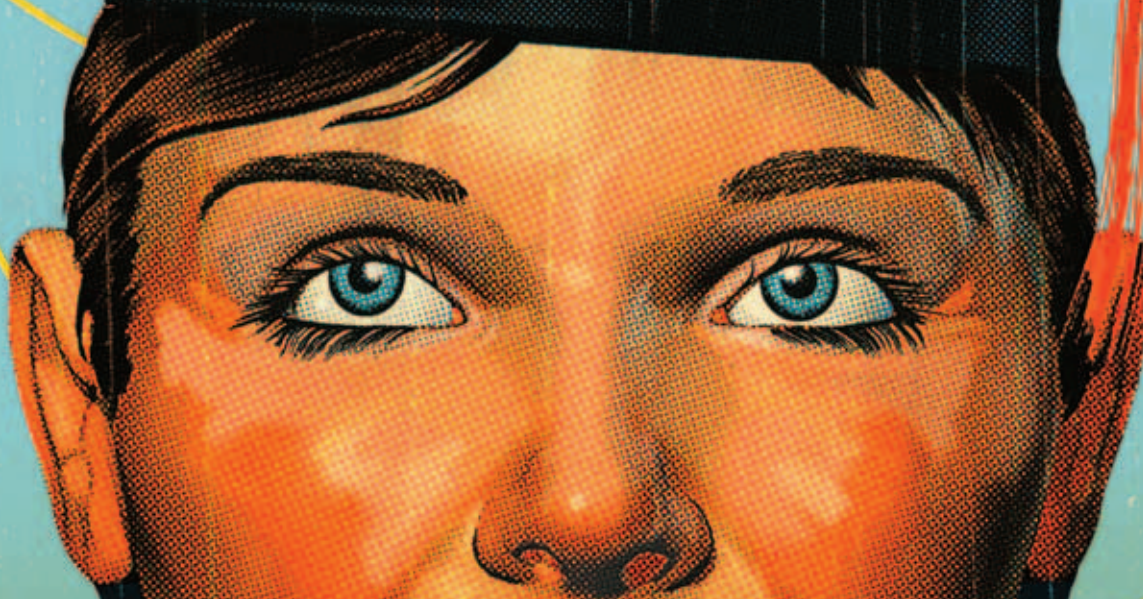


Carol Lam '85 on Life After the DOJ
ReputationDefender: A 1L Makes Time for a Startup

STANFORD LAWYER

AT THE TIPPING
POINT

TODAY'S
CHANGING BUSINESS
OF LAW



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STANFORD LAWYER
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From the Dean

BY LARRY KRAMER

Richard E. Lang Professor of Law and Dean



MOST DEANS (INCLUDING THIS ONE) USE THESE INTRODUCTORY LETTERS TO PRIME READERS FOR ACHIEVEMENTS CELEBRATED IN THE PAGES THAT FOLLOW. The object is less to challenge than to instill a sense of anticipation and pride. This letter is different. The focus of this issue is the state of our profession. And that is a worrisome topic. • I have occasionally remarked, though only in small settings before today, that the state of the legal profession brings to mind Rome, circa A.D. 300. On the surface, it looks grander and more magnificent than ever, but the foundation may be about to collapse. It's meant to be a joke. But the uneasy laugh this comment invariably elicits suggests that it may be closer to the mark than any of us wishes. • Certainly our profession has changed profoundly in the past generation. The basic structure still looks the same: Most lawyers practice in firms, most firms are partnerships with cadres of associates, most work is performed for hourly fees, and so on. Yet it's the traditional model on steroids: Big firms employ thousands rather than hundreds of lawyers, with offices around the world. Partner/associate ratios have changed dramatically, particularly if we focus on equity partners, while legal work has become increasingly specialized and expectations for billable hours have soared. • Such changes have consequences. Clients, especially corporate clients, are less willing simply to pay what firms charge and much less willing to subsidize the training of young associates. Technology has exacerbated this trend, enabling clients to do for themselves things they used to need from outside counsel. Making a practice profitable has increased demand for lawyers to bill hours, which has, in turn, forced firms to raise salaries, which has further increased the need to bill hours. Partly as a result, new associates seldom join firms intending to stay for more than a few years. Lateral hiring has exploded, undermining the culture and sense of community of many firms. And factors like these have stymied or undone progress that was just beginning to be made in advancing women and minorities into the top ranks of legal practice. • Twenty years ago, most lawyers would have scoffed at the idea that profitability, much less profits-per-partner, should be the measure of success and prestige. Yet that is where we are. Law firms are run like businesses by managing partners and committees whose time is almost wholly occupied with, well, managing. And competition is fierce: to be bigger, pay more, bill more hours, and open more offices. To be more profitable.

Does anyone actually want this? The lawyers, managing partners, and general counsels I meet are deeply concerned about what's happening. Yet they feel unable to stop it, powerless to resist the stifling market forces that drive their decisions. And for good reason, because the problems are complex and exist at every level. Students say they want a better work/life balance, yet invariably choose the firm that ranks highest in *The American Lawyer's* list of the top 100 law firms. Having spent their lives learning to collect gold stars, they apparently find it impossible to stop—something we (that is, law schools) make easy by forcing most of them to graduate with a mountain of debt. Law firms say they want young associates to do pro bono work, and they mean it. But the insidious pressure to increase profitability by billing hours remains. And on and on. No one can be blamed when everyone is to blame.

I have no answer to this. Not yet at least. We need to understand the issues much better than we do now. We need to develop alternative ways to practice law and to structure a legal practice. And we need to take chances, like the ones we are taking within the law school by restructuring our curriculum, re-envisioning interdisciplinary education, creating new forms of clinical education, and redoubling our efforts to teach students the value of public service.

Certainly Stanford Law has a role to play. It's our responsibility to educate students about the nature of their profession and to reinforce their desire for a rich personal and professional life that lets them use their skills for the betterment of society. We must bring scholarly resources to bear on developing solutions and help the various stakeholders talk productively. Among my hopes for the coming years is to develop a program in "the business of law" through which we can begin to discharge these responsibilities. For now, we must wake up to what is happening and muster our will to secure the future of our profession, preserving the qualities that attracted so many of us to the study of law in the first place.

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Cover illustration by
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REUBEN JEFFERY APPOINTED UNDER SECRETARY OF STATE

ON JUNE 27, REUBEN JEFFERY III, JD/MBA '80, WAS SWORN IN BY CONDOLEEZZA RICE AS THE DEPARTMENT OF STATE'S new under secretary of state for economic, energy and agricultural affairs. In addition to advising Secretary Rice on international economic policy, Jeffery directs the department on such issues as trade, agriculture, aviation, and bilateral relations with American economic partners.

"I can tell you that strong, technically proficient, fair and transparent governing institutions such as regulatory agencies keep the business sector in line," remarked Jeffery in his first speech in his new role—a talk on energy security, financial stability, transparency, the investment climate, trade, and the G8 delivered at the American Chamber of Commerce in Russia. "They also encourage investment, because they help ensure investors understand where they are putting their money."

Jeffery ought to know: He was previously the chairman of the Commodity Futures Trading Commission and also spent 18

years at Goldman, Sachs & Co., where he specialized in international capital markets and corporate finance. Along the way, Jeffery coordinated the federal efforts to redevelop Lower Manhattan after September 11, 2001, and served in senior positions at the Department of Defense and the National Security Council.

"Around the world we see that people are striving for a better future," says Jeffery when asked about the opportunity before him. "We have to steer a course that brings economic opportunity to the developing world, while also promoting continued economic growth and job creation in developed economies. Trade agreements, promoting energy security, and working with partner countries to improve the business climate serve these goals."



REUBEN JEFFERY
JD/MBA '80

WATSON'S "CONVERSATIONS" AIR ON NBC STATIONS

If you were flipping channels this September, chances are you spotted Carlos Watson '95. New episodes of the former CNN host's interview special, "Conversations with Carlos Watson," aired on NBC stations across the country, with scheduled guests including singer John Legend, actress Eva Longoria, and California Governor Arnold Schwarzenegger. Singled out by *Variety* as "a younger, hipper, broader interview show," the program is produced by Watson's new company, Run Rabbit Run Productions. "I wanted to move beyond the traditional interview format and speak with people in a conversational way, not just interview them," says Watson.



R I E F

Cho Awarded Soros Fellowship for New Americans

Eunice Cho '09 has won The Paul & Daisy Soros Fellowship for New Americans. Established to provide educational opportunities to naturalized citizens, children of naturalized citizens, and resident aliens, the fellowship supports up to two years of graduate study in the United States. One of 30 fellows selected from a pool of 809, Cho was born in Urbana, Illinois, to Korean parents who are naturalized U.S. citizens. After graduating magna cum laude and with distinction from Yale University in 2000, Cho worked extensively in the immigrant rights' movement for six years including co-organizing the U.S. migrant rights' delegation to the 2001 United Nations World Conference Against Racism in South Africa and serving as education director of the National Network for Immigrant and Refugee Rights. She has continued this focus at Stanford Law School, working on cases for the Immigrants' Rights Clinic and the ACLU Immigrants' Rights Project. Cho describes herself as "floored by the generosity and commitment of the fellowship."

Stanford Law Dramatically Expands Joint Degree Offerings

Recognizing that lawyers must be versed in multiple disciplines to better solve today's complex legal problems, Stanford Law School has added 11 new joint degree programs to its roster, bringing to 25 the number of formal joint degrees students can seek under the auspices of 18 formal joint degree programs. Joint degrees allow law students to take advantage of the unparalleled number of internationally top-rated graduate programs at Stanford University. Students interested in environmental litigation, for instance, can complement their JD with an MS in environment and resources. Likewise, aspiring patent lawyers can deepen their expertise with an MS or PhD in bioengineering or management science and engineering.

"Our students should take courses outside the law school in order to develop the broad intellectual capital they need to practice law in the world today," says Larry Kramer, Richard E. Lang Professor of Law and Dean. "With our joint degrees and ability to offer students courses in other parts of the university, we can graduate students who think like lawyers and who have additionally valuable skills and analytical abilities that are applicable to modern legal practice and public service."

Other joint degree programs open to Stanford Law students include business; economics; education; health research and policy; history; international, comparative and area studies (African; East Asian; international policy; Latin American; Russian, East European and Eurasian); philosophy; political science; psychology; public policy; and sociology. Students also have the option to customize a joint degree program with other graduate departments at Stanford or any other university. And for students who do not wish to pursue a joint degree, they have broad access to Stanford University courses that offer diverse learning opportunities outside of the law.

"For our students, the task is simple: Figure out what you want to do—based on your academic or career goals—and we'll help you make it happen," says Jeff Strnad, Charles A. Beardsley Professor of Law, who oversees the law school's joint degree programs.



SLS Social Security Disability Project Established

SLS STUDENTS NOW HAVE AN OPPORTUNITY TO DO in-house pro bono work, thanks to the Stanford Law School Social Security Disability Project launched this fall by the John and Terry Levin Center for Public Service and Public Interest Law. Providing legal services to indigent clients with Social Security disability claims, the project is directed by Lisa Douglass (BA '93, MA '94), a public interest attorney who joined the law school in April. The project is aimed at residents and day clients of the Opportunity Center of the Midpeninsula, a Palo Alto facility that provides housing and services for the homeless.

"The opening of the Opportunity Center in Palo Alto last year highlighted the large numbers of disabled homeless people who are right on the doorsteps of the law school and in need of legal representation for their SSI appeals," says Douglass.

Under Douglass's supervision, students and volunteer attorneys will conduct detailed intake interviews, represent clients at administrative review hearings before the Social Security Administration and in appeals to the Federal District Court, and lead community outreach efforts. The focus will be on individuals who face denials of their Social Security Disability claims, termination of previously approved Social Security Disability benefits, or claims to collect overpayments by the Social Security Administration.

"This project will help implement our goal of encouraging students, no matter their ultimate career path, to take on pro bono work while at law school and beyond," says Lawrence C. Marshall, the David and Stephanie Mills Director of Clinical Education and associate dean for public interest and clinical education.



LISA DOUGLASS
(BA '93, MA '94)

LEVIN CENTER NAMES NEW EXECUTIVE DIRECTOR

SUSAN J. FEATHERS is passionate about public service. • The new executive director of the John and Terry Levin Center for Public Service and Public Interest Law, Feathers comes to Stanford after directing the University of Pennsylvania Law School's public service program for nine years. While there she oversaw the school's pro bono requirement—an effort that earned Penn Law an ABA Pro Bono Publico Award and inspired Feathers's recent publication, *Pedagogy of Service: The Impact of Mandatory Pro Bono on Post-Graduation Career Choices*. Feathers has also taught and practiced human rights law, most recently serving as co-counsel on a lawsuit brought on behalf of Abu Ghraib



SUSAN J. FEATHERS

detainees. Additionally, she is executive board member of several organizations including the American Civil Liberties Union of Pennsylvania and Community Legal Services of Philadelphia. • "I am honored to join the Stanford Law community," says Feathers. "Stanford's deep and abiding philosophical and financial commitment to clinical legal education, pro bono, and public interest careers makes it a new frontier for legal education." • The Levin Center was established earlier this year to give focus to and provide a platform for expanding Stanford Law's longstanding commitment to public service and public interest law. Growth plans for the 2007-2008 academic year include an in-house pro bono project focused on Social Security Disability [see above], a Public Interest Awareness Week, a faculty speaker series, a mentor-in-residence program, and training for pro bono supervisors. In February, the Levin Center will co-sponsor a symposium, *Education as a Civil Right*. • "We are thrilled to have Susan Feathers, whose work has had far-reaching influence in the public interest legal community, lead the Levin Center into a new era of activity," says Larry Kramer, Richard E. Lang Professor of Law and Dean.

Stanford Governance Experts Turn Spotlight on Pension Reform

Institutional investors wield tremendous influence over the management of publicly owned corporations. But they haven't always been as vigilant at self-governance.

This "do as I say, not as I do" dilemma was the focus of the Stanford Institutional Investors' Forum (SIIF), hosted by Stanford Law, that in June released new standards for managing pension, endowment, and charitable funds. The best practice principles, also known as the Clapman Report, attempt to address serious governance lapses that range from fraudulent investment reporting to conflicts of interest between trustees and consultants.

The SIIF Committee on Fund Governance includes some of the biggest names in institutional investing, including committee chairman Peter Clapman, former chief investment counsel of TIAA-CREF; Joseph Grundfest '78, W. A. Franke Professor of Law and Business and a faculty director of the Rock Center for Corporate Governance; and Richard H. Koppes, of counsel at Jones Day and former deputy executive officer and general counsel, California Public Employees' Retirement System.

"In the same way discussions about corporate governance 10 years ago eventually led to it becoming a top management priority, the Clapman Report is part of a new and important conversation taking place among institutional investors," says Grundfest.

Following the report, which is publicly available at www.law.stanford.edu/clapmanreport, the Clapman committee will launch a series of webcasts exploring governance issues.

NEW YOUTH PROGRAM AIMS TO INCREASE NUMBER OF MINORITY LAWYERS

IF MEMBERS OF THE LEGAL PROFESSION ARE SERIOUS ABOUT BOOSTING THE NUMBER OF MINORITY LAWYERS IN ITS RANKS, they need to start early, says Sonya Sanchez '06, an associate at Farella Braun + Martel in San Francisco. • “There are leaks in the education pipeline that mean fewer underrepresented minorities at each level of education,” she says. “It gets worse as you go further along.” According to the American Bar Association, minorities account for only 9.7 percent of lawyers in the United States, even though they make up 24.9 percent of the population. • With this sobering data in mind Sanchez launched the Farella Braun + Martel High School Law Clerk Program, held over six weeks during the summer, that offers five minority students from the San Francisco Unified School District a chance to explore working in the law. The program aims “to encourage them to think that they’re capable of going to law school,” says Sanchez. It combines paid work—completing administrative tasks in the paralegal, library, and recruiting departments—with educational opportunities that include Friday lunch meetings with firm attorneys to discuss practice areas and interesting cases; college application seminars; and a financial aid workshop for students and parents.



Directors' College 2007 Examines Changing Governance Landscape

THE WAVE OF CORPORATE ACCOUNTING SCANDALS MAY HAVE SUBSIDED, BUT ITS EFFECTS WERE STILL BEING DEBATED AT THIS YEAR'S DIRECTORS' COLLEGE, WHICH DREW NEARLY 400 CORPORATE DIRECTORS AND CEOS to the law school last June for two days of talks and sessions examining governance issues. • With characteristic wit, Berkshire Hathaway Vice Chairman Charles Munger focused much of his annual breakfast speech on the “simply awesome” amount of accounting fraud in the past decade—noting, however, reforms that followed scandals like Enron and WorldCom had some positive effects. • “I think Sarbanes-Oxley has done more good than harm,” he said, then adding the caveat: “It’s like shooting an elephant with a pea shooter.” • The co-sponsor of the act, former Congressman Michael Oxley (R-Ohio), also weighed in. During his keynote speech, he cited recent polls showing investor confidence levels at a five-year high and the overall strength of the economy as indicators that Sarbanes-Oxley has achieved its goal of re-establishing investor confidence in markets. • “Of course there’s been overreaction [to the law],” he said. “I would argue that the overreaction has come from the regulators and implementers rather than the law itself.” • One such regulator, Linda Chatman Thomsen, director of the SEC’s Division of Enforcement, responded to criticism that Sarbanes-Oxley requirements and excessive securities regulation are hurting American competitiveness in the global marketplace by pointing to a vintage *Fortune* article offering the exact same condemnation about the Securities Act of 1933. • “The predictions of disaster made in the *Fortune* article nearly 75 years ago are eerily similar to the recent reports’ dire predictions about the effects of Sarbanes-Oxley and the purported doom of the U.S. capital markets,” she said. “But the sky was not falling in 1933, and it is not falling now.” • Other speakers included Delaware Supreme Court Justice Jack B. Jacobs, who spoke about new director and shareholder paradigms and how these shifts are beginning to be reflected in case law, and former HP Chairman Patricia Dunn, whose talk surveyed the complex relationship between public pension funds and corporations. Now in its 13th year at Stanford Law, Directors’ College (directorscollege.com) has become the premier program for director education in the country.

