

TRANSCRIPT

BRIDGE OVER TROUBLED WATER

Boalt's Career Development Office guides alumni and students through dire straits. **3**

RELIVING THE DREAM

After five years at Boalt, Dean Edley warns us that he's only just begun. **18**

ONE TOUGH CASE

Eleanor Jackson Piel '43: More than six decades of doing it her way. **26**

Justice League

For the East Bay Community Law Center, stopping unjust evictions and utility shutoffs is less about lawsuits and more about bringing people together. **PAGE 20**

From left: Laura Lane '96, EBCLC Housing Practice director; Gabe Podesta '10, former clinical student; Gracie Jones Whitaker, EBCLC housing intake specialist

TRANSCRIPT

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CONTENTS

TRANSCRIPT
 SPRING
 2009
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 NO. 1

SPECIAL: BOALT CAMPAIGN FOCUS ON FINANCIAL AID



Dressed for Success! **16**
 Samika Boyd '10 is proud of her amazing journey from New Orleans poverty to a Berkeley legal education, and deeply grateful for the help she's received along the way. *By Fred Sandsmark*

FEATURES

◀ **Reliving the Dream** **18**
 A retrospective of Dean Edley's first five years at Boalt's helm, including a timeline of milestones and a Q&A that looks toward the future. *By Jared Simpson*



COVER STORY

◀ **It Takes a Community** **20**
 How the students and staff of the East Bay Community Law Center helped pull together a collaboration of area public agencies to stop illegal utility shutoffs. *By John Birdsall*

One Tough Case **26**
 Profile: Eleanor Jackson Piel '43—88 years old and still going strong—has been a scrappy defender of the underdog for more than six decades. *By Bonnie Azab Powell*

COLUMNS

||||| **From the Dean** **2**
Insight **36**
 Don't Cry (Too Much) for Us
By Neil A.F. Popović '87

DEPARTMENTS

||||| **In Brief** **3**
 The Career Development Office Is There for You; Study Law at Trader Joe's; Boalt Goes to Sierra Leone; Helping Students Pass Their Stress Tests; Nuts & Boalts Passes the Bar; Frickey, Festshrift, Funds, Fun; Calitopia (and Copenhagen), Here We Come; Admit Day Madness; Clerkshipping News; BLCT, the FTC, and IP.

||||| **Forefront** **9**
 North Pole or Bust; Clipping the Hedge Funds; Boalt's Capital Steppers; A Boalt-Hosted G5 Assesses the G20.

||||| **On the Move** **32**
 Boalt Student Action Figures.

||||| **On the Shelves** **34**
 New and Notable Works from the Boalt Community.

||||| **Class Notes** **37**
 All in the Boalt Family.

EVAN KAFKA (PIEL); JIM BLOCK (EDLEY); WINNI WINTERMEYER (EBCLC)



FROM THE DEAN



“Despite all the contrary evidence, I can’t shake the sense that we’re just getting started.”

—Christopher Edley, Jr.
William H. Orrick, Jr.
Distinguished Chair
and Dean

In this job, time flies whether you’re having fun or not. July 1 will mark five full years as Boalt’s dean. While I can’t say that every minute has been fun, I can emphatically state that the experience has been exhilarating and gratifying beyond what I’d thought possible—and it’s passed by far too quickly.

As you can see from the timeline that begins on page 18, together we have accomplished a great deal. Yet, despite all the contrary evidence, I can’t shake the sense that we’re just getting started. We have too much momentum to be stopped by the current economic crisis. The mercifully brief Q&A which accompanies the timeline makes the point: We can be the gold standard for legal education without being wealthy, but we need your financial support to make it so.

Our terrific magazine editor, Jared Simpson, assures me that he could go monthly with all of the news generated by the school, and that his most frustrating task is story triage. This issue he’s chosen to run a fascinating feature about the East Bay Community Law Center (page 20). EBCLC embodies both Boalt’s commitment to its public mission of tackling important challenges, and the professional mission of producing crack lawyers who see themselves as problem solvers. On page 26, we offer an inspiring profile of a most remarkable alumna, Eleanor Jackson Piel ’43—still practicing law in Manhattan at the age of 88. And there’s plenty more here, but not nearly enough.

