 20 years for IBM. Most important for me, he was a true intellectual with a deep understanding of the world and, especially, the nature of mankind, as well as a great lover of the Land of Israel. In analyzing a subject, he had never lost the wood for the trees, and each conversation, breakfast, or cup of coffee, with him was a very enjoyable, friendly and enriching learning experience.

requires not only cooperation on the international level, but also the implementation of domestic rules that would make the authorities support the rules. Only through such rules would citizens be free to enjoy their rights to pursue international trade activities. Whereas the establishment of customs unions, free trade areas, and other international trade agreements, is a matter of public law, their functioning has to be guaranteed by the commitment to private law rules of competition mandated by an open market economy and respect for fundamental human rights. Private sector initiative requires legal rules that govern property rights, their transfer and the settlement of disputes. The rules must be transparent, stable and enforceable in a fair and efficient manner.

***Israel has been named the "start-up nation." How has the boom in the Israeli high-tech industry impacted Israel's relations with the U.S. and Europe?***

# Reflections From Studying in Korea

## Student remembers time spent in Internship Abroad in Korea

By Colin Glassey

The first and most important thing to recognize about the summer abroad program in Seoul, South Korea is that Seoul is the capital city of one of the world's richest countries. Seoul is not just the capital, but the single most important city in the country. The whole country seems to revolve around Seoul to a degree that is utterly unlike the United States. And South Korea is newly rich which means that the infrastructure is brand new. Most of the people who own cars, own new cars; Most of the museums were built within the last decade, most of the skyscrapers are less than ten years old, the subway system is new and lines are still being added.

This is the most technologically advanced city I've ever seen. Just about every shop and restaurant in Seoul accepts credit cards and many banks have "International ATMs" which accept ATM cards from banks around the world. There are flat-screens throughout the subway system, inside shops, on cash registers, and in place of paper ads inside the fancy malls. I'm guessing the Bay Area may look like Seoul in a decade, at the earliest.

The young working-age Koreans often go out for dinner and seem to take

great pleasure in wandering the streets, window shopping and people watching. On a typical evening in the summer, there are tens of thousands of people on the streets. If there is something like this in any U.S. city, I've yet to see it.

Seoul is effectively two very different cities divided by the Han River.

The original city on the north side has two historic palaces and is full of ancient temples, twisty streets, and such a large supply of coffee shops one assumes the population is constantly wired.

The south side is new, until 1960 it was just rice paddies and farm land. Nowadays it is Gangnam, a "SimCity" writ large with streets, parks, shops, office buildings, and high-density and low density housing all plotted out. It reminded me of New York City's 5th avenue, complete with massive traffic jams during commute hours.

The Gangnam shops at street level are mostly Western chain stores: Dunkin Donuts, Starbucks, McDonalds, 7-11 and their Korean equivalents. Underneath the office towers and hidden from view are the Korean lunch establishments which the locals enjoy as they serve Korean style lunches at reasonable prices. The biggest and fanciest stores are in Gangnam, as are the baseball parks, and the Korean version of Disneyland (Lotteworld).

Some things you would expect to see but will have difficulty finding in Seoul: Crime, homeless very poor people. Yes, there is crime in Seoul but by American standards; Seoul has the crime rate of a small city. I had no difficulty wandering around all corners of the city, even late at night. There are some homeless in

Samsung, LG, Hyundai, Posco) and these companies need to license technology from outside Korea. Korea is a large and growing market itself so that non-Korean companies require contracts, patents, and trademarks within Korea.

Second, Korea just signed a Free Trade Agreement (FTA) with the European Union and a similar deal is likely to be approved between the U.S. and Korea. As a result of the FTA, Korea will, over the next six years, open its legal market to European and American law firms. Non-Korean law firms will be able to set up shop in Korea, just as they have in Japan, offering on-site legal expertise to businesses wishing to engage in trans-national activities with Korean firms, as well as for Korean firms that would like to have local experts on European Union law and American law. It is reasonable to think that a number of the large law firms which already have offices in Tokyo and Hong

Kong will wish to open offices in Seoul when it becomes possible to do so in a few years.

Third, despite its somewhat checkered history since 1960, South Korea is now firmly governed by "the rule of law". Elections matter in Korea. The courts wield real power over both the legislature and the executive branch. Getting ahead in Korea is not just a matter of bribing the right set of officials. I'm not claiming that there is perfect justice and complete neutrality towards all companies, but in my opinion the Korean courts are fairer than the courts of most other countries in the world.



Study abroad opportunities, such as SCU's Seoul provide a unique perspective that law school simply is not an isolated bubble.

scattered spots, such as outside of Seoul Station.

I found Koreans to be friendly and polite and the younger generation have all been taught twelve full years of English with the result that, whenever you need assistance, a young Korean can (and will) help you.

So, is Seoul a good destination for a summer study abroad law program? I argue yes for the following reasons:

First, Korea's economy continues to grow. A growing, technically advanced, export-based economy is one that needs to make international deals. Korea has some state-of-the-art companies (e.g.