I N B R I E F

GEORGE FISHER WINS HURLBUT AWARD

"THANK YOU ALL FOR YOUR INVITATION TO SPEAK TODAY. I was touched and honored to be asked. It is a teacher's highest privilege to address a class as it stands on the world's doorstep." • With that George Fisher delivered his address to the Class of 2007. The Judge John Crown Professor of Law and recipient of this year's John Bingham Hurlbut Award for Excellence in Teaching, Fisher shared with the assembled graduates the benefit of his experience, much of it gained during his tenure as a Massachusetts prosecutor. He joined the Stanford Law School faculty in 1995 and now teaches *Evidence* and directs the law school's Criminal Prosecution Clinic. • Class co-president Sarah Gilbert '07 bestowed the Hurlbut award, which is chosen by a vote of the graduating class. This is the third for Fisher, who received the honor in 1999 and 2003. • In his speech, Fisher told of a time early in his career when he succumbed to pressure to drop a case he felt he could win. "My worst memories of practice are of those days my nerve failed," he said. • "Not long from now, you'll face choices that test your nerve. And you will learn as I did that one option you never will have is not to decide." • He urged graduates who face tough decisions "to walk a few steps down the road and look back at yourselves. Don't leave yourselves wishing as I did that your nerve had held." • Fisher said, "You will be rookies. You may have cheap desks in bad offices; you may spend your days doing document review. You may have six levels of hierarchy over your heads. But still it will be true, beginning with the first decision you make, that every decision you make will be your own."



Professor George Fisher
delivering his keynote speech



Graduation 2007

TOP LEFT: Dean Larry Kramer at the ceremony

TOP RIGHT: Class co-president Bret Logue '07 (BA '99), who was chosen to speak by vote of his peers, announced that the Class of 2007 raised \$77,000 for the class gift.

BOTTOM RIGHT: Associate Dean for Student Affairs Catherine Glaze '85 (BA '80) is presented with the Staff Appreciation Award by class co-president Sarah Gilbert '07.

BOTTOM LEFT: Thomas C. Grey (BA '63), Nelson Bowman Sweitzer and Marie B. Sweitzer Professor of Law (emeritus), is thanked for his 36 years of service to the law school.



MAKING TIME FOR GOVERNMENT SERVICE: MICHAEL KAHN

W

hen California Governor Gray Davis asked Michael Kahn if he'd like to chair the state's electricity oversight board, it sounded like an interesting volunteer opportunity—but not a particularly daunting one. “I took over in January 2000, and it was very sleepy,” recalls Kahn ’73 (MA ’73). “Everybody said there was a surplus of electricity. Everybody said we were going to be fine. Four months later, the roof fell in.” • A senior partner at Folger Levin & Kahn in San Francisco, he has had an exceptionally successful career as an attorney handling high-profile cases involving federal and state court proceedings. But Kahn also makes time for public service, something he considers a professional and personal obligation. And, in his spare time, he is an avid collector of political cartoons and recently published his second book of key works from his collection. • Kahn was hardly a stranger to the idea of public service. As a young lawyer, he worked pro bono for San Francisco's Legal Aid Society and helped formulate the Northern California district court's innovative alternative dispute resolution program. He has chaired state-level task forces on environmental insurance and unfair insurance business practices and just finished an eight-year term with the California Commission on Judicial Performance, which he also chaired. • “Right from the beginning, it just struck me that public service was something that a lawyer ought to do,” he explains. “I never really thought about it. It was just second nature.” • Working with the head of the state Public Utilities Commission, Kahn immediately prepared a report for Davis analyzing what had gone wrong with deregulation and offering possible solutions. Impressed by what he read, Davis tapped Kahn to head the newly minted California Green Energy Team, charged with streamlining state regulatory processes that had hindered power plant construction. Kahn went on to chair the California ISO (Independent System Operator) board of governors. “The more I learned, the more I became part of the governor's apparatus to deal with this incredible crisis,” Kahn marvels. “I talked to people at the White House. I negotiated with the utilities. I spoke to the press when I had to. It was really an interesting process.” • Democrats apparently weren't the only people impressed with Kahn's work. After Davis's recall in 2003, Kahn went to Governor Arnold Schwarzenegger's

office and offered to step down as chair of the ISO board. To his surprise, he was asked to stay on another 15 months and finish his term.

Politics and Cartoons

Kahn also makes time to pursue another of his passions: collecting political cartoons.

He is the author of the recently published *Political Cartoons and Caricatures from the Collection of Michael Alexander Kahn*, which describes 80 historically significant political cartoons and caricatures. The book, which catalogs items that were exhibited at the Grolier Club in New York last spring, is Kahn's second published collection. In 2005 he co-authored, with H.L. Polhman, *May It Amuse the Court: Editorial Cartoons of the Supreme Court and Constitution*, an assemblage of cartoons that appeared previously in *Harper's Weekly*, *Vanity Fair*, and elsewhere.

But these various interests and activities are connected. Kahn believes that his cartoon collection helps him keep his political and public service activities in proper perspective.



“The cartoons are a warning that people shouldn't take themselves or the situations they're dealing with too seriously,” he says. **SL**

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CLERKING AT THE SUPREME COURT

By **Randee Fenner (BA '75)**
Lecturer, Stanford Law School

W

hen Sandra Day O'Connor '52 (BA '50) WAS APPOINTED TO THE UNITED STATES SUPREME COURT, SHE FAMOUSLY REMARKED THAT IT WAS "LIKE BEING STRUCK BY LIGHTNING." • For those Stanford Law School graduates who are selected to clerk for a U.S. Supreme Court justice, the moment they learn of their good fortune is similarly electrifying. And no wonder. Each year more than 1,000 applications are submitted to the Supreme Court for only 35 spots. • The position dates back to the late 1800's when a Harvard Law School graduate was hired as a legal assistant to the Court each year. But as Stanford Law School gained in prominence, so too did the success of its graduates in securing a clerkship. Stanford Law School records date back to 1949 when Warren Christopher '49 clerked for Justice William Douglas. And many have followed in his footsteps—from Marshall Small '51 (BA '49) to Alan Austin '74 to Buzz Thompson JD/MBA '76 (BA '72) to Susan Creighton '84. And, of course, one famed former clerk rose to Chief Justice—the Honorable William Rehnquist '52 (BA '48, MA '48), who clerked for Justice Robert H. Jackson. Today, approximately 110 Stanford Law School alumni count themselves as former Supreme Court clerks. • Despite the prestige of these positions, details about Supreme Court clerkships remain cloudy, much like details about the Court itself. Still, some light can be shed on the experience, thanks to a number of Stanford Law alumni who have served as Supreme Court clerks and who shared a few of their recollections with *Stanford Lawyer*.

The application process for a Supreme Court clerkship is similar to that for any clerkship, assuming one has garnered the stellar grades and extracurricular activities that are de rigueur for such a position. It is customary to apply to all the justices, according to Ben Horwich '03, who had the unusual experience of clerking in the 2005–2006 term for Justice O'Connor and for Justice Samuel Alito following O'Connor's retirement.

"I think," Horwich recalls, smiling, "apart from being customary and respectful, applying to all the justices had the added benefit of allowing you to answer 'yes' to Justice O'Connor's inevitable question, 'Did you apply to all the justices?' She was very concerned that applicants treat the process and the justices with that sort of evenhanded respect."

Once the applications are in, the waiting begins. Some are lucky enough to be granted an interview and then offered the position while their graduation gowns are still warm. Class of 2007 graduates Jameson Jones, David Thompson, and Lindsey Powell have already heard that they will be clerking at the Court in the 2008–2009 term: Jones and Thompson for Justice Antonin Scalia and Powell for Justice John Paul Stevens.

Others must wait a little longer. Chris Walker '06 applied to all the justices in 2006 and didn't get an interview.

"Then, out of the blue I got a call to interview with Justice Kennedy for the following term, months before I thought the interview cycle would begin," says Walker. He interviewed in April and got an offer a couple of days later for the 2008–2009 term.

Hearing the news that one has been selected for an interview kicks the process into high gear, especially for those who will meet with one of the more demanding justices, such as Justice Scalia. According to one alum who prefers to remain anonymous, the justice likes to meet with a candidate first for a 20- to 30-minute informal chat, which is relaxed and gives him a feel for his potential clerk's personality and legal reasoning.

Then it's time for the infamous "Scalia clerk grilling," which has been compared by some to an oral final, the topic being "law, all of it." The Scalia clerks enjoy having a spirited tag-team debate with the candidate, covering everything from statutory interpretation to *stare decisis* to the background of the Constitution.

Walker also underwent a "clerk grilling" before interviewing with Justice Kennedy—but it didn't dim his memory of that first meeting. "We talked substantively and personally, and it was an incredible experience. Justice Kennedy is such a kind and caring person and the interview was inspiring."

A phone call from the justice

extending the offer is next. Kelly Klaus '92, who clerked for Justice Kennedy in the 1995–1996 term, says he's sure receiving the call felt much better than being hit by lightning. Eric Feigin '05, who is clerking for Justice Stephen Breyer (BA '59) in the 2007–2008 term, says that receiving the call "was kind of surreal and definitely took a while to sink in." David Cooper '04, who clerked for Justice Kennedy in the 2005–2006 term, says he felt a little stunned: "Not quite struck by lightning, more like a big shot of static electricity."

Strict rules of confidentiality prevent the clerks from sharing much detail about their actual work at the Court. In general, however, there are three main aspects to the job, according to

Cooper—reviewing petitions for certiorari and writing memos for the "cert pool"; writing bench memos on pending cases and discussing cases with the justice; and assisting in drafting opinions.

As for the subjective experience, Horwich says, "In a way, it's this amazing thing to be advising the top judges in our country on the biggest legal issues there are." He adds, however, "On another level, it is just your job. And at the end of it all, you are only there for a year and then you move on. You are just a small part of it all."

Still, clerking at the Court has unquestionably been a highlight of these alums' legal careers. Klaus says, "It was the most rewarding professional

experience I've ever had. I loved every minute of it." And Joshua Lipshutz '05, who clerked for Justice Scalia in the 2006–2007 term, notes that it exceeded even his highest expectations.

Clerking has some more tangible benefits as well. There are, for example, those \$250,000 signing bonuses recently reported by *The New York Times*, which clerks receive when hired by certain law firms. And most former clerks report experiencing a "halo effect," a feeling that they are accorded instant intellectual respect and given better opportunities—or the opportunities come sooner—than they otherwise would. Klaus agrees but adds a cautionary note: "It certainly is a powerful door-opening credential. What you do after you walk in the door, of course, has nothing to do with that clerkship or any other."

But can anything really compare with clerking for the Supreme Court? Julian Davis Mortenson '02, who clerked for Justice David Souter in the 2003–2004 term, says, "It was an amazing time, but you move on and start looking to contribute in new ways." Klaus and Horwich echo that sentiment, both doubting that clerking would stay as interesting and challenging over the long haul as practicing law.

In contrast, Thompson and Michelle Friedland '00 (BS '94), who clerked for Justice O'Connor in the 2001–2002 term, say they can't imagine anything more exhilarating than clerking at the Supreme Court—other than perhaps actually being a Supreme Court justice.

Such an outcome for any of these clerks certainly would not be all that shocking. **SL**



RECENT SLS SUPREME COURT
CLERKS INCLUDE MICHAEL MONGAN '06
(BA '01) (JUSTICE SOUTER, 07/08), ERIC
FEIGIN '05 (JUSTICE BREYER, 07/08),
RACHEL KOVNER '06 (JUSTICE
SCALIA, 07/08), JOSHUA LIPSHUTZ '05
(JUSTICE SCALIA, 06/07).



REMEMBERING A CROSS-COUNTRY JOURNEY TO LAW SCHOOL

By Sharon Driscoll

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ear Faye, We just arrived in

Iowa City and wanted to give you an update. • So began the summer of 1997 e-mail correspondence to Faye Deal, associate dean of admissions and financial aid, from four newly admitted members of the class of 2000 on a cross-country journey to Stanford Law School. They were four strangers with the same mission: to move themselves and their belongings to school. Packed tightly into a Jeep Cherokee and a 24-foot diesel truck, they took a chance and shared the ride. • It has been 10 years since their trip and time has marched on for the group. Brian Johnson now directs the California Water Project for Trout Unlimited; Mel Schwing is an attorney at O'Melveny & Myers LLP; Mike Strauss is an attorney with the International Monetary Fund; and Lisa Horwitz is a litigator with Manatt, Phelps & Phillips. Today they remember the trip fondly, agreeing that it was not only a great way to make friends before the start of studies but also a foreshadowing of the close-knit community that awaited them at Stanford. • It was a technological chance encounter that started it all. E-mail was still a new communications tool in 1997 and through a series of mishaps newly admitted students were given each other's e-mail addresses. Conversations ensued and the road trip group was formed. • "Mel, Brian, and I met once before the trip. We had been e-mailing about arrangements. I was going to D.C. anyway and they lived there, so we met. My goal was to make sure they weren't serial killers," recalls Lisa.

Day 1: Our troubles began when Brian arrived to pick up the truck from Ryder. They did not have the truck we reserved and we were forced to accept a larger truck (about 16 square feet larger). So now we're driving around in a 24-foot monster truck.

While friendships formed on the trip, not all the members of the group were an obvious match. "I was more conservative then, and Brian was liberal. And I wasn't cool, he was. But I remember him saying, 'This is great because I would not have been friends with you were it not for this trip,'" recalls Mel.

"There wasn't a whole lot to do driving through Nebraska other than talk," muses Lisa, who remembers that the house Brian and Mike shared at Stanford Law became a frequent meeting place during school.

Day 2: The plan seemed to be working. Brian was driving; Lisa was resting; and I (Mel) was chattering nonstop (or so I was told) to keep Brian awake. However, suddenly we ran into SEVERE fog just beyond Cleveland. We couldn't see the sides of the road and drove one reflector at a time.

They drove all day, often into the night as they sped through the middle of the country on their westward trek. They ate at Denny's, filled up on coffee, and played road games to pass the time.

Days 3 & 4: List of things we have seen: fog, construction workers (Is there any road not being fixed??), a billboard saying, "Are you the father? Dial 1-800-DNA-TEST to find out."

They took time to do some sightseeing too. All agree that Utah had some of the most beautiful scenery.

Day 5: Arrived in Utah. Bought burgers, brats, and assorted beverages and headed to one of the most spectacular sites on the planet: Arches National Park. Grooved to the sunset, cooked out, and contemplated the meaning of life under the grand backdrop of the Milky Way. It was way Shirley MacLaine.

"We piled into my Jeep and went off-roading in Arches National Park. It really was spectacular. And we finally agreed to listen to one of Mel's music picks, the score from *Raiders of the Lost Ark*. It was the perfect piece to go with the scenery," recalls Mike. "Seeing how perfect a choice that was, we gave Mel carte blanche to choose the next part of our desert journey soundtrack, but he quickly lost all privileges when he whipped out the theme from *Ice Castles*."

Day 6: Alas, all was not perfect. We soon discovered that Utah is as lousy for late-night fun as it is wonderful in the great outdoors. The bar kicked us out before midnight and the hot tub was closed when we returned to our hotel.

They headed to Vegas for some fun. But Mel, the group's self-proclaimed worst driver, was at the wheel.

"There I am," says Mel, "driving down the strip in a 24-foot monster truck. And we didn't have a reservation, so we decided to check out Caesars Palace and

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THAT STANFORD THING: THE STORY OF A STARTUP AND THE STUDENTS BEHIND IT

By Sharon Driscoll

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hen Ross Chanin '09 arrived AT STANFORD LAW SCHOOL IN 2006, HE HAD MUCH MORE ON HIS MIND THAN HIS FIRST YEAR OF LEGAL STUDIES. He had a plan—a business plan developed with friends to start a company that would address privacy rights, slander, and individuals' control of their information in the smoke and mirrors world of the Web. Barely a year later that company, ReputationDefender, seems to have hit a nerve with the public as people across the country and throughout the world have come to the realization that their Internet identity is their identity and—knowing that—protecting it is vital. • The genesis of the company is a familiar one: a couple of friends bouncing ideas around. It was Chanin's friend, Michael Fertik, who first posed the question to Chanin in April 2006: "Did you know that there are pictures of my girlfriend on the Internet?"

The two saw a norm developing: people looking to the Web for information on individuals for just about any reason—from job and school applications, to apartment lease agreements, to prospective dates.

"Today, 77 percent of executive recruiters are vetting candidates online and of that number 35 percent did not take a candidate because of what they found out online," says Chanin. "And our research tells us that for a college-educated individual, it's probably closer to 90 percent of employers who are looking online at job candidates. The implication of this information about you on the Web is far reaching."

They ran with the idea. During the summer before law school began, Chanin dove into the project, working with Fertik to develop the company's business plan. Fertik, now the company's CEO, had been around the startup block before. As a budding entrepreneur, he started a technology company while still in his junior year of history and English studies at Harvard—and sold it before he entered his first year at Harvard Law.

By the time August 2006 rolled around, Fertik and Chanin had enough angel investment in place for Fertik to turn down a job offer at a Silicon Valley firm and focus full time on managing development of the company's software and website. Meanwhile Chanin tried to focus on his first year of legal studies, while working with Fertik in every spare moment he had.

"I was in the library a lot—but I wasn't always studying law," he says.

They were soon joined by another Stanford student, Owen Tripp (MBA '08), introduced to the team by a mutual friend who thought there would be synergy. When they met at the Happy Donuts on El Camino, there was. Tripp, who developed software at eBay before starting his MBA, describes the meeting as "totally Stanford, totally Silicon Valley."

"There's a kind of beautiful way that the people on campus will know each other—and get to know each other," he says. "There are lots of great law schools; there are lots of great business schools. But this community of Stanford is the single most entrepreneurial place in the world. It's why I came here."