As a final note, we are absolutely committed to helping our community of current and incoming students, as well as alumni, who have been rocked by the recession. Recently I sent a memo to students and alumni enumerating several initiatives that my staff and I have developed to most effectively be of assistance. For your convenience, the memo is posted at: <http://www.law.berkeley.edu/alumni.htm>.

When, after 23 years as a professor, I left Harvard for Berkeley, President Larry Summers told reporters that I wanted a new mountain to climb. It turns out that the view is fabulous, and there’s more than one peak here to keep me—and all of us—motivated and ambitious for our future together.



IN BRIEF

NEWS FROM THE BOALT COMMUNITY

Upbeat Help for the Downturn

CAREER DEVELOPMENT OFFICE DATA

Monthly average number of alumni contacts*

*visits, phone calls, emails

2007-08 school year: **15**

2008-09 school year: **60**

Student contact during 2008-09 school year:

Half-hour appointments: **800**

Designated drop-in hours: **400**

Unscheduled drop-in visits: ... **1,000**

Email inquiries: **4,000**

Summer fellowship funding requests in 2008-09

Up **25%** from 2007-08

2008-09 school days on which a CDO event took place: **70**

As the Assistant Dean in charge of Boalt Hall's Career Development Office (CDO), Terry Galligan not only has a front-row view of the battered economy's impact on Boalt's alumni and students—he's also working full tilt to help them repair the damage.

First, let's do the numbers: More than 2,000 big-firm lawyers have been laid off nationally over the past year. The CDO, which typically receives 15 alumni contacts per month, now gets around 60. Approximately 70 Boalt 3Ls graduating with a job are facing deferrals. And the number of law firms scheduled to visit Boalt for student interviews this fall is down about 30 percent from last year—and it's likely some of those that do come will make fewer offers than usual.

"The rules of the game have changed for alumni, graduating 3Ls, and 2Ls," Galligan says. "There are no magic bullets, but our office is doing everything it can to help."

The CDO has greatly increased the number of its informational and advice sessions—which Galligan calls programs—on topics such as the state of the legal market, financial planning

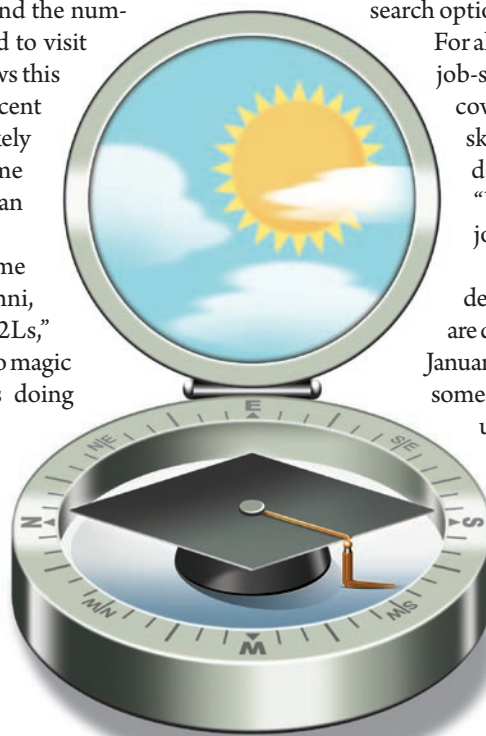
for managing student loan debt, and ways 3Ls can enhance career development skills. "Beyond increasing the number of programs," he says, "we've worked very hard to make sure they're pertinent to what our audiences need for this current market."

Galligan's diligent staff has been ramping up outreach to the less economically vulnerable small- and medium-sized firms. The CDO has also improved its government and public-interest advising resources, strengthened ties with alumni practicing in those areas, and expanded its online search options.

For alumni, the CDO assists with job-search basics ranging from cover letters to networking skills. Galligan says career development fundamentals "become more critical when jobs are harder to find."

The scenario for Boalt's deferred 3Ls varies: Some firms are deferring their new hires until January, some until March, and some for an entire year. Galligan urges students presented with deferral options to talk with CDO staff: "We can advise how to use that time to develop skills and expertise that'll help them hit the ground running when they start."

As for 2Ls, the new



IN BRIEF



An Apt App?