## Why You Should Leave America

### An exchange student's reflections on life at Santa Clara Law

By Gus Keller

By this point you have probably spent more than twenty years living in America, a great country, the best country. After such a long time, you have also developed a lot of daily routines and have a certain circle of friends you are settled in.

For me this was true as I had spent most of my life in Switzerland till I was twenty-two; except for maybe the occasional trip abroad for a couple of weeks or days. As part of my undergrad program I spent six months in Singapore. I had to start washing my own clothes and learn ironing from my Serbian roommate, but it also made me realize how much of my life I had spent living unaware of these daily decisions. I wasn't making conscious choices but rather following a developed pattern influenced by my surrounding. The next

six months in Singapore I had some interesting experiences, such as carrying a five-foot fan to a Hooters restaurant and requesting it to be plugged in and eventually gifting it to a bouncer. I also

met a lot of wonderful people and learned the differences between the Singapore culture and my own. To this day I still have contact with some of the people that I met.

Going abroad for my graduate program was therefore not a question of whether should I go? But rather, where I should go. After having been mostly in Asia and Europe, I wanted to experience something different. Although I had sworn to myself when I was younger never to go to America (my best friend was nearly shot when he was in Florida), I decided to give it a try and I haven't regretted it since I had made it through customs in Chicago. The past month

has been full of interesting experiences. Some have been less pleasant, like finding out that it is virtually impossible to get around in Santa Clara without a car, but some have been better like spending

a Saturday at the beach of Santa Cruz. Even though I will probably spend the rest of semester in Heafey, I prefer it to the library in Switzerland where I lived for the past four years.

Santa Clara University has a broad range of study abroad programs, which if you have the chance I wholeheartedly recom-

mend. Although I'm obviously biased towards Switzerland I don't think the location matters as much as the fact that you get away from America. In order to be able to appreciate how great your country is, I believe you need to have spent at least a couple of months abroad to experience how different it can be.



PHOTO COURTESY: GUS KELLER

## TIL: Snacks, Produce, Groceries

By Amanda Gordon

There are a lot of things I have learned since starting law school. For instance, what study aids to buy, when it is appropriate and not appropriate to wear velour, and what label tabs to use on statutory code. And while many things must be learned through hard work, perseverance, and dedication, sometimes I really wish someone would just tell me the answer. So here are some answers to your most pressing questions: Where can I get easy food close to campus?

Did you know that the campus has its own grocery store in the basement of Benson? It's a bit overpriced and only contains Pepsi products (no Coke zero!), but the store is convenient when all you really want is an energy bar (they have so many to choose from!). [The Cellar

Continued on Page 6  
See "Snacks"

# Dean Erwin's Rumor Mill...

## Dean answers questions about attendance policy

By Dean Erwin  
Dear Rumor Mill,



I'm a first year student. During orientation and in emails since then, we have been told that we need to sign in everyday and we need to attend every class . . . I've heard from a number of my classmates that you can miss 7 or 8 classes before the school will do anything about it. I've also heard that if you don't show up to class, you can just go fill out some form at the student services office and you get credit for being in class. Also, I've overheard some upper division students say that once you finish first year, you don't have to go to class anymore. This is grad school after all, why even bother taking attendance?

Thanks so much for asking these questions! You seem to have gotten a whole bunch of incorrect information! Here's the scoop:

In their accreditation standards, ABA Standard 304 (d) mandates that, "A law school shall require regular and punctual class attendance." The ABA interpretation (304-6) of this standard says that "A law school shall demonstrate that it has adopted and enforces policies insuring that individual students satisfy the requirements of this Standard, including the implementation of policies relating to class scheduling, attendance, and limitation on employment."

In order to comply with this rule, the Law School policy states that "The law

school requires regular and punctual class attendance by all students in all classes. Individual faculty members may use class attendance and punctuality in assessing grades or determining whether to grant credit for a course. The Student Services Office maintains attendance records for first-year classes. Students not regularly attending classes will be notified by the senior assistant dean for student services. Notice will also be given to the students' professors. In upper-division courses, individual faculty members are responsible for monitoring attendance and punctuality as each deems appropriate. Students unable to attend class regularly and punctually should consider petitioning to take a leave of absence."

So, to more directly answer your questions:

(1) Once you miss 3 classes, you and your professor will get a letter from Student Services advising you to go to class. If you miss 4 classes, you and your professor will get another letter and you will be required to meet with the Director of Student Life. The goal of this meeting will be to again advise you to go to class, to check in with you and make sure that you are okay, and thirdly to talk about the option of taking a leave of absence from the law school if you are unable to attend the rest of your classes.

(2) 1L students who were in class but forget to sign in can come to Law Student Services and fill out an Attendance Petition. This does not excuse an absence. It just adds a sentence to the reports that we send to you and your professor stating that you have submitted a petition for a specific date. We do not make a judgment call on whether or not a student was in a classroom, we

merely report that the student failed to sign in and that the student submitted a petition.

(3) 1L students who submit an attendance petition when they actually were not in class (or who sign in for each other) are violating the Academic Integrity Policy. Violations to this policy could result in suspension, reports to the ABA during Moral Character investigations and worse – not a good idea to start your legal career by falsifying official records.