Still working from their laptops and apartments, they launched the company in October 2006 with two products—MyReputation and MyChild—that provide monitoring services that scour the Web, aided by the company's powerful search technology. The results are often surprising. "It can be quite discomfoting to see how much information is out there about you, especially because we know that for every search online, one in three is of people," says Chanin.

The service is offered monthly, much like a credit report. If a client discovers untrue or dated material and wants it removed, ReputationDefender's service agents write to the Web host, politely asking that it be removed. Calls often ensue and, in some cases, clients are referred to legal counsel for more serious persuasion. The team decided early on that it should not get into the legal business, preferring to develop a network of referral firms.

But that a company like this was started by lawyers is no accident.

"The way in which the Internet is used is constantly evolving and the law just has not kept up," says Chanin, citing Section 230 of the Communications

Decency Act of 1996, which effectively gives immunity from liability to any Internet publisher or reproducer of information. As long as the site host did not create the material, there is not only no liability for it but no legal incentive to take the material down, he adds.

This legal dilemma was brought clearly into focus earlier this year when several women law students realized that the widely read legal message board, AutoAdmit, contained untrue—and anonymous—postings about them. Taking a hard free speech line, the site's founder and operator refused to take the offending postings down. Coverage of the case revealed that some of the women

believed that the postings had hurt their chances of finding employment. That case is now in the courts.

Chanin and his team are familiar with the AutoAdmit case; some of the victims sought their assistance. When ReputationDefender comes up against website operators like AutoAdmit, a creative workaround is sometimes needed. That's where another of their services, MyEdge, comes in.

MyEdge, launched in January 2007, serves several kinds of clients. Some want information removed, while others want active reputation management that highlights their most important accomplishments. MyEdge achieves

these goals by cleaning up the most-often viewed first few pages of an Internet search. And for those who have no Internet persona, which can be an issue in itself, the company will help develop one. Though not cheap—MyEdge pricing starts at \$10,000—the service can be a PR tool for executives, politicians, and companies—all wanting their “Google handshake” to be impressive. Here the technology developed by ReputationDefender helps to ensure that the information the client wants seen by the public pops up early in a search.

Last December, the team celebrated a milestone as it moved into offices on the outskirts of Menlo Park. Already a bit cramped, the team has steadily expanded—it now numbers more than 25 full-time employees. These are heady days for Chanin, Fertik, Tripp, and the staff. Google ReputationDefender and you quickly see it cited in reports in the *Washington Post*, NPR, the BBC, and elsewhere. And at last count, the service is offered in 21 countries, from Germany to Sweden to South Africa.

While the team and client list grow, the founders aren't resting on their laurels. Tripp talks excitedly about the launch of their newest product, MyPrivacy, which, he says, will erase from the Web private information such as telephone numbers, Social Security numbers, names of relatives, e-mail addresses, and home addresses—all the key pieces of information for which identity thieves and uninvited marketers search.

“It's unbelievable—some 139 million Americans have registered with the ‘Do-Not-Call Registry.’ People want their privacy back, and this service should go a long way in helping to give them that,” he says. **SL**

ROSS CHANIN '09 AND
OWEN TRIPP (MBA '08)
OUTSIDE THE
REPUTATIONDEFENDER
OFFICE IN MENLO PARK



JOINT VENTURE: REAL-WORLD LESSONS FROM THE VALLEY'S EXPERTS

By Amy Poftak (BA '95)



n a Friday morning in SILICON VALLEY, A HIGHLY CAFFEINATED, 20-SOMETHING ENTREPRENEUR IS HUDDLED WITH THE INVESTOR he's hoping will save his struggling Internet startup. They're trying to hash out a "down-round"—the kind of deal resorted to when a company's value has fallen since the previous round of financing. • It sounds like a scene from a Sand Hill Road boardroom, and it could be. But in this case, the entrepreneur is a third-year law student and the investor is a second-year business student. The setting is Professor Joseph A. Grundfest's *Venture Capital* class, composed of students pursuing JDs, MBAs, or, in many cases, both. And the negotiation coaches are some of the biggest names in the Valley, including Silver Lake's Alan Austin '74, Fenwick & West's Gordon Davidson '74 (BS '70, MS '71), Sutter Hill Ventures' Jim Gaither '64, and C2C Ventures' Craig Johnson '74.

As part of the law school's movement to educate students more broadly with courses and degree programs that complement the traditional legal curriculum, *Venture Capital* represents an increasingly familiar sight at the law school: a cross-disciplinary course that teaches hands-on skills while simultaneously providing an advanced theoretical perspective on a cutting-edge area of law. [To read about Stanford Law's joint degree expansion, see "In Brief," p. 3.]

Toward that end, the law school is offering nearly a dozen cross-disciplinary courses this year. From negotiations classes that involve law, business, and engineering students to simulation courses in which law students work with peers from the natural and social sciences to prepare mock witnesses, there's growing recognition that today's students will be

entering professions in which no one works alone or solely in one discipline—and in which they must be able to spot and solve problems that cut across multiple fields.

Grundfest '78, W. A. Franke Professor of Law and Business, puts it in the context of his class: "To be a successful VC lawyer you need significant expertise in corporate law, securities law, intellectual property law, employment law, and compensation law," he says. "It also helps to understand your client's technology and to be a great business person, financial analyst, management motivator, and group psychologist."

This multiplicity of expertise is reflected in the practitioners Grundfest invites as guest speakers. For example, the legendary John Doerr and his colleague John Denniston from Kleiner Perkins Caulfield & Byers lecture on how to identify and value portfolio companies. Dan O'Connor and Brooks Stough JD/MBA '80 (BA '76) from Gunderson Dettmer address the nuances of down-round financing, and Fenwick & West's Scott Spector discusses employee compensation issues.

"I make a list of the best VC people in the world and because of our location at Stanford we can actually get them to show up in class at 8 o'clock on a Friday morning," says Grundfest.

One such luminary is Alan Austin. Standing before the class last January, Austin marched students through the various ways venture capital and private equity funds can be organized. Along the way he identified key issues that investors and their lawyers need to be acutely aware of—for example, how to structure funds so they comply with relevant securities laws but remain as tax-efficient as possible.

"In the real world, the problems that lawyers face don't have a bow wrapped around them. It's not just a 'tax problem' or a 'securities problem.' The class



JOHN DENNISTON (LEFT)

FROM TOP TO BOTTOM:

JOHN DOERR,

PROFESSOR JOSEPH GRUNDFEST '78,

A STUDENT PRESENTING TO THE CLASS,

ALAN AUSTIN '74 WITH A STUDENT,

AND GORDON DAVIDSON '74

(BS '70, MS '71)

JIM GAITHER '64 (RIGHT)



he grappled with during the class came in handy when he went to pitch them to real-life venture capital firms.

Paul Vronsky '08 found the class similarly useful as a summer associate at Gunderson Dettmer's San Francisco office, where his work spanned issues ranging from fund formation to

teaches students how to synthesize and deal with multiple dimensions of a problem," says Austin.

Over the course of the spring semester, Grundfest combines lectures like Austin's with case studies, research projects, and opportunities to gain transactional skills that include writing a company charter and negotiating a term sheet—the all-important document that outlines the deal between the entrepreneur and the venture capitalist. Grundfest says the latter exercise is indispensable for preparing students, many of whom go on to venture law practices in Silicon Valley, to be business lawyers. "It's one thing to sit and read articles about the construction of preference provisions," he notes. "But it's an entirely different experience to sit down and negotiate preference provisions and figure out how they relate to anti-dilution provisions and to the client's



employee benefits. "The firm and the class match really well," he says.

Of course, it also helps to have Grundfest, a former SEC commissioner nationally known in finance and legal circles, as your teacher. "He has a unique ability to turn any complicated matter into something you can understand," says Ross. "I advise classmates who don't think they're interested in capital markets or finance to take a class with Professor Grundfest because when they're practicing law they're going to have to understand those things—and he'll make them interesting." **SL**

expectations of where the business will wind up in two to six years."

A former Navy intelligence officer who now works at Lehman Brothers in Menlo Park, Joe Edelmet Ross '07 found himself involved in three different startups during his time at law school. He says the legal and financial problems

ASSOCIATES JOINING MAJOR FIRMS CAN NOW EARN \$160,000 A YEAR
PLUS SUBSTANTIAL BONUSES STRAIGHT OUT OF SCHOOL,
AN INCOME THAT AUTOMATICALLY PUTS THEM INTO THE TOP 10 PERCENT
OF ALL AMERICANS. WHILE SUCH AFFLUENCE CANNOT BE
BEATEN IN ALMOST ANY OTHER PROFESSION AT SUCH AN EARLY STAGE,
THERE IS A COST TO SUCH SUCCESS.

THE

CHANGING

BUSINESS

OF

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BY
JEFFREY H. BIRNBAUM
ILLUSTRATION BY TAVIS COBURN

Mark Chandler does not shy away from controversy easily. The general counsel of Cisco Systems created a furor earlier this year by asserting in a widely discussed speech that the billable-hours system of major law firms is outmoded and that online technology, of the kind his company sells, will make lawyering an ever-less-expensive proposition. Chandler '81 acknowledges that his opinions have made him a scourge to some and a prophet to others. But like him or not, his assertions are making headlines and are already a reality in some companies today. • Law firms are under increasing pressure to produce more for less. To achieve this, everything is on the table including outsourcing and automation of key business processes. At the same time, demand for legal expertise in today's complex business environment has heated up competition for talent in the job market—with graduates from top-tier law schools reaping the financial benefits of that competition. • But these same associates are complaining about crushing workloads, poor job satisfaction, and diminished long-term career prospects. And with pressures on legal fees from corporate clients such as Cisco, it is not clear how long firms will be able to bill out at current rates, some running from \$450 to as high as \$1,000 per hour. What is clear is that the business of law is evolving rapidly and that evolution is having both positive and negative effects, according to a variety of experts and practitioners.





"IT'S REALLY ABOUT SELF-DETERMINATION
AND CONTROL, SOMETHING YOU
DON'T HAVE WORKING IN A FIRM."
Kate Frucher '00

WOMEN IN LAW: A CHANGING LANDSCAPE?

IT'S CLEAR THAT WOMEN WANT TO BE LAWYERS. At least they want to be lawyers when they enter law school. Each year, women comprise roughly half the total number of students entering and graduating from law schools. And according to an ABA report, approximately 44 percent of all first-year associates are women. Yet by the time they begin their third year in practice, nearly half have departed their law firms. This attrition may explain, in part, why a recent NALP (The National Association for Law Placement) study found that women total only about 17 percent of those who make it to partnership, and also why the ABA reports that women comprise only 30 percent of all practicing attorneys.

What to do? Plenty, according to two groups of enterprising law students who recently joined forces to form one organization—Ms. JD—to spearhead this issue.

In March 2006, law students from Stanford, Cornell, the University of Chicago, Harvard, the University of Michigan, New York University, and Yale, among other schools, met to launch an online community, called Ms. JD, which offers ideas and tips about how women can better cope in the legal profession.

Much like Ms. JD, the Women's Law School Coalition (WLSC) was formed to provide a clearinghouse for progressive suggestions on the profession. Co-founded in April 2007 by Stanford Law student Menaka Kalaskar '09 and students from many of the same schools behind Ms. JD, the group was established as a reaction to a March 7 *Washington Post* article, "Harsh Words Die Hard on the Web," which reported attacks against women law students on an anonymous Internet message board.

The two groups merged two months ago and will carry on the "Ms. JD" name. "Our missions were very much aligned, and for that reason both groups were excited to merge efforts into a single organization," says Ms. JD president Elizabeth Pederson '07, who notes that Ross Chanin '09, also a founding member of

WLSC, is now a Ms. JD board member.

Ms. JD is currently working to provide law students with more information about gender policies at places of employment. The Ms. JD network site, still in development but launched in beta, allows lawyers to register to mentor law students and new attorneys. These mentors offer firsthand accounts of their workplaces so that law students have more information prior to accepting employment offers.

The organization will also continue to develop use of its Internet discussion group so that members can exchange tips and network for jobs, according to Pederson.

Ms. JD's advocacy efforts extend well beyond the Internet. This past summer the group offered scholarships to women working in public interest jobs. It also co-sponsored with Yale Law Women a national conference on women in the legal profession last March and is among the sponsors of an upcoming Women in Law Leadership Academy.

Stanford sponsored the Ms. JD founding conference and offered technical assistance to start the site and continues to be very supportive, Pederson says. "The retention and promotion of women affect the success of all lawyers in every aspect of practice, and it's important to work together to find a better way to achieve sustainable gender equality within our profession. Just the process of coming together in a forum like Ms. JD to think about solutions and share different perspectives can create change in places of employment."—JHB

A New Business Model?

In January, Chandler spared no one in his "State of Technology in the Law" speech to the Northwestern Law's 34th Annual Securities Regulation Institute. "The present system is leading to unhappy lawyers and unhappy clients," he said. "The center will not hold." He then added that the legal industry sometimes seems to be "the last vestige of the medieval guild system to survive into the 21st century."

Chandler warned that legal departments like the one he runs are being managed as cost centers just like any other part of the corporation. The solution at Cisco is to negotiate a per-transaction fee with outside counsel, eschewing the traditional, often open-ended billable hours method. Chandler then leaves it to the law firm to decide how it stays within that limit and also makes a profit.

Such a deal is now in place with Fenwick & West, which is chaired by fellow Stanford Law graduate Gordon Davidson '74 (BS '70, MS '71). Fenwick represents Cisco on its many mergers and acquisitions and has worked out an overall fee to cover a range of legal issues over a given period. Cisco never sees a billable hours sheet and Fenwick decides for itself how much manpower to throw into each project.

Both men profess to be happy with the arrangement, which they acknowledge is a testament to their willingness to be "flexible." In other words, Cisco is not out to deprive its law firm of a reasonable return, and the firm is striving for cost savings. "It can't be too rigid or it won't work—either way," Davidson says.

And Fenwick has found creative ways to save money, often using the types of Internet advances that Chandler proselytizes about. One of its young associates developed an Internet-based

template for doing otherwise arduous and time-consuming due diligence work on Cisco's acquisitions. The reports can be generated quickly and dissected in all sorts of useful ways not just by Fenwick lawyers but also by Cisco's in-house executives and attorneys. Helping in-house and outside counsel work together more efficiently is also the goal of Web-based platforms like Serengeti Law, founded by Rob Thomas '78 and Tom Melling '94, which enable law departments to process bills, budgets, status reports, and documents online. According to Thomas, Serengeti Tracker connects more than 11,000 in-house counsel (including Stanford's law department) with more than 12,000 law firms in 125 countries worldwide.

"When outside counsel provides key information directly into an online management system for in-house clients, the clients become much more effective managers of legal services," says Thomas.

"For the first time, law departments see not only what they are spending but also the results achieved, cycle time, and other objective measures to identify best practices. This permits them to serve as the focal point for sharing work product and lessons learned with the multiple law firms who represent them."

Cisco is leading an effort to share that information through another online collaboration website called Legal OnRamp, which it initiated but is now co-developing with several companies. Conceived as a tool to leverage information and share best practices—it "provides content, connectivity, and execution services to help legal professionals deliver higher-quality work in less time and at lower cost," according to its website. While still in development, the site has caught the attention of many in the legal profession and already boasts more than 500 members from law firms and legal departments alike.

"All around the periphery of the legal industry, standardization of information is happening," Chandler says.

Outsourcing of standard legal

work is also growing. Temp services and contract attorneys across the country—and some outside the country—are specializing in the often-tedious work, and corporations are eager to take advantage.

"In the last ten years there's been an explosion in contract attorneys," says William Baer '75, a partner at Arnold & Porter and head of the firm's antitrust group, regarding the trend.

Big-Firm Alternatives

While cost-saving pressures build, the demand for legal expertise is as strong as ever—and so too is the need for fresh legal talent. Associates joining major firms can now earn \$160,000 a year plus substantial bonuses straight out of school, an income that automatically puts them into the top 10 percent of all Americans. While such affluence cannot be beaten in almost any other profession at such an early stage, there is a cost to success. Many associates at large firms see their salaries as golden handcuffs, enabling them to pay back student loans that often

top \$100,000 but shackling them to their work late into the night and on weekends. At the same time, large firms today have a steep pyramid management structure that makes the career path to partnership more uncertain than ever.

To be sure, many law firms are aware of the challenges and are actively working to retain associates through flexible work arrangements and other work/life balance initiatives, while continuing to steer them toward partnership. In fact, Baer's firm, Arnold & Porter, is often cited as an example of such a firm, according to Susan Robinson, Stanford Law's associate dean for career services.

That said, a growing number of businesses are offering an alternative to the traditional firm structure—and gaining ground as corporations are increasingly hiring non-law-firm lawyers to do higher-level duties as well.

Axiom Legal was started seven years ago as a response to pressure from corporate counsels to pay less for legal services *and* the demand by lawyers to exercise more control over their personal

CODEX: WHERE LAW AND TECHNOLOGY INTERSECT

TECHNOLOGY HAS FUNDAMENTALLY TRANSFORMED many industries—from medicine to engineering. But change hasn't come as quickly to the legal profession. • Joshua Walker, executive director of CodeX: Stanford Center for Computers and Law, puts it another way: "Lawyers have a duty—too long ignored—to employ technology more effectively and more innovatively."

But things are shifting quickly, and that's where CodeX comes in. CodeX is a multidisciplinary laboratory run by the School of Engineering and Stanford Law School. In collaboration with graduate students, practicing attorneys, government officials, and outside academic and industry experts, the center is pioneering the research and development of "legal informatics" applications. Simply put, it's putting computer science to work on practical legal problems. In particular, the center is focused on methodologies and tools that make standard legal tasks—such as negotiating contracts, generating terms of use policies, or complying with tax regulations—easier and more accessible not just for lawyers, but for ordinary citizens.