With more than 30,000 apps available for the ubiquitous iPhone, it's no surprise there's one that targets law students. "Law in a Flash," is a study guide series comprised of 16 apps—at \$30 a pop—each devoted to a major area. We asked 1L Jeff Bae to critique the Torts application:

If you're waiting for BART or standing in line at Trader Joe's, this is a neat way to review black-letter law. Using onscreen flash-card questions, the program breaks down a broad subject into smaller units.

The interface is user-friendly and intuitive. You can easily navigate the cards, arrange or search them in several ways, make comments, bookmark, and shuffle the deck. Also helpful are mini-hypotheticals that let you apply what you've learned, though the program doesn't provide in-depth coverage of the nuances that make law so interesting.

As for the million-dollar (or in this case \$30) question—should students buy *Law in a Flash*? I don't think it adds more value than a standard commercial study guide, so probably not. If it were cheaper, I'd certainly consider it.—Jeff Bae '11

presumption, says Galligan, "is that you have to demonstrate real value during your summer and earn a full-time offer rather than just not screwing it up." In response, the CDO recently presented programs that showed 2Ls ways they could maximize their productivity this summer.

The office also offers guidance on developing expertise in growth areas such as climate change, public-private infrastructure development, and the mortgage industry. In addition, staff members are coordinating with public interest organizations that may want to hire a deferred associate, and strengthening a social networking site for alumni that also matches them to students with similar professional interests.

"I've never had an alum tell me, 'I'm too busy to talk with a student,'" says Galligan, a former attorney who came to Boalt in 2002 as its public

interest career advisor and took over the CDO in 2006. "It's a very supportive community, which makes a world of difference."

Although the CDO staff's workload has increased exponentially, morale remains high. "They absorb a lot of the stress of people who come in for career counseling," says Galligan, "yet they're taking on this challenge with a positive approach." And with a high regard for Galligan, whom they nominated for the Excellence in Management Award from the Berkeley Staff Association—which he won.

Galligan admits to some sleepless nights, and fervently monitors industry trends by scouring legal media from *American Lawyer* down to rumor- and hearsay-type blogs. "Right now we can't leave any stone unturned," he says.

—Andrew Cohen



TRAIL BLAZERS: Asa Solway '09, Kiywhanna Kellup '09, and IHRLC program officer Jamie O'Connell are pushing for progress in Sierra Leone.

Sierra Leone's Human Rights Clinic. The two, plus Sierra Leonean and American partners, are developing a fellowship program to recruit talented individuals with cross-cultural experience.

"I knew Jamie from taking his Transitional Justice class a few years ago. The class spent a week on Sierra Leone,

Freetown Fellows

Observers were surprised in September 2007 when Ernest Bai Koroma—the newly-elected president of Sierra Leone—appointed human rights activist Zainab Bangura as the small West African country's Minister of Foreign Affairs. Some saw this as a first step in the political reform candidate Koroma had promised for one of the world's least developed and most troubled nations.

With one-third of educated Sierra Leoneans living abroad, Bangura contacted foreign colleagues to help bring international professionals to assist understaffed government ministries. Among them were attorney Peter Maybarduk '07, who had lived in Sierra Leone as the son of an American diplomat, and Boalt lecturer Jamie O'Connell, who had directed the University of

which of course had especially personal meaning for both of us." says Maybarduk. "We've examined potential frameworks and pitfalls for this kind of program, and reached out to people who could help us make it work."

Last year, they entered a proposal outlining a broad affiliation between Sierra Leone and UC Berkeley in the Big Ideas at Berkeley's "Partnerships for Social Innovation" competition. It won a second-place prize of \$6,000, enabling Maybarduk and graduating senior Ian Mountjoy to spend July 2008 in Freetown, Sierra Leone's capital. There, they met with government officials, civil society professionals, and United Nations staff to pinpoint administrative needs, assess logistical issues, and determine the best structure for the program.

"Peter and Ian used the trip to Sierra Leone to

get a deep understanding of the current situation there and build relationships that are proving critical to turning this program from a great idea into a real contribution to reform," says O'Connell.

Government officials identified law, public policy, health, education, engineering, information technology, and accounting as areas of need. Boalt participants may help with such tasks as drafting legal documents, promulgating regulations, and assisting in the development of policy proposals.

Boalt has played a key role in launching the program. "Thanks to support from Dean Edley and the Miller Institute, the first fellows will arrive in Freetown in early fall," Maybarduk says. "Their vote of confidence is proving invaluable as we seek additional resources to send more fellows."