(4) There is no difference between an "excused" or an "unexcused" absence. We are monitoring whether or not you are sitting in the classroom, not why you aren't there. In law school, you need to be in the classroom.

(5) In upper division classes, professors monitor attendance in whatever way they wish. Many include attendance in "participation points" that factor into final grades.

Bottom line is that you need to go to class. This isn't like undergraduate school, where you can get notes from a classmate, cram at the last minute, and pass classes. There is a **direct correlation** between attendance in class and final grades. We have found that students who academically disqualify at the end of first year are very frequently the same students who have received attendance letters from us throughout first year!

And each class costs a lot of money. At today's tuition rate, you are paying about \$100 a week for each class you take. Why would you throw that much money away?

If you find that you are not able to attend classes, for whatever reason, please make an appointment to speak to me or Alisa Guglielmo, the Director of Student Life.

## Eulogy of Dean Mary Emery

Cont'd from Front Page

who once showed up in her office with a Bush Quayle sticker plastered on his "hook", his prosthesis. Now there was a relationship, a friendship for the century! And, she had others that were as enduring and sustaining – she enjoyed talking and telling stories about her law school friends – nearly all men since there were few women in Mary's class – including Gene Premo who she had known and with whom she had been best friends since elementary school.

She was a lifelong Catholic who was as deeply spiritual about her faith as she was practical about the need of the Church to serve and care for the religious needs of women, the poor, gays and lesbians and others. Mary was a "big tent" person – always believing that our institutions – be it the church or the law school – must reach out to serve and nurture those in our communities and society who needed it most.

Mary liked beautiful things, the theater, and shopping for clothes and jewelry. Clothier St. John's will miss Mary's love of their clothes and her sense of fashion. She commented to several friends that she aspired to be the oldest woman alive to wear leather pants. And who would have thought that pencils could be a fashion accessory.

Some of her greatest pleasures were her trips to New York with great friends like Cynthia Mertens and Jennifer Konecny that included six or seven plays in a row, her global gallivanting trips with Tom and Karen Breen, including a trip to London and Oxford just a couple of weeks ago, and her international shopping trips – London, Italy – with her niece, Sarah Birmingham. And, the course she and Bob Peterson spent closeted in a small office reading applicant files and building the next year's class and the close friendship with Allison Heish and Mary Zimmerman, sharing a glass of wine and a pleasant conversation. These were her best of times.

You see, deep and sustaining friendships enmeshed with the things she loved to do, were the elixir of Mary's life . . . sustaining her through the loss of her most loved partner, John, and several family members and close friends. But it is about the deep and nurturing friendships – whether over a lifetime or only since 2003 – that we – all of us here today – will remember her for and for which we will miss her deeply. Mary made friends for life; if you were her friend you could count on her . . . for anything . . . at any time.

Many of those friends are here this morning, trying to make sense of our sudden loss and holding on to our memories. We will remember, and miss, that wicked smile, that cackle that let you know that she loved you and your sense of humor, those beautiful eyes peering over her fashionable eye wear letting you know that she saw into your heart and liked what she saw. For those of us who drank deeply from the seemingly bottomless pool of love that is Mary Emery, perhaps this old Irish poem will permit us to move forward with our lives, enriched by Mary's presence in it, until we see her again.

# Darrow: Trial of the Century

## Students, Faculty and Alumni enjoy a re-enactment of the Clarence Darrow Trial

By Robert Klein

On Saturday, September 10th, alumni, students, friends, family, and even the media packed Santa Clara University's Mayer Theatre for a re-telling of



a trial that took place one hundred years ago. "The Trial of Our Century: People v. Clarence Darrow," is a retelling of how in the process of defending the McNamara brothers for the bombing of an LA Times building that killed twenty-one workers, Clarence Darrow became embroiled in a jury bribery scandal that would test his very reputation as a famed labor and civil rights lawyer.

Taking a look back, Clarence Darrow grew up around parents who were active in civil rights. His father was an abolitionist, and his mother was a women's rights advocate and supporter of woman's suffrage. After passing the bar, Darrow eventually ended up working

for the railroad. When Eugene V. Debs was accused of leading the Pullman strike against the railroad, Darrow left the railroad to represent Debs. He would lose this trial, but it could not stop Darrow's passion for labor, and later, for civil rights.

Before his own trial, Darrow defended various labor causes: the woodworkers of Wisconsin, the United Mine Workers in Pennsylvania, and the Western Federation of Miners. Then, the American Federation of Labor contacted Darrow to defend the McNamara brothers in the bombing of the LA Times building. In the ensuing trial, Darrow was accused of bribing a juror, and Darrow himself was put on trial.

After a brief introduction by Professor Gerald Uelmen, who played the bailiff, the curtain rose, revealing the mock courtroom on stage. Off to the side were twelve jurors who were played by the Santa Clara Law class of 2011. The judge, played by the Hon. Alex Kozinski, Chief Judge, U.S. Court of Appeals for the Ninth Circuit, sat off to the other side of the stage. In the middle sat our protagonist, Clarence Darrow, played by the Hon. Charles Breyer, U.S. District Judge, Northern District of California. Throughout the play Darrow held a certain smugness about him that almost commanded immediate appraisal. His defense counsel, Earl Rodgers, played

by Michael Tigar, Professor of Law Emeritus at Duke University School of Law and American University Washington College of Law, sat next to him. A highly regarded attorney, Professor Tiger put on quite a show – grilling witnesses must be his forte.