"CodeX is an entirely unique collaboration of a kind that seems to happen only at Stanford University," says Larry Kramer, Richard E. Lang Professor of Law and Dean. "It addresses one of the most critical issues facing the legal profession today—how to use technology to improve the delivery of legal services—by

harnessing the strengths of Stanford's law and engineering schools. Through CodeX, we can educate a generation of technology savvy lawyers and legally savvy engineers capable of revolutionizing the way law is practiced."

One such collaboration is the Intellectual Property Exchange (IPX), a CodeX workshop focused on building an online platform that lets content creators enter into licenses, clear copyrights, and get compensation. Initially composed of a handful of Stanford Law students, the project evolved last year into a full-fledged, multidisciplinary course. SLS students examined legal feasibility issues, GSB students constructed business models, and computer science students grappled with how to build it. Together, they traveled to Los Angeles to meet with leaders at major studios, including Sony and Paramount, and attorneys from the entertainment practice of Greenberg Glusker, to debate the market viability of tools like IPX.

"CodeX is a nascent enterprise, still actively seeking partners," says Walker. "But we're already tackling problems that have plagued both attorneys and computer scientists for decades." —AMY POFTAK (BA '95)

"THERE IS A TREMENDOUS AMOUNT OF
INFORMATION AVAILABLE NOW. TECHNOLOGY IS LEADING TO
AN INFORMATION OVERLOAD."

Sean Johnston '89



lives. Axiom saves money by having neither partners who expect huge salaries or profit sharing nor sprawling offices with high overhead—of the kind typical of big firms. Axiom Legal has a whole stable of lawyers, many with advanced skills, that it makes available as consultants in corporate offices at rates of about \$150 an hour, a third of the fees typically charged by major law firms. Axiom's lawyers (who are employees of the firm) are paid well for the actual work they do, though not extravagantly by law-firm standards—upwards of \$200,000 on average, plus benefits. In exchange, Axiom lawyers can say no to assignments that they do not want, a luxury law-firm attorneys do not have. Often, Axiom lawyers sprint through six to nine months of intense work and then take time off to pursue their personal interests.

"It's really about self-determination and control, something you don't have working in a firm," says Kate Frucher '00, who heads the firm's New York operation. "Our attorneys get to decide what they work on but they also get a lot more variety than lawyers at law firms."

Clients also get good service, she contends. For the allure of personal autonomy and a decent schedule has allowed Axiom and other companies like it to compete for seasoned associates from the major firms. Axiom is now interviewing 15 potential hires a week, Frucher says, and has 170 lawyers on staff around the country, up from 10 in 2000. Its annual revenue reached \$31 million last year and its clients include Yahoo!, Google, Goldman Sachs, Morgan Stanley, American Express, and Honeywell. In addition to offices in New York and San Francisco, the company is in the process of opening a London branch.

"We saw a lot of really unhappy attorneys who were friends of ours and

thought, 'There's got to be a way to make a happier home for people,'" says Axiom co-founder Alec Guettel (MBA '97). "Also from the clients' side there were no alternatives out there and the economics of law firms were so remarkably out of whack that they seemed unsustainable."

The idea is catching on. According to the *National Law Journal*, other companies with a mission similar to Axiom's include Atlanta-based FSB Corporate Counsel; San Jose, California-based GCA Law Partners; Minnetonka, Minnesota-based The General Counsel; and Houston, Texas-based Outsource GC.

Dealing with Information Overload

In today's world of the Internet, the BlackBerry and instant messaging, lawyers are expected to be on call all the time. But they are also expected to do their homework—quickly.

Davidson notes that clients have often done their own legal-memo browsing on the Internet before they reach out for help, and so they demand an instant answer that goes beyond their already advanced knowledge.

"They expect you to have the next level of insight," he says. "Because of the instant electronic availability of legal information and analysis, in some cases we're starting behind rather than ahead of the client."

Online advances have also spurred a massive increase in the sheer volume of available information and merely keeping up has become a burden. "There is a tremendous amount of information available now," says Sean Johnston '89, senior vice president and general counsel of Genentech. "Technology is leading to an information overload."

As a result, lawyer-managers have a lot

on their hands. Arnold & Porter's Baer says he spends a great deal of time trying to figure out ways to make work less all-consuming for his colleagues, especially his overworked younger colleagues.

One secret, he says, is extensive use of technology—yes, the same technology that adds to lawyers' grief. Video and audio conferencing have cut down travel, as have computer networking systems that allow lawyers in multiple locations to operate at the same time on the same set of documents.

Telecommuting is also being utilized on a grand scale around the country. A well-regarded in-house patent attorney for Genentech lives full time in suburban Virginia outside Washington, D.C., for family reasons, according to the biotech company's Johnston. The company's internal communications are so seamless, however, that it has sometimes taken months for the attorney's in-house clients to figure out that she is not at headquarters in South San Francisco.

"There's a limit because so much of legal practice involves face-to-face meetings. You couldn't run an entire legal department of people telecommuting," Johnston says. "But this instance is an unqualified success."

A Changing Marketplace for Lawyers

So intense are the pressures on young lawyers and so low are the odds of climbing the law-firm ladder to equity partner that many graduates now plan to job hop before they find their niche. That's a major change from just a decade or so ago. The next decades will present an even larger challenge.

Larry Kramer, Richard E. Lang Professor of Law and Dean, says the law school is focusing on preparing graduates for an extended—and much

**"THE BASIC ECONOMIC MODEL IS GOING
TO HAVE TO SHIFT DRAMATICALLY AND IT'S
HARD TO PREDICT WHAT THAT IS GOING TO LOOK LIKE."**

Larry Kramer

ASSOCIATE BURNOUT: STUDENTS WEIGH IN

IF RECENT NEWS REPORTS ARE TO BE BELIEVED, no one would want to be a lawyer. According to ABA reports, record-breaking salary and bonus offers for top-tier law school graduates are still enough to lure them into working 60-plus-hour weeks for a few years. But many leave those demanding positions soon after. And fewer new graduates are joining firms to start. • While the profession is changing, so are the expectations of new lawyers with many demanding a more balanced life and less time in the office. In January, Andrew Canter '08 and fellow Stanford Law student Craig Segall '07 launched Law Students Building a Better Legal Profession to deal with this issue.

"We want to improve the quality of life at law firms," Canter says. "It won't be easy."

The main hurdle, according to Canter, is "billable-hour escalation." Law firms, especially the biggest and most prestigious, are under pressure to produce more billable time. The result, especially among associates, is often burnout. With associate attrition at many large law firms now touching 30 percent or more, Canter may be onto something.

Law firms also become losers in the process, Canter and Segall contend. Recruiting associates is an expensive, time-consuming task, they say, citing a recent Am Law 200 report that the cost of recruiting just one summer associate has hit \$250,000. Being forced to repeat that process because of high turnover is a drain on any firm.

At least that's their argument. As spokespeople for their

organization, which now numbers 130 members and rising, they have been taking this pitch across the country to the law schools—and to the blogosphere. A posting on the *Wall Street Journal* Law Blog about the group elicited more than 125 user comments, many concerned about the direction of the legal profession.

Canter has also been taking his message to the firms themselves. He has had serious talks at Orrick, Herrington & Sutcliffe, for example, about trying to ease the burden on associates. But most of his efforts are directed at law students.

"We try to give law students reliable information about what's going on," he says.

Among the group's proposed solutions: to reduce maximum billable hour expectations and, to the extent possible, replace the billable hour system with a flat fee per transaction method of payment to law firms. While optimistic, Canter concedes that, so far, long-established firms are resisting change. And so are many young lawyers. "We're all workaholics at Stanford Law," he says. "We're still going to work insane hours anyway."

If some of his suggestions are adopted, at least young associates will be able to decide for themselves where to focus their intensity. —JHB

more diversified—career path, whether at a law firm or in other industries.

To that end, Kramer has broadened the curriculum for second- and third-year students to include a wide variety of cross-disciplinary classes that provide students with skills and perspectives beyond the traditional legal curriculum. "To be successful today, lawyers need a broad understanding of the business world—or medical world, or engineering world, or whatever area in which they focus. Enhancing their education with courses outside of the law will not only help them to find their niche in the profession but also to be better lawyers in that field."

Stanford Law School is now leveraging the expertise of the wider university by offering an almost limitless number of joint degree programs. This is good news to firm executives like chairman and CEO of Cooley Godward Kronish LLP, Stephen Neal '73.

"In almost any area of the law that you can envision a young law school graduate going into—the more the lawyers really do understand the

underlying subject matter, the substantive matter that is involved, the more effective they will be and the more quickly they will be effective as young lawyers," says Neal. "We have a very large intellectual property practice in our firm that involves prosecuting patents, advising companies on their sort of crown jewel intellectual property, and trying intellectual property cases. We have 35 lawyers with advanced degrees in hard sciences in our firm today. We would double that number if we could."

But better preparation at law school can only do so much in helping lawyers navigate the changing landscape of the profession. As corporate clients demand more service from their outside counsel—possibly for lower fixed fees—many of the lawyers who are supplying that service are demanding more free time for themselves and their families. The contradiction is perhaps the most vexing problem facing the legal profession today.

"Something here is going to give," predicts Kramer. "The basic economic model is going to have to shift

dramatically and it's hard to predict what that is going to look like."

Meanwhile, the vast majority of Stanford Law graduates will continue to pursue a legal career in law firms. Not surprisingly, Stanford Law alumni often thrive in the competitive environment of large firms, with many rising through the ranks to partner status. In fact, 94 of America's 100 largest firms have partners who graduated from Stanford Law, according to information gathered from the *American Lawyer*.

"The importance of law in structuring everything we do as a society is not going to change and so great lawyers will remain indispensable," says Kramer. "What will change is the form in which lawyers practice and work together and with clients. But how? That remains to be seen. Our goal is to educate students who will be prepared to move and flow with a changing professional environment." —SL

Jeffrey Birnbaum is a columnist for the Washington Post and a political analyst for Fox News Channel.

LEGAL MATTERS

WITH
CAROL LAM

ATTORNEY GENERAL ALBERTO GONZALES ANNOUNCED HIS RESIGNATION ON THE MORNING OF AUGUST 27—JUST A FEW DAYS AFTER FORMER U.S. ATTORNEY CAROL LAM '85 MET WITH *Stanford Lawyer* and Professor George Fisher for the interview that follows. It was interesting timing. Lam agreed to the interview back in May—but delayed meeting in the hope that the congressional hearings and media attention surrounding the historic firing of eight U.S. attorneys, including Lam, might dissipate. But the controversy that the firings unleashed continues still. Today more questions than answers remain.

Whatever one's views on the propriety or legality of the administration's actions, the firings will be remembered as a political blunder—as well as a public reckoning. And this is Lam's main point. She is, even after the events of the past year, optimistic about the future of the DOJ because of the public's attention to the controversy. "For me it's not a loss of faith in the Department of Justice or this country. It's really a reaffirmation and a recognition that we can't take justice for granted," she says.

Since her untimely departure from the DOJ, Lam has landed firmly on her feet. Now the acting general counsel at QUALCOMM, she has begun her private-sector career at the top. Lam was—until February of this year—a dedicated government prosecutor with a stellar career rise marked by receipt of both the Director's Award for Superior Performance and the Attorney General's Award for Distinguished Service. Her prosecutorial career was interrupted only by two years' service as a San Diego Superior Court judge.

George Fisher shares with Lam an inside knowledge of the criminal justice system. Before joining the Stanford Law School faculty in 1995, he was an assistant attorney general in the Civil Rights Division of the Massachusetts Attorney General's Office and an assistant district attorney for Middlesex County, Massachusetts. He is the Judge John Crown Professor of Law and director of the Criminal Prosecution Clinic.

FISHER: YOU LEFT YOUR POSITION AS U.S. ATTORNEY IN SAN DIEGO IN FEBRUARY AND VERY QUICKLY MOVED TO QUALCOMM AND ARE NOW ACTING GENERAL COUNSEL OF A FORTUNE 500 COMPANY. THAT'S A VERY IMPRESSIVE LANDING AFTER AN UNPLANNED DEPARTURE.

Lam: All U.S. attorneys know that there will be a time when they're going to leave the office. I've watched my colleagues go through it, and I'm watching them go through it now. Having held that position, I know that you have a panoply of possibilities before you. When I started my tenure as U.S. attorney in 2002, I had an acute awareness that if the president served two terms, I would want a break after the second term to spend time with my family. The QUALCOMM opportunity came up right away, so I didn't exactly follow that plan. But I don't think I could have landed in a more interesting position in a more exciting place than QUALCOMM. It's on the cutting edge in so many areas.

HOW DID YOU MANAGE TO TRANSITION SO SMOOTHLY TO TECHNOLOGY?

It's true; I don't have a technical background. But QUALCOMM is involved in a lot of litigation, and that's where I hope I'm able to contribute because I do have a lot of litigation experience. I also have experience managing a law office—that's a big part of the U.S. attorney position.

CAN STANFORD LAW SCHOOL CLAIM ANY CREDIT FOR HAVING TRAINED YOU FOR SUCH A WIDELY VARIED CAREER?

All of it! There's something very special about going to law school at a place like Stanford in California. There's a freedom there because it's in an area of the country where innovation and thinking outside the box are part of people's lives.

I GATHER THIS IS YOUR FIRST ON-THE-RECORD INTERVIEW.

WHY SPEAK TO SLS?

I knew that this story wasn't going to be over quickly, and I

didn't think that adding one more voice to the chorus was helpful. But I very much value my Stanford years, and I think the law school is a good place for me to share my views about the Department of Justice, what it is and what it should be. I want to convey a positive note to students and alumni about what I think the experience will teach the DOJ. And I want to convey how much I enjoyed and appreciated my time at the DOJ. It's a great institution and will continue to be a great institution. These temporary setbacks, with time, will have a good effect on the department, as a reminder of how tenuous the balance is between political pressures and the responsibility of the department to do the right thing at all times.

For me, these events have not led to a loss of faith in the DOJ or this country but to a reaffirmation and recognition that



we can't take justice for granted. The vast majority of the thousands of people who work at the DOJ are good and true people who understand their responsibility to do the right thing in all respects. It's a simple mandate to follow once you've accepted it—that when you work in the DOJ or as a U.S. attorney or as a career prosecutor, your mandate is just to do the right thing. It simplifies decision making a great deal so you don't have to worry about other influences. You just do the right thing. Almost everybody at the department does the right thing.

WERE YOU SURPRISED WHEN YOU GOT THE CALL ASKING FOR YOUR RESIGNATION? WAS THAT IN THE AIR?

It was a complete surprise. There was no hint of what was coming, nothing in the air. We had all been at a conference together earlier in the week and were told how great a job we were doing. And, in fact, it wasn't until a week later that I realized that I wasn't the only one. I got the phone call and

then a week later I learned that Paul Charlton and John McKay had resigned. I had just seen them at the conference, two of my closest colleagues, and they hadn't said anything to me about resigning. So it became clear what was happening.

The reason I didn't say anything publicly for several weeks after I was asked to resign was that I knew the plan to keep it quiet wasn't going to work. Who in his right mind could think that you could fire seven U.S. attorneys on the same day and tell them to leave on the same day and that nobody was going to notice? It was just headbangingly frustrating.

WERE YOU SURPRISED BY THE PUBLIC FIRESTORM THAT THE DISMISSALS STIRRED UP?

This is a wonderful country, and it's a forgiving country. But it's also a country with a relatively short attention span when it comes to news reports, and I was surprised how much attention this issue drew. Though, ironically, it renewed my faith in the country and in the public's ability to focus on important issues. What this situation pointed out to me was that people are very concerned about the justice system. They're very concerned about either the perception or the reality that their justice system is not working in a fair and evenhanded manner.

I'VE READ THAT A NUMBER OF U.S. ATTORNEYS COMPLAINED ABOUT MICHAEL BATTLE'S DELIVERY OF THE BAD NEWS ABOUT THE FIRINGS.

I think the language that was used with me was something along the lines of "want to take your office in a new direction." My dissatisfaction with the way this was handled doesn't have anything to do with Mike Battle's bedside manner. It has to do with the decision made by people higher in the department that an appropriate way to deal with such a monumental decision would be to have somebody make calls, give people no substantive information, and expect that people were just going to accept the decision with no information. I think it was a very immature way for the department to handle it and certainly contributed to the disastrous follow-on that occurred.

YOU SERVED UNDER BOTH JOHN ASHCROFT AND ALBERTO GONZALES. HOW DID THAT TRANSITION FROM ASHCROFT TO GONZALES AFFECT YOUR LIFE AND YOUR DUTIES AS A U.S. ATTORNEY?

The structures of the department were in place, so I didn't expect a lot of impact from the change in attorney general under the same administration. There are a great many traditions that have built up over the years at the Justice Department that should carry the institution forward on its own momentum. The people come and go, but the institution carries on. So I was surprised by how much change there was.

DID YOU GET A SENSE WHETHER, AS A BODY, THE U.S. ATTORNEYS FELT TOO CLOSELY SUPERVISED BY WASHINGTON? AND DID INCREASED SPEED OF

COMMUNICATION-BY E-MAIL, BLACKBERRY, ETC.-AFFECT YOUR AUTONOMY?

I do think that was the trend. But I don't attribute it to increased speed of communication. My perception was that there was an increased desire to manage from the DOJ—and more actively.

A LOT WAS MADE ABOUT THE LEGALITY OF THE FIRINGS. ANY COMMENT?

I'm going to answer a little obliquely. This question was raised during the congressional hearings: Isn't it true that you serve at the pleasure of the president and that you can be asked to leave at any time? As I answered at the hearings, that statement is legally true, but the tradition of the Department of Justice historically has actually been the reverse. Everybody knows that when the administration ends, you're probably not going to remain U.S. attorney. But until then, the assumption is that you will be allowed to remain in the position until the end of the term unless you make an egregious error. Ignoring that tradition has created a great problem for the Department of Justice, and failing to comprehend why that tradition was so important demonstrates the complete failure of DOJ management that led to this unfortunate state of affairs. The uncertainty it has caused among U.S. attorneys is just devastating for the DOJ. And it's still shocking to me that department leadership took such an ill-advised course, without thinking through the consequences.