Fellows will be selected for their diligence, self-motivation, analytical skills, experience working across cultural or national boundaries, and temperament. Ideally, they'll have worked in resource-poor settings. Asa Solway '09 joins the Ministry of Foreign Affairs this fall, with Kiywhanna Kellup

'09 and others expected to soon follow.

"We're also looking for a healthy dose of humility," says O'Connell. Fellows will learn about Sierra Leone's culture and institutions, and be sensitive to their status as foreigners assisting a sovereign government. "You learn a bit about how to design institutions and legal processes in law school, but it's far harder to help change real systems of governance, which are always bewilderingly complicated and deeply entrenched."

While stability has returned to Sierra Leone following its brutal civil war of 1991 to 2002, colossal challenges remain. Maybarduk recognizes their magnitude, but believes an infusion of professional talent can make a contribution as one component of a broad effort to help the country surge forward.

"One of the great things about a program like this is that it tends to attract exactly the sort of person you need," he says. "Minister Bangura and our other partners in the Sierra Leonean government have asked us to recruit exceptional people, and that's exactly what we're doing." —Andrew Cohen

"You learn a bit about how to design institutions and legal processes in law school, but it's far harder to help change real systems of governance."

—Jamie O'Connell

Stress Buster

For students in any top grad-school program, stress is a common byproduct of demanding classes, intense competition, and pressure to excel. "However," says Dr. James Lyda, Boalt's new mental health specialist, "law schools present unique challenges."

Lyda—a psychologist who began working at Boalt half-time in January to help students with such issues as anxiety, fear of public speaking, time management, grief, and depression—says 1Ls often have difficulty adjusting to the unfamiliar ways of law school classes and even learning to think like a lawyer. "And at Boalt," he says, "students used to being the cream of the crop are suddenly surrounded by other brilliant minds. That can be a real blow to their system."

Part of Lyda's Boalt mission is to enlighten students about lingering misconceptions they may have regarding mental health assistance. "The general stigma has been greatly reduced," he says, "but it's still prevalent in law students because of their competitive nature and concerns about how counseling may affect their job prospects." Lyda notes that his services are strictly confidential, and that students can seek his help without worrying about anything appearing on their records.

At Boalt, Lyda will offer stress mitigation workshops and consult with faculty members who have

questions or concerns about students. He hopes to actively engage student organizations, with an emphasis on helping underrepresented groups such as student of color.

Also a staff psychologist at UC Berkeley's Tang Center, Lyda has spent six years at college counseling centers helping students in individual sessions, support groups, couples counseling, and career and academic counseling.

Having worked at the University of Minnesota and University of Oregon, where he earned his Ph.D. in Counseling Psychology, Lyda feels right at home in Berkeley. "I love the constant intellectual energy," he says, "and helping young adults transition into the real world is particularly gratifying." —Andrew Cohen

THE DOCTOR IS IN: James Lyda helps Boalt students cope with the rigors of law-school life.



IN BRIEF



Student blog passes bar

On its second annual list of the nation's best legal blogs, the American Bar Association has once again named *Nuts & Boalts*—a student-managed mashup of sharp insights, helpful advice, and sometimes withering criticism—among the top five in its “J.D.’s in Training” category.

In 2004, founder Armen Adzhemyan '07 set the blog's free-wheeling framework: “Boalt, law schools, law, politics, or anything is fair game.” Recent posts offered schemes to reduce prison overcrowding, touted student debt forgiveness as an economic stimulator, and debated cell-phone etiquette: Who rings whom when a call drops? The idea swap meet is rarely boring, and often—no surprise here—wicked smart.

“Aside from providing a dose of levity while you're sitting in Contracts, *Nuts & Boalts* is great for spreading unfounded rumors,” says Patrick Bageant '10, who administers the blog. “Seriously, it's been a wonderful instrument for students to shape Boalt's public image and cultural presence, and we're happy to be recognized.”

boaltalk.blogspot.com
—Andrew Cohen



FROM ALL CORNERS: Top academics and friends take part in a full-day symposium celebrating Boalt professor Philip Frickey. (Clockwise, from top left) Yale's William Eskridge, Jr., Boalt's Mary Louise Frampton and Wilda White, the University of Texas's Gerald Torres, Frickey's wife Mary Ann Bernard, the University of Minnesota's E. Thomas Sullivan, Pace's Steven Goldberg, and friend Suzanne Park.