The prime witness against Darrow was Bert Franklin, Darrow's investigator and who allegedly bribed the juror. Franklin, played by Dean Donald Polden, withstood the fierce onslaught of questioning and accusations by Rodgers that in reality would reduce any defendant to tears.

The bribed juror, George Lockwood, played by Professor Robert Peterson, took the stand next. Dressed in a farmer's outfit, Lockwood allowed a brief intermission of levity to sneak in and break up Professor Tigar's masterpiece of theatre. The District Attorney, J.D. Fredericks, played by the Hon. Stephen Trott, Senior Circuit Judge, U.S. Court of Appeals for the Ninth Circuit, stood little chance against the defense.

In the end, Clarence Darrow was found not guilty. In a subsequent re-trial, Darrow defended himself, and the trial ended in a hung jury. Franklin insisted that he acted under Darrow's orders. Darrow insisted that he knew nothing, and that's all we may ever know.

# Class Warfare and the Buffet Rule

By Michael Branson

Let's face it, the United States has a lot of problems to fix. Unemployment is at 9.1 percent, the economy is growing



at an abysmal rate, and with every step taken to improve the situation, the budget deficit increases. Unfortunately, our two political parties are in complete disagreement on how to get the economy moving. Republicans far and wide have taken pledges to not raise taxes in any manner, and now President Obama seems determined to test their will. Usually it is a bad gamble for the Democrats to play a game of chicken with Republicans, but this time might be different.

The funding for President Obama's new jobs bill has not gotten the GOP excited. The bill, which is designed to lower the unemployment rate, would be paid for by closing tax loopholes that benefit the wealthiest Americans. Specifically, \$400 billion would be raised by limiting itemized deductions for individuals earning more than \$200,000 a year and couples earning more than \$250,000 a year. Smaller savings, but still in the billions, would be made by eliminating tax breaks received by oil-and-gas

companies, taxing "carried interest" income made by hedge fund managers as regular income as opposed to capital gains, and adjusting the depreciation rate on corporate jets.

In addition to the jobs bill, the President recently announced his intention to raise taxes on those making more than 1 million dollars per year. The wealthiest 0.3 percent of Americans would be affected by what the White House is calling the "Buffett Rule," named after billionaire investment guru, Warren Buffett, whose recent NYT Op-Ed pointed out that he pays the lowest tax rate of anyone in his employ.

Incredibly, the Republican leadership has convinced voters that these tax reforms are intolerable. The reasons are varied. Some say the \$200,000 mark is too low. Others say that we cannot cut tax breaks for the oil industry because they are providing jobs to American interests. Even more say that we should not waste our time looking at these measures because the amount of money they raise is just a drop in the bucket towards solving our budget problems.

However, the "drop in the bucket" metaphor seems less than credible. Adjusting the depreciation rate on corporate jets, the smallest money-maker on Obama's list, would raise 3 billion dollars. These are the same Republicans that insist on cutting funding to Planned Parenthood and NPR, programs with

costs in the millions.

What should be readily apparent to voters is that the Republican Party is the party of the rich. They are thrilled to extend the Bush tax cuts for the wealthy, but not so willing to extend payroll tax cuts for the middle class. And while they have all stood steadfast in a refusal to raise any taxes on the wealthiest, many—including John Boehner, Eric Cantor, John Huntsman, Michelle Bachmann, and Rick Perry—have actually said we need to "broaden the tax base," i.e. tax the poor more. And so far, the tea party has blindly stood by them to fight against the "moochers" in America that supposedly aren't paying any taxes at all.

It is true: the bottom 50 percent of Americans do not pay any income taxes. Of course, they still have a portion of their paychecks go to Social Security and Medicare, which are taxes. They pay state income taxes, which usually have fewer deductions and start at lower income levels, they pay property taxes, or have taxes passed into their rent and they pay sales taxes. Families below the poverty level spend up to half of their income on taxable items. The tea party is angry with these tax delinquents, but many people in the tea party are the same people who pay no taxes.

Many of our nation's poor actually pay a larger portion of their income in taxes than the wealthiest Americans.

Warren Buffet's Op-Ed article reported that Buffett pays around 17.4 percent in taxes on his taxable income. Although his income tax bracket is somewhere around 35 percent, his capital gains tax is 15 percent. Because Buffett, like most of the wealthiest Americans, make nearly all of their money through investments, the taxes they pay on their income ends up being substantially less than middle-class Americans. In fact, 88 of the wealthiest 400 Americans reported no salaries at all. This prestigious group has seen their wealth quadruple since the mid-nineties, but their average share of income paid to taxes has dropped from 29.9 percent to 18 percent.