ALLEGATIONS MADE BY MANAGEMENT AT THE DOJ AS JUSTIFICATION FOR YOUR FIRING REFER TO A LAX RECORD WITH REGARD TO PROSECUTION OF IMMIGRATION-RELATED CRIME. HOW DO YOU RESPOND TO THAT?

The way the border situation was handled by Attorney General Ashcroft and then Attorney General Gonzales in their respective administrations is very interesting. Under Attorney General Ashcroft there was respect for the border generally and an understanding that being a U.S. attorney in a border district and having to deal with the multitude of cases that are generated by the border is an extremely difficult job. And the way any U.S. attorney chooses to manage the border situation is highly dependent on the particularities of that district, the geographic layout of the district, and the resources available in the office. There are five Southwest border districts that have large borders with Mexico, but each has its own set of issues. In San Diego we have lots of tunnels. You're not going to see a lot of tunnels in Texas because of the Rio Grande, and that difference alone is a substantial one. And from Washington there's often a temptation to say, "Oh, it's a border district. It's just a numbers game. We can ratchet it up or ratchet it down." That was the message from Justice under Attorney General Gonzales. About a million people are arrested along

“WHO IN HIS RIGHT MIND COULD THINK THAT YOU COULD FIRE SEVEN U.S. ATTORNEYS ON THE SAME DAY AND TELL THEM TO LEAVE ON THE SAME DAY AND THAT NOBODY WAS GOING TO NOTICE? IT WAS JUST HEADBANGINGLY FRUSTRATING.” CAROL LAM '85

the border every year, and no U.S. Attorney's Office prosecutes more than a few thousand—felonies or misdemeanors. So, how are you going to attack that problem?

I concentrated on efficiency and getting longer sentences on bigger fish, given the fact that our resources were finite. And I was completely forthcoming about my intentions when I entered the office. I told the people who interviewed me for the position that I would rather indict ten defendants in a conspiracy than ten individual defendants, because my view is we were likely to make more impact on crime if we take down an organization—say, an alien smuggling organization. If you indict ten people in an alien smuggling ring, you're more likely to get people who are willing to cooperate and testify and you have to go through only one set of motions and one trial rather than ten. And so, this is a more efficient way of prosecuting.

AND IT BECAME A NUMBERS GAME—

Yes. When you bring one indictment of ten people, you get only one statistic. Or if you prosecute, say, a corrupt border patrol agent who is letting hundreds of aliens come through in exchange for a bribe, you get only one statistic. If you're not going to look at either the significance of the prosecution or the length of the sentences, then you're taking a one-dimensional view of law enforcement, and frankly I think a very immature one. So in response to your question, whenever the department asked about statistics, this was exactly the answer I would give. And the department always seemed to understand and accept that explanation as rational and reasonable, and I had no reason to believe it felt otherwise.

THE DEPARTMENT CAN'T CLAIM TO HAVE BEEN SURPRISED BY YOUR IMMIGRATION STRATEGY?

No. In fact the DOJ took my explanation and put it in a letter to Senator Feinstein and Congressman Issa in response to their inquiries about our lower statistics, which had been prompted by a U.S. Border Patrol complaint. I understood the Border Patrol concerns because its evaluations and funding probably depend to some extent on the number of prosecutions.

WERE SENATOR FEINSTEIN'S CONCERNS ALLAYED BY THE DEPARTMENT'S RESPONSE?

Yes. And I believe she stated that publicly.

IT'S APPARENT THAT THE DOJ WAS CONCERNED THAT OTHER SOUTHWEST BORDER DISTRICTS HAD HIGHER NUMBERS OF FIREARMS-RELATED PROSECUTIONS THAN DID YOURS. HOW DID YOU RESPOND TO THAT?

Other border districts actually have more serious gun problems than the Southern District of California. And that's

a part of the discussion that simply seems to drop off, which I find ironic. I think that my job as U.S. attorney, as with all U.S. attorneys, is to deal with the most pressing crime problems in the district. This is, frankly, the difficulty with a one-size-fits-all prosecution priority when it's imposed with equal force on all ninety-four judicial districts in the United States. Inevitably you're going to end up with an emphasis in an area that is disproportionate to the crime problem. And I made this point repeatedly to the department and in my recent testimony. Illegal firearms were simply not a great problem in San Diego and, to the extent they were a problem, the District Attorney's Office was handling the situation very well and to the utmost satisfaction of the police chief and the sheriff. I completely understand the emphasis on illegal firearms in cities with a severe gun problem, but if I had diverted resources to firearms cases, that would inevitably have detracted from our efforts in narcotics, immigration, fraud, and other areas that were more pressing in the district.

Two weeks after I was asked to leave, reportedly because I was not prosecuting enough gun cases, representatives of the DOJ came out to San Diego to investigate why we had one of the lowest violent crime rates in the country and the lowest violent crime rate in San Diego in twenty-five years. So that just points out to me the fallacy in this criticism that we weren't doing enough illegal firearms cases.

DID YOU HAVE ANY PARTICULAR UNDERSTANDING WITH THE LOCAL DA WITH REGARD TO THE PROSECUTION OF CRIMES?

Oh yes. I wanted to identify areas in which federal prosecution might assist in the overall effort to reduce crimes associated with illegal firearms, so we established a protocol with the DA's office to determine cases where we could get a substantially higher prison sentence in federal court for any illegal firearms case. Such cases would be referred to us rather than handled by the DA's office. I thought it was a reasonable division of labor, and everybody was very cooperative. The question was whether I should forcibly take cases from the DA's office to meet an arbitrary quota of gun prosecutions—or look at what's best for the district in terms of division of responsibility among the city attorney, the district attorney, and the U.S. Attorney's Office for prosecuting crime. And I think the latter is the more rational way to approach the job. It's better for the district as a whole.

DEPUTY ATTORNEY GENERAL PAUL MCNULTY WROTE IN AN E-MAIL, "I'M STILL A LITTLE SKITTISH ABOUT BOGDEN" IN REFERENCE TO DANIEL BOGDEN, U.S. ATTORNEY IN NEVADA,

ONE OF THE SEVEN DISMISSED ON DECEMBER 7. MCNULTY CONTINUED, "HE HAS BEEN WITH DOJ SINCE 1990 AND AT AGE 50 HAS NEVER HAD A JOB OUTSIDE OF GOVERNMENT. . . . SORRY TO BE RAISING THIS AGAIN/NOW; IT WAS JUST ON MY MIND LAST NIGHT AND THIS MORNING."

That e-mail highlights just how arbitrary and loosely based these decisions were, and therein lies the problem. Historically, there's been a very, very high bar set for any decision by the Department of Justice to ask a United States attorney to leave. If a U.S. attorney was asked to leave, that request was preceded by a well-documented and thorough investigation of some allegation of misconduct or poor judgment. And to read an e-mail like that, suggesting that people were waking up in the middle of the night worried that maybe it wasn't the right decision because somebody's really not such a bad guy—this is not the way that important decisions should be made. What has been absolutely devastating for the department has been to see the after-the-fact justifications—the sit-down sessions that our former colleagues back at the department participated in to try to justify these decisions, where everything was thrown in, including the kitchen sink—reasons that, frankly, I think are embarrassing. Reasons such as somebody spent too much time working on Indian affairs, or that Carol Lam personally tried a case and that's a terrible thing, or that a U.S. attorney had the nerve to want to have one more conversation with the attorney general about whether to seek the death penalty.

To criticize United States attorneys for trying to do their jobs conscientiously has created a chilling effect. It demonstrates to me that, at least for a time, the Department of Justice had completely lost its way.

THE *SAN DIEGO UNION-TRIBUNE* REPORTED THAT THE SAN DIEGO CITY ATTORNEY, MICHAEL AGUIRRE, SAID, "SHE'S BEEN BY FAR THE MOST OUTSTANDING U. S. ATTORNEY WE'VE EVER HAD." A LOCAL FBI AGENT ALSO PRAISED YOU PUBLICLY. NO DOUBT YOU FOUND THE SUPPORT GRATIFYING?

Of course. We had a very, very good and competent interagency group; we knew each other very well, we were able to react quickly to situations, and disregard for that has been one of the saddest things about this whole event. Whatever the motivations for this sweeping dismissal, one thing that did not seem to work itself into the calculations of those who made the decision was what they would be losing. And what they lost was a lot of years of experience and accumulated wisdom of a lot of U.S. attorneys. I can't speak highly enough of my colleagues who were fired—who really understood their districts and their offices and law enforcement. And this at a time in our country when we should be clinging to experienced prosecutors who really understand their agencies. It's a blow to good law enforcement.

YOU DON'T REGARD WHAT'S HAPPENED AS LONG-TERM POLITICIZATION OF JUSTICE?

No, because it can't be. If anything is clear from this experience, it's that people will pay attention until the ship rights itself. That is why I am optimistic. This is not the first time that this type of issue has raised its head at the Department of Justice. We had the Saturday Night Massacre. And maybe once a generation we're going to have to have a reminder. The decision to simply ask a number of U.S. attorneys to leave at the same time for not very compelling reasons was not in itself necessarily an illegal act, but it so transgressed the unwritten understanding and traditions of the department that, ironically, I think it has now reinforced them.

WHAT ABOUT THE EFFECT THESE EVENTS HAVE HAD ON THE DOJ?

What these events did show me is that you can't have a Department of Justice that's a straight shot to the White House, and that was really the problem here. The rationale for the firings became so ridiculous and no one seemed to wonder about how the remaining U.S. attorneys would react. It was devastating to the U.S. attorney community because it used to be that you could simply say, "That's the decision I'm making because I'm the U.S. attorney, and it's within my discretion to make it and that's the answer." Now that authority is being second-guessed. But I'm optimistic; it's a good thing that everything has come to light.

WOULD YOU CONSIDER TAKING A PUBLIC SERVICE POSITION AGAIN?

You know, public service is a wonderful thing, and I've never viewed it as a sacrifice. Certainly it's a sacrifice in terms of pay, but not in any other respect. It's a huge honor. I feel very fortunate that I've had the opportunity to work in the public interest as I see it for the past twenty years. And I'm really enjoying my time in the private sector now. I love QUALCOMM. It's a wonderful and fascinating company that's on the cutting edge of technology. One day I may go back to the public sector because going back and forth reminds you of the good things about both sides.

ANY PARTING THOUGHTS?

I never imagined that I would have the opportunity to be a United States attorney. And it was—even now, after what's happened—an amazing honor. I was talking with a former colleague about this, and I asked him, "If you'd known that it was going to end like this, would you still have done it?" And he said, "Without a doubt, no question about it." And I agree. Being a U.S. attorney is, I think, one of the most phenomenal jobs you can have as an attorney and as a prosecutor. It was a full, flourishing, jam-packed four and a half years. I have no regrets about anything we did or how we did it, and we were able to do several cases from beginning to end within that time period. I really couldn't have asked for a better experience. **SL**

IP RULES

By Paul Goldstein

STELLA W. AND IRA S. LILICK PROFESSOR OF LAW

Intellectual property.

THE TERM ITSELF SUGGESTS THE NATURE OF THE CHALLENGE. HOW CAN A PRODUCT OF THE MIND—AN INVENTION, a song, a brand, a business secret—become the subject of precise, bounded property rights? No idea is entirely original; every innovative business borrows, sometimes extensively, from its competitors and others. How can lawmakers draw a line that crisply states this is yours and that is mine? • Judges, legislators, and lawyers commonly speak of “balance” in intellectual property law, and this is certainly a desirable goal. But, balance—at least if it implies stability—is an illusion. No law that seeks to encourage both the production and use of information can possibly achieve more than a momentary equilibrium. Because support for investment incentives inevitably undermines support for free access—this is the paradox of property rights in information—all balances are temporary; the slightest current of public or political sentiment can shift the balance, by extending property rights one day and restricting them the next. • Companies spend millions, sometimes billions, of dollars researching and developing new products, knowing that they will have to write off the investment if a court should hold that the invention trespasses on another company’s patent. Book publishers, film studios, and record labels invest in creating and marketing copyrighted works that inevitably build on themes, incidents, and other elements taken from earlier works. Which of these elements is in the public domain, free for the taking, and which is not? Many of the best-known and most valuable brand names—Burger King, McDonald’s—are little more than descriptive words and common names. How can a company appropriate such names to its own exclusive use? When a departing employee takes a company’s trade secrets and know-how with him, what part of this information belongs to the company and what part, derived from his own skill and training, belongs to him? Marking off the boundaries of intellectual assets is like drawing lines in water. • Elusive as intellectual property boundaries are, the business value they secure is enormous. Commentators cite breathtaking figures—“76 percent of the Fortune 100’s total market capitalization is represented by intangible assets, such as patents, copyrights, and trademarks” or “an estimated 80 percent of the value of the Standard & Poor’s 500 is made up of intangible assets of all kinds”—to indicate the scale of intellectual assets in the modern economy. By one recent estimate, the nation’s copyright

and patent industries alone contributed almost 20 percent of private industry’s share of the U.S. gross domestic product and were responsible for close to 40 percent of all private industry growth.

Impressive as these numbers are, the profits generated by these assets can be even more striking. In 1986 media entrepreneur Ted Turner paid \$1.6 billion for the MGM film studio, quickly selling off the studio’s tangible assets—production and distribution operations, film laboratory, and real estate—in a deal that left him with \$1.2 billion invested in the copyrights to MGM’s film library, including such classics as *Casablanca*, *Gone with the Wind*, and *The Wizard of Oz*. In 2004, when MGM was again on the block, analysts estimated that its James Bond franchise alone was worth \$1 billion, encompassing not only DVD revenues from the 20 Bond films already in the MGM library but also the revenues to be earned from new releases, for which they estimated profits at no less than \$125 million for each film, not counting product placements. In 1999, Salton Inc. paid George Foreman and his partners \$137.5 million to use the former heavyweight champion’s name and image to market the Lean Mean Grilling Machine and other kitchen

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POINT OF VIEW

SUPREME COURT LITIGATION CLINIC ARGUES PAY DISCRIMINATION CASE

The students knew it was going to be a close call. “I thought we had four justices but wasn’t sure we could get a fifth,” says David Moskowitz ’07, describing how he felt after sitting through oral arguments in *Ledbetter v. Goodyear*, an employment discrimination case taken up by Stanford Law’s Supreme Court Litigation Clinic and heard by the Supreme Court. While the Court’s May, 2007 decision was a blow to the clinic team, the case put a spotlight on pay discrimination and brought the issue to the attention of Congress. • It all began with an anonymous note addressed to the clinic’s client, Lilly Ledbetter. The letter revealed that Ledbetter had been making nearly 20 percent less than her male counterparts throughout her 19-year career at a Goodyear tire factory in Alabama. After a jury trial found that Goodyear had violated Title VII, which prohibits pay discrimination, the 11th Circuit Court of Appeals reversed the decision, stating that Title VII requires employees to sue within 180 days after the discrimination begins. In other words, Ledbetter was too late. • The question before the Supreme Court, then, rested on when the clock starts. Does the 180-day time limit kick in when the employer initiates the discrimination (sets a salary), as the 11th Circuit Court ruled, or after the last act of discrimination (the employee’s most recent paycheck)? • Moskowitz and his fellow clinic students argued that both were true. Working under the watchful eye of clinic co-instructor and Howe & Russell partner Kevin Russell, lead counsel in the case, students helped draft the petition for certiorari to the Supreme Court. • “I felt like a private investigator,” says Scott Reents ’07, who wrote the petition’s factual statement after sifting through hundreds of pages of trial transcripts. “In doing my research I got the sense that the working environment at Goodyear was from another era. It’s remarkable Lilly stuck it out given the discrimination she was facing.” • The petition was granted and students set to work on two documents: the merits brief and later a reply brief. Moskowitz worked on a section of the reply brief arguing that the court should defer to the Equal Employment Opportunity Commission, which filed an amicus brief in favor of Ledbetter in a lower court. Jennifer Liu, JD/MBA ’07, who also worked on the brief, researched similar cases that were decided in the plaintiff’s favor. • On November 27, 2006, the students were in Washington, D.C., awaiting Kevin Russell’s oral argument before the Court when they met Lilly Ledbetter for the very first time. “She’s a real fighter,” says Liu. • In the end, the court decided 5-4 in favor of Goodyear, holding that employees must file a claim within 180 days of a “discriminatory decision” even “if the effects of the initial discriminatory act were not immediately apparent to the worker and even if they continue to the present day.” In a rare move, Justice Ruth Bader Ginsburg read the dissent from the bench. • “It was frustrating,” says Moskowitz. “It seemed like such a big change from how the law had been interpreted for the past 30 or so years.” • “Even though the result was disappointing, it was a great opportunity to participate in an important case,” says Liu, who is quick to point out that the Lilly Ledbetter Fair Pay Act of 2007 was passed by the House of Representatives in late July and is awaiting a vote in the Senate. The act would overturn the Supreme Court’s much-criticized decision. • “I hope the bill in Congress is some consolation to her that her case has prevailed in the court of public opinion,” says Reents.



N E W S

Case Roundup

The Environmental Law Clinic won a case against the California Department of Fish and Game, whose practice of putting hatchery-raised, non-native trout into water bodies throughout California put native frog and fish species at risk. In an order issued July 18, 2007, the court found that the agency's failure to prepare an environmental review for its trout stocking program violated the California Environmental Quality Act. Paul Spitler '07, Sierra Martinez '08 (BA '03), and Justin Barnard '08 litigated the case from <None>start to finish.

The Immigrants' Rights Clinic filed an amicus brief on behalf of the organization Human Rights Watch (HRW) arguing that the U.S. immigration policy mandating the deportation of Wayne Smith and Hugo Armendáriz, legal immigrants who committed drug crimes in their youth, violates international human rights standards. The case was heard by the Inter-American Commission on Human Rights July 20 in Washington, D.C. Lin Chan '07 and Gloria Borges '07 wrote the brief in support of petitioners Smith and Armendáriz.