New Funds Honor Frickey

Two student funds have been created in honor of Boalt professor Philip Frickey, one of the nation's most renowned public law experts with a specialty in federal Indian law and policy.

Frickey's road to preeminence in Indian law scholarship began by chance. “I knew nothing about it until I clerked for Thurgood Marshall on the Supreme Court,” he says. “We got a few Indian law cases and the issues just fascinated me.” In 1983, Frickey began teaching Indian law on a presumed short-term basis but “quickly fell in love” and has taught it ever since. “And now,” he says, “many years later, it's extraordinarily heartwarming to see Boalt students and alumni raising money for these new funds.”

The Philip Frickey Public Law Fund will award \$2,000 to a Boalt 2L or 3L with financial need and a strong commitment to Indian or public law, and \$500 or more to the best Boalt student paper on Indian or public interest law. The Philip Frickey Fellowship will award \$4,000 to a 1L or 2L from any accredited law school who accepts summer employment in an Indian or public law position that involves advocating for the disenfranchised or for issues inadequately addressed by U.S. law.

“Indian law is frequently incoherent and hasn't been well-developed

intellectually,” says Frickey, who teaches legislation, constitutional law, and Indian law at Boalt and has co-authored popular casebooks on each subject. “The social consequences of that are quite stark, so to give students an opportunity to contribute in this area is gratifying.”

Frickey was also gratified by a lively full-day symposium Boalt hosted on April 24 to celebrate his scholarship and teaching. Papers at the academic “Festschrift,” which featured top scholars from across the country, will be published in a special issue of the *California Law Review*.

But Frickey's imprint on Boalt extends far beyond his own classroom. After arriving in 2000, he chaired the faculty appointments committee and played a huge role in hiring—and mentoring—many talented young instructors.

“Phil's an honest broker,” says assistant professor Ann Joseph O'Connell. “He's brilliant at softly guiding decisions, listening and responding to concerns, and closing the deal in getting some wonderful colleagues.”

Due to a serious illness that requires special treatment, Frickey will take administrative leave in July. He informed his spring-semester students, and has been “overwhelmed by their support. I think they perceive how much I wanted to do this for them, and they're reciprocating in kind.” — Andrew Cohen



STAR SCHOLAR: Philip Frickey is a leading authority on federal Indian law and policy.

Boalt Students Shine at Global Climate Summit

As his law-school peers deftly probed a series of thorny climate change topics at an international negotiation competition in Copenhagen, Ian Fein '11 had an epiphany: "It struck me that some of these students will eventually be political leaders negotiating the same issues on a bigger stage."

The Copenhagen Competition—a run-up event to December's UN Conference on Climate Change—featured law-school teams from Boalt, NYU, India, Chile, South Africa, Singapore, Australia, and Denmark. Having advanced to the oral round on the strength of their written proposals for how to achieve targeted reductions in greenhouse gas emissions, the teams spent three days in March negotiating on behalf of fictitious nations roughly equivalent to those from their own region.

Boalt's team—Fein and 2Ls Jeslyn Miller, Heather Matsumoto, and Tyler McNish—represented Calitopia, a loose hybrid of California and the general United States. Last fall, they emerged from 45 Boalt students who tried out for the team in a moot court-style audition and an environmental Q&A session with coach Cymie Payne '97. "Students don't have much substantive experience in this area," says Payne, associate director of the Center for Law, Energy, and the Environment, "so we looked for people who could bring different experiences and expertise."

Fein had covered environmental issues as a journalist, McNish possessed in-depth knowledge of cleantech, and Matsumoto worked in different cultures for the United Nations. Payne credits Miller—a moot court star with a strong grasp of international environmental treaties—for organizing the team's written proposal and sharpening its negotiation skills.

To prepare for the oral round, the team met with

CLIMATE CLUB: Ian Fein '11 (standing, second from left) and fellow law students from seven countries convene in Copenhagen.

Boalt's team spent three days representing the fictitious nation of Calitopia.

expert environmental negotiators, ran through hypothetical questions, and prepared opening statements. The competition focused on the Clean Development Mechanism, an arrangement under the Kyoto Protocol that allows industrialized countries to invest in projects that lower emissions in developing countries as an alternative to more costly reductions at home.