Obama's new proposals affect the wealthiest 1.5 percent of all taxpayers. This should be an immensely popular program. While longer-term spending cuts are desperately needed, the issue at hand is much larger than just a spending problem. Federal tax revenues are at a 60-year low, and as even conservative economists will attest to, there is absolutely no correlation between raising taxes and unemployment. In the U.S., we live in a consumer economy. Consumer spending drives about 70 percent of our GDP. In order to get things moving again soon, we need to get money back in the hands of the consumers.

Barack Obama's proposals do just that.

## "Snacks"

Cont'd from Page 4

Market, Benson Center at Santa Clara University, Open 11:00AM – Midnight, Thurs.-Sun. and 11:00AM – 8:00PM Fri.-Sat.].

Next, Safeway (affectionately known as Sway). The best deal at Sway is the 'Meal Deal' at the Deli bar where you buy six sandwiches and the seventh is free! [Safeway, 605 The Alameda Ave., Santa Clara, CA].

Craving fresh fruit and veggies? Every Saturday there is a Farmers Market in Franklin Square that has local produce vendors. The Square is within walking distance of Heafey Law Library, and you can

even grab a fresh lunch of amazing crepes or Indian food. [Jackson St & Benton St., Santa Clara, CA 95050, Open 9:00AM – 1:00PM Saturdays].

A little bit farther down Benton on the corner of Scott there is Fresh Farm Produce. It is essentially a fruit and vegetable stand with great prices for the budget conscious. This fruit stand also sells its own baklava and European chocolate. [805 Scott Blvd., Santa Clara, CA 95050, Open 8:00AM – 8:00PM Everyday].

Just recently opened is a new frozen yogurt shop. The shop is between Quizno's and Cramer's Bagel near the CalTrain station. This swanky new place has a modern layout, and allows payment via iPad using Square technology. The prices are comparable with the

other two frozen yogurt places. [Luscious Premium Frozen Yogurt, 495 El Camino Real Ste 121, Santa Clara, CA 95050, Open 11:00AM-9:00PM Mon.-Fri., 11:00AM-5:00PM Sat.-Sun.].

Another new lunch joint also opened up. Since 1L year, I have been waiting to see what fills the spot on Park next to Blondie's and the dry cleaner. University Deli & Coffee fills the void with Vietnamese Bahn Mi sandwiches. At \$3.75 a sandwich it is a cheap and quick lunch. [University Deli & Coffee, 2925 Park Ave Santa Clara, CA 95050 Mon-Fri 9:00AM-8:00PM, Sat 10:00AM-6:00PM].

What I really want to talk about is Fresh & Easy Neighborhood Market.

This store has been around since 2007, and its ideal customer is a college student (or a busy law student). The store offers a variety of easy preparation options for someone who lives alone or does not have the energy or time to shop for a big meal. There are options to buy meat in smaller portions, premade soups and salads, and social

food like fajita kits. I am particularly excited about the whole wheat pizza dough they sell. The closest Fresh & Easy is on Saratoga about three miles from campus. [1328 Saratoga Ave., San Jose, CA 95120, Open 8:00AM – 10:00PM Everyday].

Finally, in theme with this article of things I wish I knew, I just found out you cannot take water or food into the California Bar. I feel faint from the low blood sugar already.



PHOTO COURTESY: YI XIONG CHONG

## From the Archives

### Volume 6 Issue 2

# The Advocate

Vol. 6, No. 2 UNIVERSITY OF SANTA CLARA SCHOOL OF LAW



## Internship Booming; Not Enough Students

Elections are already over and the Board of Governors has undertaken a demanding schedule of business for the semester. One of the priority items that must be taken care of after a number of years of languishing in a state of neglect is the establishment of a code of conduct that will serve as a guideline for handling the gratefully few cases of misconduct that occur at the law school.

The problem in the past has been that there is a gap between the students' and the faculty's views regarding the role that students should play in

determining whether there has been misconduct and, if so, what action must be taken. As might be expected, the student view has been that we should play a very large role in making these determinations. The result of this failure to reach a common position has been that the document that was worked up a few years back has never been ratified; therefore, it looks like we'll have to take one of two courses: either the S.B.A. will start over with a brand new proposal, or the students and faculty will have to rework the current draft until it's acceptable to both.

(See Back Page)

# Republican Primaries Pick Up Steam

*GOP field continues to ebb and flow*

By Jordan Barbeau



Rick Perry entered the second September debate as the apparent frontrunner less than a month after declaring his candidacy. As if unified in their need to dull his momentum, the field made a target of the longtime Texas Governor. Post-debate opinion varied as to whether it was a win that he didn't commit any major gaffes, or if former Governor of Massachusetts Mitt Romney gained points by not being steamrolled. Romney zeroed in on Perry's record, making pointed attacks on the Texan's platform and past. The two clashed over Social Security, which Governor Perry has vilified as a "ponzi scheme." Romney hammered Perry on this line, a strategy that may already be paying dividends.