The Community Law Clinic's Margaret Cohen '08 filed and argued several criminal record expungement motions in the superior courts of Santa Clara and San Mateo counties. In one notable case, the client's minor convictions barred her from job promotions and other professional opportunities. Cohen persuaded the judge of her client's entitlement to expungement, despite the opposition of the probation department.

The Youth and Education Law Project (YELP) celebrated a win for its client—a deaf child with autism who was excluded from the California School for the Deaf (CSD) because of her additional disabilities—when the case against the school was settled out of court in August. As part of the settlement, CSD will

create an environment for developmentally delayed students at the school. This settlement comes after a U.S. District Court judge denied CSD's motion to dismiss, clearing the way for YELP to pursue claims under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act. Over the course of the last

year, clinic students Ruth Barnes '07, Hope Bennett '08, Brian Bilford '08, Erica Blachman '07, Laura Johnson '07, Peter Khalil '07, Esther Kim, '07, Jonathan Olinger '08, Will Rawson '08, Rebecca Thalberg '07, Julie Wahlstrand '08, Caitlin Weisberg '08, and Ashley Yeargan '08 have done everything from motion practice to discovery to expert witness work in the case.

NEW ORGANIZATIONS AND TRANSACTIONS CLINIC OFFERED AT MILLS LEGAL CLINIC

THE LAW SCHOOL'S newest clinic will open for business in spring 2008. Serving nonprofits and small enterprises in the Bay Area, the Organizations and Transactions Clinic will provide students with opportunities to work on contracts and collaborations, assist with funding and financing projects, advise on governance, compliance, commercial, and reporting matters, and provide general corporate support to its clients. • "Nonprofits have governance, finance, and commercial needs just as large corporations do," says Jay A. Mitchell (BA '80), who directs the clinic. "The work we do in the clinic will provide practical help to our clients, give the students opportunities to build knowledge and experience in these core areas, and demonstrate how corporate lawyers can use their skills to serve the community." • Mitchell, a former partner at Heller Ehrman White & McAuliffe in San Francisco, comes to Stanford Law after 15 years as chief corporate counsel at Levi Strauss & Co., where his work focused primarily on governance, finance, stockholder, and disclosure matters and on a wide range of commercial transactions. Mitchell will be joined for the 2008–2009 academic year by the Orrick, Herrington & Sutcliffe Teaching Fellow. • Mitchell expects the clinic to draw students interested in careers in corporate law, business, and finance—a subset of students not currently being targeted by the law school's other litigation-focused clinics. He also hopes to attract students planning careers in litigation or public policy who want experience in organizational work. • Alumni who are board members, officers, volunteers, or otherwise affiliated with organizations that might be appropriate clients for the clinic as well as alumni who are interested in learning more about the teaching fellowship are encouraged to contact Mitchell (650-724-0014; jmitchell@law.stanford.edu).

Two New Teaching Fellowships Established

TWO LAW FIRMS KNOWN for their commitment to pro bono work are supporting two new teaching fellowships at the Mills Legal Clinic of Stanford Law School. Orrick, Herrington & Sutcliffe has pledged \$250,000 over five years to support a fellowship for the newly established Organizations and Transactions Clinic and Cooley Godward Kronish has committed \$250,000 over five years to support a fellowship for the Immigrants' Rights Clinic. The Organizations and Transactions Clinic provides legal assistance to nonprofits and small businesses. The Orrick, Herrington & Sutcliffe Fellow will join the clinic for the 2008–2009 academic year. The Immigrants' Rights Clinic represents immigrants on matters ranging from humanitarian relief from deportation to asylum protection. Attorney Jennifer H. Lee, who has extensive experience working with immigrant domestic violence issues, is the inaugural Cooley Godward Kronish Fellow. "These fellowships allow us to offer more students closely supervised clinical training and the opportunity to enable students to reflect deeply on the work they do," says Lawrence C. Marshall, David and Stephanie Mills Director of Clinical Education and associate dean for public interest and clinical education.

Lessig Shifts Direction of Scholarship

Lawrence Lessig, C. Wendell and Edith M. Carlsmith Professor of Law, made an announcement at last summer's iCommons iSummit that shook the free culture movement. After 10 years of scholarship and activism on the problem of how law should govern the exchange of information and ideas in a digital age, he is shifting his focus to the study of corruption. Lessig will dedicate the next 10 years to what he refers to on his blog as "corruption in the sense that the system is so queered by the influence of money that it can't even get an issue as simple and clear as term extension right." Noting the link between his previous areas of scholarship and corruption, he said that "our government can't understand basic facts when strong interests have an interest in its misunderstanding."

The announcement has caught people's attention. To date, the YouTube clip of his iSummit speech has been viewed more than 2,000 times and initial comments on his blog totaled 142.

The founder of Creative Commons and Stanford Law School's Center for Internet and Society, Lessig plans to continue his involvement with both

groups. But he has already begun to turn his attention to research on this new question. Lessig discussed his new direction at the September Stanford Constitutional Law Center Constitution Day lecture, which can be seen at conlawcenter.stanford.edu.

Lessig Receives APSA Award

Lawrence Lessig, C. Wendell and Edith M. Carlsmith Professor of Law, is the 2007 recipient of the Ithiel de Sola Pool Award and Lectureship from the American



Political Science Association. The award, presented triennially, honors the memory of renowned communications scholar Ithiel de Sola Pool. As part of the award, recipients are asked to present a lecture exploring the implications of de Sola Pool's scholarship. Lessig delivered "Pool 2.0: Pool and Where We Are with the Net" at the APSA's annual meeting in August.



Caldwell Appointed to Aquarium Board

The Monterey Bay Aquarium appointed Margaret "Meg" Caldwell '85, senior lecturer in law, to its board of trustees. The nonprofit, self-supporting aquarium strives to inspire ocean conservation through exhibits displaying marine life, operation of and participation in research and conservation programs, and collaboration with other conservation-minded organizations. Caldwell, the director of the Environmental and Natural Resources Law and Policy Program, has served on several other organization boards devoted to conservation including the California Coastal Conservancy.

Gilson and Klausner Articles Earn Accolade

Ronald J. Gilson, Charles J. Meyers Professor of Law and Business, and Michael Klausner, Nancy and Charles Munger Professor of Business and Professor of Law, are among the authors of "The Top 10 Corporate and Securities Articles of 2006." The articles

were selected via polling of scholars in related fields. Gilson's piece, "Controlling Shareholders and Corporate Governance: Complicating the Comparative Taxonomy," examines multiple understandings of the role played by controlling shareholders in corporate governance. Klausner's article, "Outside Director Liability" (co-authored with Bernard Black '82 and Brian Cheffins), analyzes the varying degrees of risk of "out-of-pocket liability" experienced by outside directors of public companies.

Kathleen M. Sullivan Tops Lists

The National Law Journal named Kathleen M. Sullivan, Stanley Morrison Professor of Law and former dean, one of the "50 Most Influential Women Lawyers in America." The list includes 50 reader-nominated women lawyers "who have had a national impact in their fields and beyond during the last five years," according to the publication. Sullivan was previously listed as one of the

journal's "Top 100 Most Influential Lawyers in America" in 2006, as well as one of the "Top Women Litigators" by the *Daily Journal*.

Koski Receives Service Award

William Koski (PhD '03), Eric and Nancy Wright Professor of Clinical Education, received a Public Service Award from IMPACT, a California statewide nonprofit organization serving deaf and hard-of-hearing children. The award, presented April 21, recognizes Koski's contributions in advocating equal educational opportunities for deaf and hard-of-hearing children, such as his litigation work in the case *J.C. v. California School for the Deaf and California Board of Education*. Koski served as counsel in the case, which challenged the California School for the Deaf's exclusion of multi-disabled deaf children. Koski is the founder and director of Stanford Law School's Youth and Education Law Project (YELP).



MICHAEL JOHNSON

Marshall Recipient of Northwestern Service Award

Lawrence C. Marshall, professor of law, David and Stephanie Mills Director of Clinical Education, and associate dean for public interest and clinical education, was honored earlier this year with Northwestern University's 2007 Service to Society Award, as selected by the Alumni Awards Committee. The award "recognizes the voluntary efforts of alumni in various arenas that contribute to the advancement of causes or the improvement of society, thereby reflecting favorably on the University." Marshall received his JD summa cum laude from Northwestern University School of Law in 1985 and later became a professor of law as well as co-founder and legal director of the Center on Wrongful Convictions where he represented many wrongly convicted inmates. He joined the Stanford Law School faculty in 2005.

Karlan Named Academy Fellow

The American Academy of Arts and Sciences has elected Pamela S. Karlan, Kenneth and Harle Montgomery Professor of Public Interest Law, a member of its 2007 Class of Fellows.

New fellows, nominated by current members of the academy, will participate in the academy's induction ceremony in October in Cambridge, Massachusetts. Academy president Emilio Bizzi said the nominations recognize "individuals who have made preeminent contributions to their disciplines and to society at large."

Grundfest Appointed to SEC Advisory Committee, Named to Directorship 100 List

Joseph A. Grundfest '78, W. A. Franke Professor of Law and Business, was among the 16 individuals appointed to the Securities and Exchange Commission's new accounting advisory committee. Announced by SEC Chairman Christopher Cox in July, the committee is charged with identifying ways to improve financial reporting and make it more accessible and useful to investors.

Grundfest was also named to *Directorship's* first annual "Directorship 100," a list of the 100 most influential figures in corporate governance in America. Nominated by *Directorship* readers and a panel of 12 experts, the list was featured in the magazine's September 2007 issue.

Martinez Recognized by *Lawyers USA*

Lawyers USA selected Jenny S. Martinez, associate professor of law and Justin M. Roach, Jr. Faculty Scholar, as one of eight up-and-coming attorneys from around the nation "who have positioned themselves to make a significant impact on their profession." Martinez's profile was featured in the magazine's September 24 issue.



Faculty Promotions

Stanford Law School granted full tenure and professorship to Mariano-Florentino Cuéllar, professor of law and Deane F. Johnson Faculty Scholar, and Michele Landis Dauber, professor of law and Bernard D. Bergreen Faculty Scholar. Jayashri Srikantiah, associate professor of law (teaching), was appointed for another three years. Alison D. Morantz, assistant professor of law, was promoted to associate professor of law.

BARBARA VAN SCHEWICK

When she graduated from high school in 1992, Barbara van Schewick knew she wanted to study law. After all, some of her favorite childhood memories involved discussing cases with her father, a judge on one of Germany's highest courts.

But she was also drawn to technology. She had received her first computer two years earlier and immediately took to it, tinkering with programming languages like C and Pascal. "I didn't want to give up either subject, so I started wondering whether I could combine the two. Most people thought I was crazy. At the time, the Internet hadn't become very popular in Germany yet, and German lawyers didn't use computers for their work," says van Schewick, who in addition to her scholarly work at Stanford will be teaching communications law and antitrust law. • And so it happened that van Schewick shuttled back and forth between the Free University Berlin and Technical University Berlin, simultaneously pursuing her law degree and a PhD in computer science. • It was a prescient move. By the time van Schewick completed her legal education in 2000, the Internet had exploded. Moreover, it "was clear that it was raising a host of fascinating legal questions that were difficult to solve without technical expertise," she says. • One issue to which van Schewick has lent her considerable expertise

is network neutrality—whether the law should prevent network providers from slowing down applications and content or from excluding it from networks. Her paper, "Towards an Economic Framework for Network Neutrality," published by the *Journal of Telecommunications and High Technology Law* this spring, was widely hailed for its groundbreaking analysis. • At Stanford, van Schewick intends to continue her work in this area with the goal of helping shape policy in the United States and Europe, where the issue of network neutrality is far from resolved. She is also finishing a book, *Architecture and Innovation: The Role of the End-to-End Arguments in the Original Internet*, and conducting research on how future Internet architecture might affect innovation and competition. • "Technical, legal, and economic choices will affect whether the Internet can realize its full potential," says van Schewick. "To me, understanding what the impact of the various choices will be and what role the law should play in all this is one of the most exciting areas of research in this field today." • Van Schewick comes to the law school from the Technical University Berlin, where she was a senior researcher at the Telecommunication Networks Group at the Department of Electrical Engineering and Computer Science. She holds the distinction of being the first residential fellow at Stanford's Center for Internet and Society in 2000. • "Superbly trained in law and equally well trained in other professional disciplines relevant to the cutting-edge issues of our day, Barbara is part of a new breed of law professor," says Dean Larry Kramer. "Barbara's expertise in computer science and economics makes her uniquely qualified to tackle some of the most important issues of our age." —AMY POFTAK (BA '95)



CULTY

Visiting Faculty

YIFAT HOLZMAN-GAZIT

(COLLEGE OF MANAGEMENT LAW SCHOOL, ISRAEL)

Visiting Professor of Law Yifat Holzman-Gazit JSM '94, JSD '97, whose stay at Stanford Law is supported in part by a grant from the Charles and Lynn Schusterman Family Foundation, is teaching *Comparative Constitutional Property Rights* in the fall and *Minority Rights in Israel* in the spring. She is a faculty member at the College of Management Law School in Israel. She clerked for Justice Eliezer Goldberg of the Supreme Court of Israel and was an advisor to the Israeli Interministerial Committee on Reform of Land Expropriation Law from 2003 to 2004. Holzman-Gazit's scholarship focuses on property law, the Israeli-Palestinian land conflict, and courts and media coverage. Her book, *Land Expropriation in Israel: Law, Culture and Society*, is due to be published later this year. Holzman-Gazit holds an LLB from the Hebrew University of Jerusalem.

JOHN C. HARRISON (UNIVERSITY OF VIRGINIA SCHOOL OF LAW)

John C. Harrison is serving as the Herman Phleger Visiting Professor of Law, teaching *Civil Procedure* this fall. He is the David Lurton Massee Jr. Professor of Law and Henry L. and Grace Doherty Charitable Foundation Professor at the University of Virginia School of Law. A graduate of the University of Virginia (BA '77) and Yale Law School (JD '80), Harrison was an associate at Patton Boggs & Blow in Washington, D.C., and clerked for the Honorable Robert Bork on the U.S. Court of Appeals for the District of Columbia Circuit. He joined the Virginia Law faculty in 1993 after a distinguished career with the U.S. Department of Justice, where he served in numerous capacities, including as deputy assistant attorney general in the Office of Legal Counsel from 1990 to 1993.

TIMOTHY R. HOLBROOK

(CHICAGO-KENT SCHOOL OF LAW, ILLINOIS INSTITUTE OF TECHNOLOGY)

Visiting Associate Professor of Law Timothy R. Holbrook, an associate professor of law with tenure and the associate director of the Program in Intellectual Property Law at the Illinois Institute of Technology's Chicago-Kent School of Law, is teaching *IP: Patents* and *IP: Trademark* this fall. Prior to joining the Chicago-Kent faculty in 2000, he was an associate with the Washington, D.C., law firm of Wiley, Rein & Fielding, where his practice focused on patent and appellate litigation. After earning a BS in 1993 from North Carolina State University and a JD in 1996 from Yale Law School, he clerked for the Honorable Glenn L. Archer Jr. of the U.S. Court of Appeals for the Federal Circuit, and worked in Budapest, Hungary, with the patent law firm Danubia.

BARBARA OLSHANSKY (CENTER FOR CONSTITUTIONAL RIGHTS)

Barbara Olshansky '85 serves as the Leah Kaplan Visiting Professor in Human Rights, teaching *Guantánamo, Law, and the War on Terror* in the fall and establishing an international human rights clinic. Previously, she led the Guantánamo Global Justice Initiative at the Center for Constitutional Rights (CCR) and was its deputy legal director litigating civil and human rights cases. After receiving two bachelor's degrees in 1982 from the University of Rochester, Olshansky attended Stanford Law, where she helped establish the East Palo Alto Community Law Project to serve low-income residents. She clerked for former California Supreme Court Chief Justice Rose Bird, served as a union-side labor and plaintiff's employment discrimination lawyer, and argued cases for the Environmental Defense Fund. In 2005, the Stanford Public Interest Law Foundation named Olshansky its Public Interest Lawyer of the Year.

ROGELIO PEREZ-PERDOMO

(UNIVERSIDAD METROPOLITANA, VENEZUELA)

Rogelio Pérez-Perdomo, dean of the law school at the Universidad Metropolitana in Caracas, Venezuela, has been a frequent visiting professor to Stanford since 1998 and is teaching *Latin American Law* this fall. A leading scholar of sociology of law in Latin America, he has written extensively on the legal profession and litigation, and recently he has conducted comparative studies of governmental corruption. He is the author of several books, including *Latin American Lawyers: A Historical Introduction*, and co-editor of *Legal Culture in the Age of Globalization: Latin America and Latin Europe*. Pérez-Perdomo holds a JD ('64) and PhD ('75) from the Universidad Central de Venezuela and an LLM ('72) from Harvard Law School.

WILLIAM H. TAFT IV

(FRIED, FRANK, HARRIS, SHRIVER & JACOBSON)

William H. Taft IV joins Stanford Law for the 2007-2008 school year as the Warren Christopher Professor of the Practice of International Law and Diplomacy, teaching *Contemporary Issues in International Law and Diplomacy* in the fall and *Foreign Relations Law* in the spring. He is also a visiting scholar at the Freeman Spogli Institute for International Studies. Taft is of counsel in the Washington, D.C., office of Fried, Frank, Harris, Shriver & Jacobson. In addition to working many years in private practice, Taft has had an extraordinary career as a public servant, holding positions at the Federal Trade Commission, the Office of Management and Budget, the U.S. Department of Health, Education and Welfare, and the Department of Defense, where he was general counsel and then deputy secretary of defense. Taft has also served as U.S. Ambassador to NATO and the U.S. Department of State's Legal Advisor, the highest legal position in the department. He received his BA

in 1966 from Yale University and his JD in 1969 from Harvard Law School.