"The main issue was which developing nations would have to join an emissions reduction program," Payne says. "When would they take this on, and how could they ensure environmental integrity while advancing sustainable economies?"

Negotiations were conducted in English—which half the teams didn't speak as their first language. "I was in awe of how eloquent some of these second-language speakers were," says Fein. "They truly sounded like dignitaries."

Team members met with Denmark's top dignitary, Prime Minister Anders Fogh Rasmussen, and attended the International Scientific Congress on Climate Change with more than 2,500 delegates from nearly 80 countries. They also got to peruse the teams' written proposals—which were published for distribution at the upcoming UN Conference on Climate Change.

"It was great connecting with law students from across the world who share a passion about the environment and international law," Fein says. "Over a short period of time, we made some really strong friendships."
—Andrew Cohen



Admit Day Draws Big Turnout

On April 4, more than 370 prospective 1Ls packed Boalt Hall for the Admitted Students Visit Program. They took part in a mock class, toured Boalt and the Berkeley campus, lunched with current students, attended career, clinical, and financial aid presentations, and met faculty and alumni.





Clerkshipping News

By adding one-year judicial clerkships to the bundle of public interest jobs covered by its Loan Repayment Assistance Program (LRAP), Boalt Hall has further strengthened one of the nation's most generous loan forgiveness plans.

Clerkships now qualify for loan forgiveness if the graduate then works for a minimum of three years at either nonprofit public interest organizations or government agencies. While clerkships often lead to high-paying, big-firm jobs, a growing number of students planning a public service career want to add one to their resumes.

"They've become a useful bridge to public interest jobs that are increasingly competitive," says Eric Biber, chair of the Financial Aid Committee. "The training is extremely valuable."

Daniel Pollak '08—who turned down a private-firm offer to clerk at the Alaska Supreme Court—agrees. "Knowing I might get LRAP coverage definitely influenced my decision," he says. "And I'm very glad it did, because clerking has been fantastic."

—Andrew Cohen



STARTUP: Professor Robert Merges chats with panelists as attendees begin taking their seats.

BCLT Hosts FTC to Talk IP

A couple of bubbles ago, when biotech and high-tech industries took root and thrived on the west coast, Boalt Hall emerged as a western center for the study of intellectual property law. A round of Federal Trade Commission (FTC) hearings on the intersection of intellectual property law and competition was held in Washington and Berkeley in early 2002, and had a substantial impact on later patent reform legislation.

On May 4–5, the Berkeley Center for Law & Technology (BCLT) cosponsored FTC hearings exploring how and why life sciences and information technology firms buy, sell, and license patents. Discussion at the Haas School of Business's Wells Fargo Room was polite but pointed as a blue-ribbon assortment of patent law practitioners, academics—including BCLT co-directors Professors Peter Menell and Robert Merges, and Samuelson Clinic director Jason Schultz '00—and government officials explained their needs and expressed their frustrations with the current patent system.

Menell says the center provides an environ-

dous service in helping to ventilate these issues," he says.

In addition to exploring ways to improve the IP marketplace, multiple panels addressed such salient issues as the notice function (providing clear and timely information about patents and patent applications), transparency, damages, and remedies. About 90 attendees listened as the panelists, including Boalt alumni Mary E. Doyle '78, Rebecca Eisenberg '79, Ron Epstein '89, Mark A. Lemley '91, and Lee Van Pelt '93, examined the present

A blue-ribbon gathering explained their needs and expressed their frustrations with the current patent system.