A Gallup poll released a week later showed that a third of Independents were less likely to vote for the Texas Governor because of his statements on Social Security. Also worth noting is the additional 30 percent of Independents and 36 percent of Republicans that are undecided as to whether Rick Perry's views on Social Security would impact their likelihood of voting for him. A plurality of both groups answered that they felt the Governor's stance would

hurt his viability in a general election. If the other candidates can convince voters that Perry is on the fringe of an issue deemed the "third rail" of US politics, they may be able to sink the rising star.

However, Rick Perry's strength has never been drawn from the middle. He preceded the announcement of his candidacy with a prayer rally in Houston, drawing tens of thousands of Evangelicals and solidifying his position as the conservative Christian candidate. This unabashed religious fervor has yet to prove detrimental to his support across the party, and could prove effective against Romney's inoffensive but uninspiring candidacy.

Perry's arrival on the scene neutralized Michele Bachmann's pull with the Tea Party wing, and the Minnesota Congresswoman finds herself securely in the second tier alongside Ron Paul, the perennial Libertarian candidate who continues to attract a slice of the GOP with his unambiguous stance on small government, but invariably alienates enough voters to

be relevant. Below Bachman and Paul is Newt Gingrich, though a tenacious and experienced candidate, he has failed to excite voters, and internal campaign troubles have spooked the few that were interested. The remaining candidates find themselves farther out. Rick San-

management and friendliness to business under his stewardship, yet his comfort working across the aisle and pro-science commitment have all but torpedoed Huntsman's primary bid. Unless Sarah Palin makes a late entrance, the fight for the GOP nomination will come down to

the current Governor of Texas and the former Governor of Massachusetts.

Looking at the primary electoral map, it is almost a foregone conclusion that Governor Perry will win Iowa. He has done less damage to Romney's lead in New Hampshire, which the former New England



GRAPHIC COURTESY: JORDAN BARBEAU

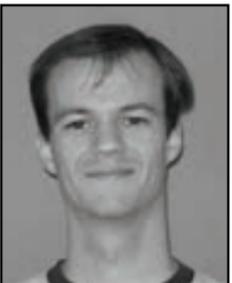
torum could probably not be picked out of a lineup outside of Pennsylvania. Former Utah Governor Jon Huntsman, the recently resigned US Ambassador to China under the present administration and Ambassador to Singapore under the first President Bush, has the most foreign policy experience of the field. Utah was honored best in the nation for fiscal

Governor will win handily. South Carolina, often the "rubber match" state, will likely trend Perry. Florida, however, could go for Romney, especially if the Social Security fears are packaged well for the state's high population of seniors. Romney also remains strong in Nevada, Michigan, and New Jersey, and could stave off an early defeat, leading to an arduous and bloody primary battle.

Governor Perry will indubitably be able to turn out the base in numbers Romney could never hope for – but primary voters may shy away fearing he will not be able to defeat President Obama. Governor Romney has the establishment's support and is considered by many to be the most viable – certainly with the best ability to pull away swing voters and disenchanted moderate Democrats. But his Mormon faith does not play well with the religious right, presently enamored with a comfortably familiar conservative Christian Texas Governor. It may be that Perry's often over-the-top rhetoric has yet to derail his honeymoon with an electorate bored by the rest of the field. If so, he will have to rein himself in soon to preclude a reinvigorated Romney campaign from seizing on the fallout.

## Hope for Change: Can Obama Stem Tide of Voter Frustration?

By Michael Bedolla



Who's the candidate-du-jour for the Republican Party? Is Ron Paul the front runner today, or is it Mitt Romney? Is the Donald still in the mix? What ever happened to Newt Gingrich? And will Sarah Palin ever enter the ring? It seems like by the time the GOP finally gets its act together and nominates its 2012 candidate, Barack Obama will be halfway to his second term.

The reality for Democrats, however, is far more sobering: whoever emerges as the Republican candidate will be a serious threat to capture the White House, simply because the Obama Administration has little accomplishments to point toward in its push to a second term. The economy stubbornly refuses to improve, American withdrawal from Afghanistan is proceeding at a snail's pace, the Patriot Act remains largely intact, and the dream of universal health care – the cornerstone of Obama's 2008 campaign – ended in a fiery crash of partisan bickering. Barring any significant international incident, Obama's re-election campaign is likely to find itself on the defensive as soon as a Republican frontrunner emerges.

While there is no significant danger

that Obama will lose the votes of those on the left, Obama and the Democrat ticket have done nothing to make inroads with those outside his immediate power base. With the GOP no longer handcuffed by the George W. Bush bogeyman, Obama faces the seemingly impossible challenge of dominating independents like he did during the 2008 election. Independent voters during last year's midterm elections have already sent notice that failed stimulus packages and health-care reform are not priorities – jobs are. On the other side of the aisle, the Obama Administration remains unapologetically hostile to the Right and has energized the conservative segments of America into a frenzy. Instead of engaging in any serious dialogue, the Left continues to dismiss and ridicule the growing Tea Party movement as a meaningless coalition of extremists unworthy of consideration.

The only new ground that has been gained in traditionally strong GOP territory – national security – may prove irrelevant. While Obama's national security credentials were strengthened in the daring bin Laden raid in May this year, the simple fact is that it is no longer the 2000s. National security is not the supreme issue that it was during the Bush-Kerry showdown. We no longer get color-coded warnings from the Department of Homeland Security and the fictional heroics of Jack Bauer protecting America from terrorism are now

considered passé. Without another 9/11-type terrorist strike, Obama's commitment to domestic security may mean nothing come Election Day.