JENNIFER URBAN

(USC GOULD SCHOOL OF LAW)

Jennifer Urban is serving as visiting associate professor of law and interim director of Stanford Law's Cyberlaw Clinic, which gives students hands-on opportunities to participate in supervised counseling, licensing, litigation, policy and legislative advocacy in matters involving technology and the public interest. At USC, she is a clinical associate professor of law and director of the USC Intellectual Property and Technology Law Clinic. Additionally, she is a member of the USC Center for Communication Law and Policy and a fellow of the USC Annenberg Center for Communication. Before joining USC in 2004, Urban was a lecturer and visiting professor at UC Berkeley's Boalt Hall School of Law. Prior to that, she was an attorney with the Venture Law Group in Silicon Valley. She holds a BA ('97) from Cornell University and a JD ('00) from Boalt Hall.

JONATHAN ZITTRAIN

(OXFORD UNIVERSITY)

Visiting Professor of Law Jonathan Zittrain, professor of Internet governance and regulation at Oxford University and the Jack N. and Lillian R. Berkman Visiting Professor for Entrepreneurial Legal Studies at Harvard Law School, is teaching *Torts* this fall. Zittrain co-founded Harvard Law School's Berkman Center for Internet & Society; he is also a principal investigator of the OpenNet Initiative, a comprehensive effort to track Internet filtering worldwide, run by researchers at the University of Toronto, the University of Cambridge, the Oxford Internet Institute, and Harvard Law School. His scholarship focuses on digital property, privacy, and speech, and battles over Internet architecture, covered in his forthcoming book *The Future of the Internet - And How to Stop It*. He holds degrees from Yale University (BS '91) and Harvard (JD/MPA '95).

P E R S P E C T I V E L A W A N D O I L

B y D a v i d H u l t s ' 0 8

What happens to
the law in resource-rich
developing countries?

I have spent some time
researching Venezuela trying
to find out, thanks to
support from Stanford's
Program on Energy
and Sustainable
Development and a
summer public interest
fellowship from the law
school. Working with
Professors Thomas Heller
and David Victor,

I have been examining how
Venezuelan oil revenues
and regulatory
framework interact.



VENEZUELA'S HISTORY SHOWS THE UPS AND DOWNS of legal institutions in a developing country. For decades, Venezuela was a stable—though corrupt and elite-controlled—democracy, with several governments fostering a pro-business regulatory environment. But the poor had received little of the country's oil wealth, which accounts for one-third of its gross domestic product and nearly half of government revenues. In 1999, however, Hugo Chávez became Venezuela's president, largely on the strength of votes from the

Venezuelan poor and working class. Once in power, Chávez began rewriting the Venezuelan rulebook. Meanwhile, oil continued to fuel the Venezuelan economy.

To better understand Venezuela today, I visited the country to learn more. I first lived in Venezuela during the summer of 2006 to work on rule of law issues at the World Bank and to study the country's oil industry. I went to the country again during the 2007 spring break to conduct follow-up research. Each time my experiences were wonderful. The country has a

C T I V E S IN VENEZUELA

relaxed, Caribbean-flavored feel. Venezuelans flock to the shore each weekend, and beat-heavy reggaeton music fills the city streets. During the summer, I lived with Venezuelan university students who loved talking politics and preparing local dishes (my personal favorite is a simple, Cheese Whiz-smothered arepa).

My research was equally fruitful. With the Stanford name behind me, I had the opportunity to meet with government officials, academics, and foreign investors. And despite the recent animosities between the U.S. and Venezuelan governments, my nationality never became an issue. Venezuelans of all political stripes—whether they were high-level contacts or taxi drivers—enthusiastically offered their views to me.

Government Control

These interviews gave me sharply contrasting portraits of Venezuela. Government officials argued that Chávez established effective government control of the oil industry. Foreign investors, on the other hand, warned that Chávez's changes to the regulatory environment would eventually come back to haunt the country.

My sense is that Venezuelan oil revenues have allowed Chávez to control the regulatory environment, at least for the short term. Surging oil prices have helped give Chávez enough popular support to govern the country with almost no legal constraints. He has broad-ranging powers to rule by decree. Where his decree powers fall short, Chávez has pushed through new legislation, thanks to his near-complete control of the legislature. And if the constitution ultimately proves too meddlesome for

Chávez's ambitions, he may have the popular support to rewrite it; he has already done so once. His efforts to eliminate presidential term limits are a recent case in point.

And Chávez is increasingly using his powers to bypass legal institutions altogether. He obtains a growing share of government revenues in the form of extra-budgetary quasi-taxes on PDVSA (Petroleos de Venezuela S.A.); by my rough estimate, nearly half of government monies flow outside the preliminary official budget. Chávez has used some of these funds to stifle, rather than regulate, perceived threats to state power.

Over the long run, I believe Chávez's disregard for stable regulatory institutions may damage the country's oil revenues. The Venezuelan takeover of key foreign-owned oil interests and unstable regulation of the oil sector have antagonized many foreign investors and, in some cases, prompted them to seek international arbitration remedies. And punishing government quasi-taxes may have deprived PDVSA of the necessary resources to maintain oil production levels.

Looking beyond the oil sector, some of Chávez's initiatives have helped correct the country's long-standing income inequality and economic mismanagement. Chávez has, notably, implemented innovative health and food programs as well as improved tax collection and debt policy.

Yet he has also used his powers to shut down sources of dissent. The government launched its own television network in 2005 and purchased controlling stakes in major telecommunications and electric companies in early 2007. Earlier this year, it forced a major television network off the air because it had been

critical of the government.

Although my research is not yet complete, I have begun sharing my findings with the academic community. During the spring of 2007, several Stanford Law students and I presented our initial research at two academic conferences, attended by academic and industry experts from across the world.

I remain cautious but hopeful about Venezuela's future. The Chávez government may receive most of Venezuela's headlines, but the country's story is more complex. American culture and baseball are widely popular, almost overshadowing the war of words between the current U.S. and Venezuelan governments. And although Chávez's concentration of power is serious cause for concern, his tenure has given the poor a more assertive role within Venezuelan society. With luck, Venezuela's newfound voices will eventually give the country a stronger rule of law and better prospects for development. **SL**

David Hults '08 is interested in international law, particularly the relationship between the rule of law and international development. He has worked at the World Bank and as a summer associate at Cleary Gottlieb in New York and Washington, D.C. His research on Venezuela was funded, in part, by the Freeman Spogli Institute for International Studies' Program on Energy and Sustainable Development (PESD), a Stanford program that examines energy markets worldwide, sponsors field seminars and courses, and recently gained a new \$7.5 million gift from the BP Foundation to support such research. His work has been supervised by PESD Director David Victor, professor of law, and FSI senior fellow Thomas Heller, the Lewis Talbot and Nadine Hearn Shelton Professor of International Legal Studies.

"These aren't some easy-to-vilify Silicon Valley entrepreneurs. They're Ma and Pa who run a successful, or a not-so-successful, restaurant." JOSEPH BANKMAN, Ralph M. Parsons Professor of Law and Business, in *Forbes*. The April 23 story, "The Evader Next Door," addresses tax evasion by small business owners in cash economies.



"Title IX opened so many more opportunities for women athletes, but it also made positions coaching women's teams much more attractive to men. . . . Often women are facing barriers to getting those jobs that weren't there when they were competing with other women and running those programs."

DEBORAH L. RHODE, Ernest W. McFarland Professor of Law, in the July 4 *Associated Press* story, "Female Coaches Leaving Collegiate Ranks." The article addresses Title IX in relation to a recent discrimination suit filed by a female volleyball coach at California State University, Fresno.

"About 10 percent of all the energy used in America goes to farming food, processing food, transporting food, from the seed to the plate. . . . If you can just buy that same vegetable from somebody that lives on the outskirts of your community, the energy savings are stunning."

DENIS HAYES '85 (BA '69, MBA '74) in a May 15 *MarketWatch.com* article, "Turn down the heat: 10 ways you can reduce your carbon emissions to help cool the planet," in which Hayes offers insight on simple, at-home methods of reducing emissions.

"There's a divide between what we say we want from immigration and what the economy is telling us we need."

DAN SICILIANO '99, lecturer in law and executive director of the Stanford Program in Law, Economics & Business, in *The New York Times*. The March 31 article, "Where Millions Entered U.S., a Debate on Letting in More," quotes Siciliano's testimony at a congressional hearing on immigration held on Ellis Island.



ALUMNI AND FACULTY SPEAK OUT in the

"Because of the relationship. . . you have to worry that they won't listen carefully enough to the risk. [Patients may think] 'After all, if my doctor is doing this, it must be good for me.' That can be difficult to overcome with words in a consent form." HENRY T. "HANK" GREELY (BA '74), Deane F. and Kate Edelman Johnson Professor of Law, quoted in an August 6 *Washington Post* story illuminating the risks of experimental gene therapy drugs.



"If this is the birth of a new constitutional era, all I can say is what an ugly baby."

PAMELA S. KARLAN, Kenneth and Harle Montgomery Professor of Public Interest Law, as quoted in the July 1 *San Francisco Chronicle* article, "Rulings Seal High Court's Shift to Right." Karlan's comment was made at a Supreme Court panel discussion.

"We are concentrating our energies on the second and third years, where we know we are failing the students. . . . It seems to us a mistake to fix the one part that's not really broken. The first year does a great job teaching students the core skill of thinking like a lawyer."

LARRY KRAMER, Richard E. Lang Professor of Law and Dean, in a September 10 *National Law Journal* story, "Several Schools Adjust Their Curriculums," examining curriculum changes at law schools.



“Whenever there’s a sort of spotty civil innovation, it takes civil society some time to catch up.” NATHANIEL PERSILY ’98, as quoted in *The New York Times*. The April 13 article, “Equality Elusive Under New Jersey Civil Union Law,” addresses discrimination and health care plan difficulties faced by civil union partners.

“I saw a parade...and I got in front of it.” J. MICHAEL ARRINGTON ’95 quoted in the June 22 *Wired Magazine* article, “TechCrunch Blogger Michael Arrington Can Generate Buzz...and Cash.” The article profiles Arrington and the history behind his startup company, TechCrunch.

“Although the world supposedly realizes that Al Qaeda’s willingness and ability to strike at a time, day, and city of its choosing require a sustained and coordinated global response, the fact remains that we have not devoted the kinds of resources to the needs of law enforcement if this threat is to be reduced in any meaningful way.”

RONALD K. NOBLE ’82 in his July 3 opinion piece, “A New Anti-Terror Strategy,” in *International Herald Tribune*.

“In reality you cannot separate the two territories completely... Eventually, the two parties will have to find a mechanism to keep funds flowing to Gaza, and that will require international support.” DIANA BUTTU, JSM ’00, comments on the state of political divide in Gaza in the June 18 *Los Angeles Times* article, “As divide deepens, Gaza’s fate uncertain; U.S., Israel back new regime in West Bank. Funding likely to follow.”

“The conclusion of Jose Padilla’s criminal trial in a federal court yesterday shows that waging the ‘war on terror’ does not require giving up our constitutional values or substituting military rule for the rule of law. The jury’s guilty verdict should be appealed, but the verdict on the Constitution is in: We should keep it.”

JENNY S. MARTINEZ, associate professor of law and Justin M. Roach, Jr. Faculty Scholar, in an August 17 *Washington Post* op-ed, “The Real Verdict on Jose Padilla,” on the implications of the Jose Padilla trial and verdict.



news



“The government is being very aggressive in its use of the state-secrets doctrine. You could be left with a situation where the executive branch acts unilaterally because everything it is doing remains secret.” DEREK SHAFFER ’00, lecturer in law and executive director of the Stanford Constitutional Law Center, commenting in the August 13 *San Jose Mercury News* story, “San Francisco Judges to Hear Wiretap Arguments.”

“Much of the world is skeptical because the Bush administration has such a poor track record on this topic... But on the face of it, this initiative does not undermine Kyoto. If the initiative leads to more serious efforts by the U.S. and by key developing countries, it will in fact breathe life into the whole enterprise aimed at protecting the planet, including Kyoto.”

DAVID VICTOR, professor of law, in the June 4 *New York Times* article, “Bush Climate Plan: Amid Nays, Some Maybes.” In the story, Victor provides contrast to skepticism surrounding Bush’s recently proposed climate plan.

“What we actually have is a pretty bold conservative agenda, but it’s clothed in the gentle language of traditional modesty and restraint.” Stanley Morrison Professor of Law and former dean KATHLEEN M. SULLIVAN commenting on the recent Supreme Court term on NPR on July 3. Professor Pamela S. Karlan, Kenneth and Harle Montgomery Professor of Public Interest Law, and Thomas C. Goldstein, lecturer in law, were featured on the same segment.

G A T H E R I N G S

Maren Christensen and Dan Cooperman JD/MBA '76 participating in the "Law in Virtual Worlds" session of Stanford Law School's Fourth Annual E-Commerce Best Practices Conference on June 18, 2007



Fred Smith '07 arguing his case at Stanford Law School's annual Kirkwood Moot Court Competition on April 20, 2007



Michael Cutler '81, Joan Timbie, Richard Timbie '71 (BS '68), and Martin Wald '85 gather at "An Evening at the National Museum of the American Indian" in Washington, D.C., on May 1, 2007.



Cody Harris '07 (BA '00), Dean Larry Kramer, and Bret Logue '07 (BA '99) at the Board of Visitors' "Dinner in Honor of the Class of 2007" on April 25, 2007



Classmates Marc Peters '00 and Ulysses Hui '00 catch up at the "Protecting IP in China" event on August 15, 2007.



FROM TOP: JOE NETO, STEVE GLADFELTER, BILL GEIGER, MISHA BRUK, STEVE GLADFELTER

I N M E M

WALTER DESMOND JR. '33 of Long Beach, Calif., died May 3, 2007. A World War II veteran, he dedicated his life to public service, having served almost 60 years as a lawyer and judge in Long Beach by the time of his 1995 retirement. Walter was active in many community organizations, including the Legal Aid Foundation, and served as president of the Long Beach Bar Association and judge pro tem of the Long Beach Municipal Court. He is survived by his four sons, Walter, Dennis, Timothy, and John; sisters Olive Desmond and Edith Daley; seven grandchildren; and six great-grandchildren.

HON. JOSEPH A. RATTIGAN '47 of Santa Rosa, Calif., died May 12, 2007. His extensive career as a state senator from Sonoma County and then as judge on the San Francisco District Court of Appeals left an undeniable impact on his community. Over the course of 3,000 judicial rulings, he came to be known for his integrity and eloquence. He is survived by his wife, Betty; daughters Catharine Kalin and Anne Paine; and sons Michael, Thomas, Patrick, and Timothy.

MAURICE EDWARD SMITH '48 of St. George, Utah, died March 9, 2007. Maurice served in the Navy during WWII as a flight instructor at the Naval Air Station in Ottumwa, Iowa. In addition to his education in law, Maurice was a Certified Public Accountant, a dedicated family man, and an active member of the church. He was preceded in death by daughter Carol Gay and is survived by his wife, Gloria; daughters Christine and Kathryn Ann; son Daniel Maurice; and many grandchildren and great-grandchildren.

MERLIN WAYNE BAKER '49 of Santa Barbara, Calif., died July 14, 2007, at age 87.

JOHN D. "JACK" WEBSTER '49 (BA '41) of Saratoga, Calif., died April 29, 2007. He was 87. Jack practiced law at Beresford and Webster in San Jose before joining IBM in 1957 as legal counsel, retiring in 1980. He served as chair of the Saratoga Planning Commission and chair of the board of directors of Goodwill Industries in San Jose and San Benito, Calif., counties in the 1950s. Jack's wife of 61 years, Barbara, died in 2004. His survivors include two daughters, Anne Hayden and Jonnine Sue; one son, Richard; one grandson; one sister; and one brother.

DAVID B. HEYLER JR. '51 (BA '48) of Pebble Beach, Calif., died May 21, 2007. David practiced in Los Angeles for 45 years, was a member and chairman of the Committee of Bar Examiners of the State of California, president of the Beverly Hills Bar Association, and a fellow of the American College of Trial Lawyers. David was also a philanthropist and received the Gold Spike Award from Stanford University in 1979 for his efforts. He is survived by his wife, Toni; daughters Mandy, Lisa, and Kathy; and granddaughters Molly, Sarah, Christian, and Locke.

MELVIN L. HAWLEY '52 of Los Altos, Calif., died in May 2007 of natural causes at age 86. Born in Chicago, he moved to the Bay Area with his wife and children following WWII, in which he served as a captain in the Army Air Forces. Melvin was dedicated to social justice and served for several years as Santa Clara County sheriff and briefly as deputy director of the state Department of Justice. He practiced for much of his career with the civil law firm of Myers, Hawley, Morley, Myers & McDonnell in Los Altos. Melvin was well-known for his generosity, keen sense of humor, and adventurous personality. He was preceded in death by his wife, Sally, in 2004 and is survived by sons Thomas and Charles; daughter Kate; eight grandchildren; and sister Lois.

MONROE W. KIRKMAN '52 (BA '49) of La Jolla, Calif., died March 14, 2007, of pneumonia. Monroe, a veteran of World War II and the Korean War, served in the Navy before entering the legal profession. Having initially practiced business law, he later

specialized in estate planning, wills, and trusts, and set up his own practice in 1960. He will be remembered for his dedication and work ethic.

FRANK LAFONTAINE '52, last known to be living in Gilbert, Ariz., died June 25, 2006.

CALVIN FRANCIS GUNN '53 (BA '52) of Woodside, Calif., died August 6, 2007. Calvin was a dedicated law professional, practicing for 54 years, as well as a community activist and leader. He served on the Woodside Planning Commission, the Mounted Patrol, and the Earthquake Committee. Calvin was also active in the fight against prostate cancer and continued his efforts until his death. Devoted to his family and church, Calvin will be remembered for his dedication, curiosity, and intellect. He is survived by his wife, Karen; children Brad, Lezlie, Gregory, John, James, Jerry, Peter, and Michael; brothers David and Ben; and nephew Robert.