Obama faces one of the greatest challenges an incumbent president can face: a re-election campaign in the midst of a downtrodden economy. If recent history has taught us anything, Obama's campaign will be walking 2012 in the footsteps of Jimmy Carter, circa 1980. Like Obama, Carter rode into power on the wings of change: a political outsider who could clean-up corrupt Washington politics. Within four years, America had become tired of "stagflation" and Carter's ineffectual leadership, and voters responded by catapulting a charismatic Ronald Reagan into office.

While the Republicans may not have the equivalent of a budding Reagan in their ranks, Obama and the rest of the Democrat Party still need to mobilize quickly if they intend to occupy the White House for four more years. Whichever Republican candidate finally emerges from the political grinder of primary season, he or she will have a vast reservoir of voter frustration to tap. Unless Obama can start producing tangible and constructive results, America will believe in a new sort of change – one that doesn't include him.

### Write on Anything!

*The Advocate* welcomes comments, articles and letters from the students, professors and law school community in general. We particularly encourage organizations to use *The Advocate* as a format to keep the student body informed on their activities.

The editors reserve the right to refrain from publishing any contributions. Artists, cartoonists, poets and photographers are also invited to contribute. If you know what you want to write, send an email to [scuadvocate@gmail.com](mailto:scuadvocate@gmail.com). Deadlines are generally three weeks from the issue date of the last

*Advocate*

# Lockout Threatens Regular Season

*NBA follows NFL's wake with more legal disputes*

By Barrett Bisignano

Can the Dallas Mavericks defend their title in 2012? It could happen without the Mavs ever taking the court.



The last chance for the player's union and the owners to negotiate a new collective bargaining agreement that salvages a full 72 game season passed as the calendar flipped to October. The regular season is scheduled to tip off on November 1, but the logistics of bridging the gap from lockout to tip off requires at least a month. Half of that time spent hammering out the fine print of the new CBA, and the other half declaring open season for the free agent signing period. Not to mention teams trying to get their new rosters on the same page before meaningful games.

As of the end of September, progress is nonexistent with each side flexing its "united front" muscles to try and gain some leverage for negotiations through the media. This never works. It just fills the ESPN.com front page with articles none of us ever read. Let's get into the good stuff.

The NBA lockout is entirely different from the NFL lockout that wrapped up just in time to save the season. The NFL lockout was like two people in a cash grab box taking cheap shots to get a bigger fistful of money. The NBA lockout is the result of a disagreement over how to save a league that's bleeding money. No revenue sharing between franchises, a soft salary cap, and the trend of more guaranteed money are the main culprits.

The players possess unprecedented leverage for a professional player's union. Remember the Dream Team? MJ, Malone, Magic, Barkley, Ewing, Bird, and company brought basketball to the international stage. Since then professional leagues all over Europe and Asia have established a global market producing international teams capable of embarrassing the Dream Team's suc-

cessors. Losing dominance over the international game was a foreseeable risk, and worth the shift in power.

Unfortunately it may be the ultimate Achilles' heel for the owners in this year's lockout. Unlike the NFL, NBA players have alternative markets in which to offer their services without necessarily taking a pay cut. Spain, Italy, Russia, and China boast leagues that are willing to shell out cash to sign the NBA's brightest stars. This could force the owners to reevaluate their position in negotiations by submitting to a revenue sharing plan that will save the smaller market teams without slashing salaries league-wide. Will the players hold out and follow through on the threat to go abroad?

With no progress in negotiations, the owners seem to be calling the union's bluff. How many players can truly continue to live without a paycheck? All of them, apparently. Kobe Bryant has offered to provide loans to players in an effort to keep the players afloat financially if the lockout extends into November. High-risk loans be damned, player unity is critical to maintain bargaining power.

At this point, both sides show no signs of giving up any ground. The worst case scenario looms ahead if negotiations continue to fail. Decertification will be the alternative, followed by an antitrust cause of action filed by the players against the league and owners. Eventually, someone will come out on the top, but at what cost to the NBA brand?

Everyone loses in the short term if the lockout continues. Players have to find new jobs. Owners can't sell tickets and will lose fans to baseball, football, and dare I say hockey. Unfortunately, the fans are the worst off. Do you get channels that cover international basketball leagues? Me neither. Also, contrary to popular belief, college basketball has a regular season. Fans are forced pay attention before March Madness. If I have to watch more than the Tobacco Road rivalry or conference tournaments, I will recover. Worst of all, my friends are belittled by the glory of 2011 NBA World Champion Dallas Mavericks and their number one fan, that is me.

# SCU Law Hosts Sports Symposium

*Second annual symposium attended by many big name players and Associations*

By Marty Kopp

Santa Clara University School of Law hosted a sports symposium for the second year in a row. As an attendee of both years, the



main difference between the two was the inclusion of the Santa Clara Sports Symposium Proceedings Publication. The added publication included seven articles by speakers and edited by students and provided a welcome dimension to the event.

As an editor for the publication, I know firsthand the obstacles we experienced in getting this publication off the ground. Initially, we faced the difficult questions one might expect in getting a publication off the ground at a law school. It was a shock when we



PHOTO COURTESY: LAW.SCU.EDU

heard that Santa Clara would not help sponsor us. The university informed our editor-in-chief that they did not want to build upon the symposium's success with the establishment of another academic journal because it would dilute the talent pool for other publications. Fortunately, the symposium and publication had the support of Professor Katz. The driving force behind the symposium, he took it upon himself to fundraise and find backing for the first sports publication west of the Mississippi when the university declined to fund the journal. His investment and belief in the journal proved to be well placed, as the use of the journal to grab speakers helped to build upon the strong inaugural year. This year headline speakers included football hall of famer Jim Brown (a

client of Katz), former National Labor Relations Board chairman Bill Gould, the current Executive Director of the National Football League Players Association (NFLPA) DeMaurice Smith, and Sonny Vaccaro of Michael Jordan endorsement fame.

Professor Katz's hard work and reputation in the sports/legal community helped to galvanize supporters, creating a marketing monster for Santa Clara University. The Associated Press was in attendance, and soon after they published their story, many news outlets had picked up and republished different iterations of the original story.

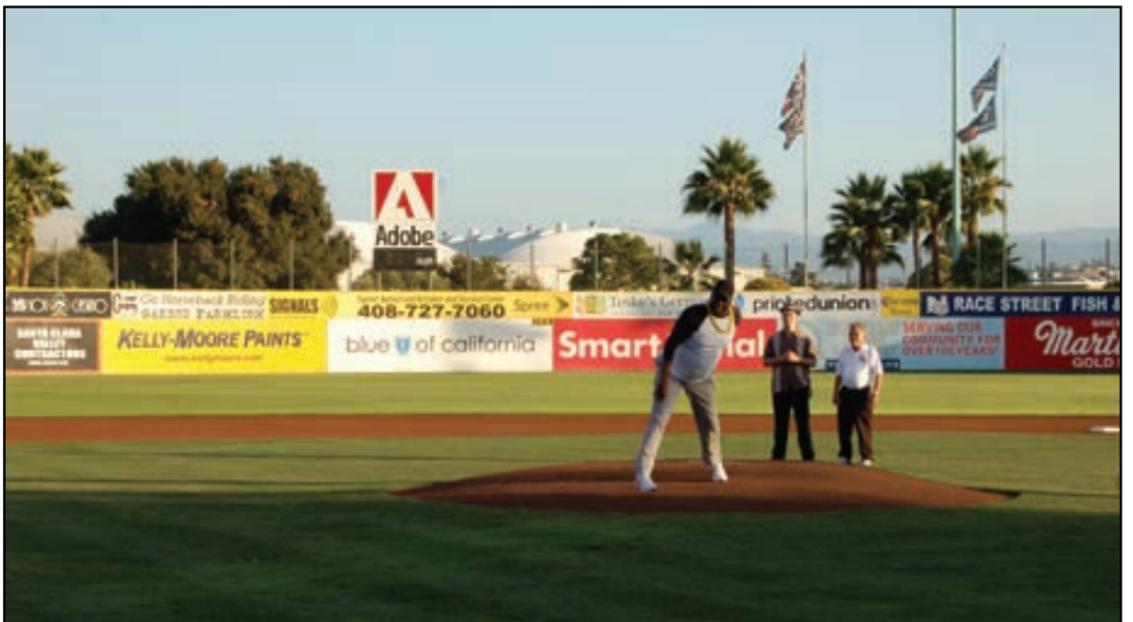
Overall, the symposium provided a very current, insightful look at an all-encompassing area of law. It is something

that Santa Clara should build upon, should entwine its reputation with; it certainly cannot hurt our rankings. There are

only more opportunities for the university to expand on the success of the event. Adding an annual moot court competition that Santa Clara could really own, could use to promote our intellectual property muscle, is one such opportunity. The visiting professional attendees could serve as judges and the community involvement with other schools would help the symposium's already growing popularity.

Throughout the entire process, the proudest moment for all the work that the editors put into the publication and organizing the event came when looking up at the television in The Hut while celebrating the conclusion of the event. Who was on ESPN? DeMaurice Smith. The background? Beautiful Santa Clara University.

|   |   |   |   |   |   |
|---|---|---|---|---|---|
|   | 4 |   | 7 | 9 | 2 |
|   | 5 |   | 6 | 4 | 3 |
| 1 |   |   |   |   | 6 |
|   |   |   | 1 | 7 |   |
| 7 |   | 8 | 9 |   | 6 |
|   | 2 | 4 |   |   |   |
| 9 |   |   |   |   | 4 |
| 7 | 5 | 9 |   |   | 8 |
| 2 | 3 | 6 |   |   | 7 |



Santa Clara University School of Law's Carl the Librarian throws out the first pitch for the San Jose Giants on August 19, 2011.

PHOTO BY: SUSAN ERWIN