ROY D. MILLER '54 of Pacific Palisades, Calif., died January 28, 2007, of pneumonia. Roy was former chair of the board of trustees of Claremont School of Theology and at the time of his death was an honorary life member of the board. Roy practiced with Gibson, Dunn, & Crutcher, where he retired as partner. He was dedicated to the Claremont School of Theology and involved in many charitable organizations as well as the First United Methodist Church of Pasadena. He is survived by his wife, Janice (BA '60).

HON. WILBUR R. JOHNSON '54 (BA '51) of Redwood City, Calif., died March 14, 2007. An Army veteran and a member of Phi Sigma Kappa, he enjoyed a long career in law enforcement, beginning in the FBI in 1955. Two years later, he joined the San Mateo District Attorney's Office, leaving his position as chief criminal deputy when appointed to the bench by Gov. Ronald Reagan. He served until his retirement in 1983, when he began sitting as a visiting judge in courts all over California. His middle son, Jeffrey, predeceased him. He is survived by his wife of 50 years, Marjorie, and sons William and Timothy.

LEROY JACK KUBBY '54 (BA '52) of Menlo Park, Calif., died on August 24, 2007. A longtime attorney, he was a founding member of Congregation Beth Am in Los Altos Hills and a member of the Los Altos Hills Town Council. He is survived by his children, Lisa, Joel, and Raychel, along with his grandchildren Dylan, Elliott, Marley, and Ruby.

JOHN C. VAN BENTHEM III '56 ('50) of Poway, Calif., died August 12, 2007. He was 77. A civil and criminal attorney for 42 years, John served in Korea and Vietnam and retired from the U.S. Navy Reserves as a commander after 25 years of service. He was preceded in death by his first wife, Jean, and his son, John. He is survived by his wife of 24 years, Reba; daughters and sons-in-law Karla and John Nicholas, Lisa and Peter Nootboom, Lorelei van Benthem, and Lynne Kratká; son Kurt; and four grandchildren.

JAMES T. "JIM" DANAHER III '58 of Los Altos Hills, Calif., died August 21, 2007. As reported in the *San Francisco Chronicle*, Jim graduated from Dartmouth in 1951, then moved to Washington, D.C., and later Frankfurt, Germany, to work for the Central Intelligence Agency. James graduated second in his class from Stanford Law and took a job with Gibson, Dunn and Crutcher in Los Angeles. In 1961, Jim and SLS classmate David Fletcher '58 (BA '54) formed the Palo Alto law firm, Danaher & Fletcher, which would eventually become Danaher, Fletcher, Gunn, Ware and Freidenrich. Passionate about civil rights, Jim and law partner Leo Ware traveled to the South to stand as witnesses in the struggle for voting rights for African Americans. Until his death Jim remained active in the Lawyers Committee for Civil Rights Under Law. He also served as president of the Santa Clara Bar

Association, president of the Palo Alto Bar Association, planning commissioner and city councilor for the City of Los Altos, and as a member of the Stanford Law School Board of Visitors. He was a strong Stanford supporter and loved Stanford football and basketball. Jim is survived by his wife, Kathleen; brother Francis; sons Michael '80, Steve, Jim, Peter, and Tom; stepson Blaine Rogers; and grandchildren Patrick, Brooke, Justin, and Eva.

HON. THOMAS REID MITCHELL '58 (BA '55) of La Jolla, Calif., died June 14, 2007, at home of complications from leukemia and lymphoma. Thomas served for 11 years as a superior court judge, handling primarily probate cases. He was renowned for his efficiency and organizational skills. Prior to serving on the bench, Thomas spent more than 30 years at San Diego firm Hervey & Mitchell and its successors. He is survived by his wife, Mickey; sons Clay and Robert; daughters Tye and Marcia; and six grandchildren.

WILLIAM DUERKSEN '59 (BA '57) of San Diego, Calif., died June 26, 2005. Born in Illinois, William served in the Army Air Forces during World War II. He was a member of Chula Vista Elks Lodge 2011 and the Masonic Lodge in La Jolla. He is survived by his wife, Margie; son William Jr.; and brother Raymond.

DANA CLARK PETERSON '60 of Portola Valley, Calif., died December 31, 2006. Dana was both an accomplished lawyer—he worked on the legal team at Ampex Electronics—and a naval officer. He served in the Korean War and then with the Naval Reserve for 33 years, attaining the rank of captain. He was a member of the Peninsula Harvard Club and an active supporter of the Republican Party in Portola Valley. He is survived by his three sons, Kirtland, Talbot, and Travis.

WILLIAM ADAMS "BILL" ROBINSON '63 (BA '58) of Pebble Beach, Calif., died July 12, 2007. He was a member of the 1963 class, though received his law degree from Golden Gate University. Bill was dedicated to the profession of law; he served 25 years as in-house counsel for the California State Automobile Association and taught law at the University of San Francisco, Golden Gate University, and Monterey College of Law. He was a Naval Reserve captain with 30 years' experience, as well as a yachtsman, sports car driver, licensed commercial pilot, and active participant in various public affairs roles. He is survived by his wife, Karen Kadushin.

ROBERT RAY HUSKINSON '64 of Los Angeles, Calif., died June 17, 2007, of complications after a heart attack. Robert was known especially for his victories in the state Supreme Court cases *Flowers v. Torrance Memorial Hospital Medical Center* and *Huskinson & Brown v. Wolf*. He was founder of Huskinson & Brown in Manhattan Beach and Huskinson & Kosmo in Hollywood. Robert was a member of the American Board of Trial Attorneys and the American Board of Trial Advocates as well as a member of the Safari Club. He is survived by his brother, Hal.

THEODORE DEATON '65 (BA '57) of Hunts Point, Wash., died March 16, 2007. He was born in Pocatello, Idaho, but was a resident of Bellevue, Wash., for 41 years. Theodore served on both the Washington and California state bar associations. He is survived by his mother, Jennie; two sisters Carol and Ann; his wife, Janet; their three children, Laurie, Christine, and Ted Jr.; and five grandchildren.

JOHN EMRICH DANIEL '73 of New York, N.Y., died April 28, 2007. He was a partner at Kramer Levin Naftalis & Frankel and was recognized as a respected leader within the firm's Intellectual Property Group. John served as elected treasurer and was later nominated for the position of second vice president to the New York Intellectual Property Law Association. He is survived by his wife, Janet Nolan; nephew John Zidik; and niece Jana Zidik Kreiger.

MARK ROBERT "BOB" DUSHMAN '73 of Newton, Mass., died July 27, 2007, of lung cancer. Bob was a well-known media lawyer, in practice for more than 25 years, and a veteran First Amendment lawyer, for which he was listed in Woodward/White Inc.'s "The Best Lawyers in America." Bob worked at Brown Rudnick Berlack Israels LLP and served as an adjunct professor in journalism at Emerson College. He was known for his dry sense of humor and loyalty. He is survived by his parents, Hyman and Jacqueline; brother Bernard; sister Sandra; his wife, Robin; sons Nathan and Elliot; and daughter Beth.

JOHN SOO WAN LIM '83 of Makakilo, Hawaii, died June 13, 2007. John served as associate judge for the state of Hawaii Intermediate Court of Appeals. He is survived by his mother, Mildred; father Kwan Hi; sister Joanne; brother Steven; his wife, Evva; and sons Evan and Ethan.

LARRY DAVID LIEBERMAN '84 of Mequon, Wis., died August 14, 2007. Larry was a shareholder in Godfrey & Kahn S.C.'s Securities and Financial Institutions Practice Group, where he worked for more than 15 years. Larry was a member of the American Bar Association, the State Bar of Wisconsin, and the Chicago Bar Association. He is survived by his mother, Joan; his wife, Karen; children Daniel, Robin, and Amy; brother Ralph; and many friends and relatives.

MARK RAYMOND CLEMENTS '95 of Draper, Utah, died January 19, 2007, after a 15-month struggle with cholangiocarcinoma, a rare form of liver cancer. At the time of his diagnosis, Mark was a partner in the law firm of Hatch, James & Dodge of Salt Lake and served on the High Council of the Corner Canyon Stake in Draper. He was an active member of The Church of Jesus Christ of Latter-day Saints and served a mission to Louisville, Ky. He is survived by his wife, Marianne, and his children, Patrick, Chase, Tessa, and Lucas.

FACULTY

LINDA MABRY of Palo Alto, Calif., died April 4, 2007, of pancreatic cancer. A professor of international business at Stanford Law School for five years, she earned her bachelor's degree from Mount Holyoke College in 1973, a master's degree from Johns Hopkins University School of Advanced International Studies in 1975, and her law degree from Georgetown University in 1978. After working as a State Department attorney for two years, in 1980 she was named special assistant to the general counsel of the U.S. Department of Commerce. She entered private legal practice in 1986 and later joined the San Francisco firm of Howard, Rice, Nemerovski, Canady, Robertson & Falk. She left Stanford in 1999 and devoted herself to writing and community activism.

FRIEND

SHEILA SPAETH of Palo Alto, Calif., died March 30, 2007. She was 101. A longtime supporter of the Stanford community, she was married to the late Carl Spaeth, who served as dean of the law school from 1946 to 1962. Dorothy Sheila Grant was born February 8, 1906, in England at Streatham, outside London. She was introduced to Carl Spaeth by a Scottish uncle and aunt when he was a Rhodes Scholar at Oxford. They were married in 1931 and moved to the United States in 1932. Widely respected on campus for her service, Sheila was a founding member and second president of the Community Committee for International Students and served on the boards of the Committee for Art and the Music Guild. Sheila is survived by her son, Grant Spaeth of Los Altos; her daughter, Laurie Spaeth of Stanford; and two grandchildren.

IN FOCUS

Remembering a Cross-Country Journey to Law School

C O N T I N U E D F R O M P A G E 11

then I drive up and hit one of the urns at the front of the hotel.”

Day 7: *There was no time to waste. Made the exit ramp on two wheels, stopped by the Church of Elvis (Get your drive-through weddings here!) and made a triumphant victory lap around the parking lot and sidewalks at Caesar's Palace. . . . We put on the parking brake, gave Sheryl Crow a kiss, Frank Sinatra a high five, his “escort” a tip, and Siegfried (or was that Roy?) a fat lip. It was time to gamble.*

After Vegas, it was Stanford or bust. But first, the gang decided to take the truck for a spin up Highway 1.

“We should not have been driving a truck up Highway 1. You had to know not to ride the brakes—we did not let Mel drive—but it was amazing,” recalls Lisa.

They ended the journey with a celebratory ride up Palm Drive eight days after setting out for Stanford Law School; they were a bit weary but thankful for the adventure.

Day 8: *Finally the arrival—After narrowly escaping the gypsy moth inspector at the state line, we nomads toasted our new state with a rousing rendition of “Hotel California.” A few near death experiences later, Victory!!! Date: August 31. Time: 6:30 p.m. Place: Outside the Office of Admissions at Stanford Law School. We weary wanderers see ourselves celebrated on our fearless leader’s bulletin board, and we smile, and laugh, and completely love it. No word yet on whether we’ve recovered our sanity. Over and out, Lisa, Brian, Mel, & Mike.*

Ten-four, good buddies! SL

POINT OF VIEW

IP Rules

C O N T I N U E D F R O M P A G E 29

products, a payday for which the boxer did not have to land, or suffer, a single blow.

Intellectual property, this most profitable of all business assets, is also the least stable. One reason is that—far more than any other business asset—patents, copyrights, trademarks, and trade secrets are constructed of legal rules. Equally important—and far more than other legal doctrines—the rules that define intellectual property are the subject of constant change. Intellectual property’s boundary lines are inherently uncertain and can shift from one judicial decision to the next. When in 2000 a federal court declared the patent on Prozac invalid, the value of Eli Lilly shares plummeted more than 30 percent. In 2002 a judge ruled that rival suppliers had not infringed Gemstar’s patents on an on-screen program guide, and the company’s stock dropped 39 percent in value. The stock of VISX, a leading vision-correction laser company, fell 41 percent after a similar ruling. Smart business practice

requires an understanding of the forces that produce uncertainty and change in intellectual property law and, if not always the insight to predict their outcomes then, at least, the ability to plan for them.

Why are intellectual property rules so much more mercurial than other property rules? (If real property rules were similarly unstable, the Empire State Building, fully rented one day, would be open to squatters the next.) The answer stems from the fact that intellectual assets—inventions, entertainment, brand names, collections of data, trade secrets—are information and, as such, are inexhaustible. Unlike the Empire State Building, information can be used by unlimited numbers of people without impairing the ability of still other unlimited numbers to use it too. Lawmakers recognize that without property rights to protect innovations from freeloading competitors, businesses will hesitate to invest in innovation—which is why they enact intellectual property laws. But lawmakers also understand that to impose intellectual property rights necessarily means turning away prospective users who are unable or unwilling to pay the price for access to the protected information, even though their use of the information will deprive no one else of it—which is why they impose limitations on intellectual property rights that would be unimaginable in the case of other forms of property rights.

Intellectual assets have long lives: Patents last for 20 years from the date of application, copyrights can last 95 years or longer, and trademarks and trade secrets are potentially perpetual, and there is no more important intellectual property management objective than to anticipate an intellectual asset’s legal futures over its lifetime. If intellectual property lawyers cannot precisely anticipate the specific legal changes that tip the judicial scales in favor of patent owners over the long course of a lawsuit, history shows that the forces producing change in intellectual property law themselves wax and wane and can offer a rough index for prediction.

The risks and rewards of intellectual assets are no less manageable than the risks and rewards of other business activities. However, the management tools differ, and the experience of the most successful intellectual asset companies reveals not only a healthy respect for the margins and mishaps that these assets can produce but also the need to merge legal and business perspectives in managing these assets. The central point is that every business decision involving intellectual assets is ultimately a legal decision and every legal decision is at bottom a business decision. If intellectual property is economically too important to be left to lawyers, it is also too legally charged to be left to managers. **SL**

This piece is an abridgment of the introduction to Goldstein’s soon-to-be-released book, Intellectual Property: The Tough New Realities That Could Make or Break Your Business, published by Penguin Portfolio.

kudos to

MICHAEL ARRINGTON '95, founder of TechCrunch, appeared as 22 on *Business 2.0*'s list, "The 50 Who Matter Now," printed in July.

JOHN W. BROOKS '66 (BA '58), JOHN TINLEY BROOKS '93 (BA '88), AND EDDIE RODRIGUEZ '94 were each selected by *Super Lawyers* as a "San Diego Super Lawyer for 2007."

SANDRA DAY O'CONNOR '52 (BA '50) and DAVID LEVI '80, along with faculty member Pamela Karlan [see "Faculty News," p. 33] are among the newest law fellows of the American Academy of Arts and Sciences.

The Organization of American Historians named MICHAEL J. KLARMAN '83 one of its Distinguished Lecturers for 2007–2008.

HALIL SULEYMAN OZERDEN '98 won unanimous confirmation from the U.S. Senate as a U.S. district court judge for the Southern District of Mississippi.

Aspen Skiing Company owner JIM CROWN '80 was appointed to the *Men's Journal* Hall of Fame for his green business efforts.

DAVID CAVICKE '89 was appointed chief of staff for the Committee on Energy and Commerce in the U.S. House of Representatives.

WILLIAM H. NEUKOM '67 was sworn in on August 13 as the 131st President of the American Bar Association.

BONNIE ESKENAZI '85, CAROL LAM '85, and NINA "NICKI" LOCKER '83, along with faculty member Kathleen M. Sullivan [see "Faculty News," p. 33], were included in the *Daily Journal*'s list of "Top Women Litigators" for 2007.

The San Diego County Bar Association named CAROL LAM '85 "Outstanding Attorney of the Year."

W. RICHARD WEST JR. '71 received an honorary doctorate from Dartmouth College and WARREN CHRISTOPHER '49 received an honorary doctorate from the California State University Board of Trustees at June commencements.

PETER THIEL '92 (BA/BS '89) was included this May in the *San Jose Mercury News*' list of "Silicon Valley's Five Hot VCs Under Age 40."

Ober Kaler attorney PATRICK K. O'HARE '71 will be included in the 2008 edition of *The Best Lawyers in America* for the Washington, D.C., area. He was selected for the Health Care Law category and recognized in the Non-Profit/Charities Law section.

UPCOMING EVENTS

The Honorable Thelton Henderson
Fund Event
Stanford Law School
November 1, 2007

The Public Service Awards Dinner
Stanford University
November 5, 2007

The Evolving Role of Victims in the
Criminal Justice System
Stanford Law School
January 25, 2008

Education as a Civil Right Symposium
Stanford Law School
February 2, 2008

National Security and the Constitution:
Quarantine, Isolation, Health
Surveillance and the Law
Washington, D.C.
April 11, 2008

Directors' College
Stanford Law School
June 22–24, 2008

For more information about these and other events, visit www.stanford.edu

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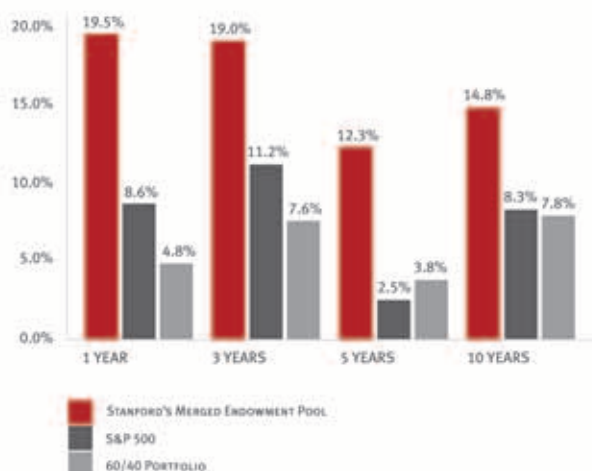
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For details, call the Stanford Law School at 650.725.9168 or visit <http://plannedgiving.stanford.edu>