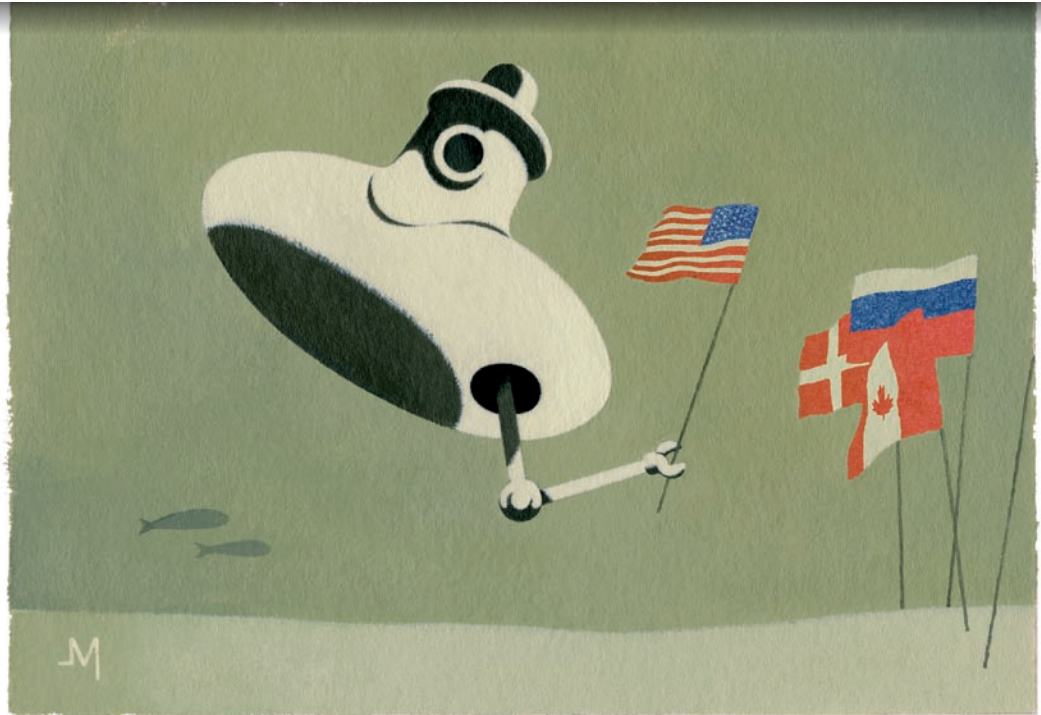
system and debated improvements. Suzanne Michel '93, the FTC's assistant director for policy, helped organize the hearings.

BCLT executive director Robert Barr says the FTC brings useful perspective to patent debates. "The patent office tends to look only at whether to grant patents to protect inventors in accordance with the law," he says. "The FTC looks at the system's impact on competition and innovation and whether the law should be changed. It's a more balanced point of view." —Fred Sandsmark



FOREFRONT

AT THE
LEADING
EDGE OF
RESEARCH
AND SERVICE



Polar Land Grab

Global warming may heat up conflicts over claims to Arctic territory

One August day in the summer of 2007, two small submarines dove down to the ocean floor directly beneath the North Pole. A robotic arm unfolded from one and planted a Russian flag—made of titanium—into the seabed. *The New York Times* called the act—carried out by what Russia’s government said was a scientific expedition—“an openly choreographed publicity stunt.” But it was less a grab for global atten-

tion than a gambit by Russia to support its claim to a huge swath of Arctic territory.

The circumpolar nations—Canada, the United States, Denmark, Russia, and Norway—have squabbled unendingly over territorial rights in the Arctic, making claims and counterclaims to international regulatory bodies. But the effects of climate change have raised the stakes. According to some models, accelerated warming will render the Arctic Ocean ice-free in summers as soon as 2015. What had once been a dream may soon be possible: the exploitation of Arctic oil and gas, estimated to be as high as 40 percent of the planet’s untapped reserves.

The prospect of relatively easy access to the



ARCTIC CIRCLER: As a Coast Guard officer in the 1970s, ocean law expert Professor David Caron '83 flew over, walked on, and dove under Arctic ice.

Arctic floor has created a “schizophrenic world,” says Boalt professor and ocean law expert David Caron '83. On one hand, there are those who are “pretty giddy” at the prospect of tapping into the Arctic’s subterranean resources. On the other, “somber and concerned” people are hoping to protect the environment and establish cooperative regional governance.

For now, the other circumpolar nations are following Russia’s lead. “At a minimum,” says Caron, “they all want to make a claim. They don’t want to have been silent, and therefore to lose.”

Cold war?

The five nations appear grimly serious about protecting their territorial prerogatives in the region. For example, in a CNN.com interview on August 9, then-Canadian Prime Minister Steven Harper stated that “Canada has a choice when it comes to defending our sovereignty over the Arctic.”

Those sound like fighting words, but Caron—a preeminent expert on international law as well as ocean law and policy—sees no danger of imme-

diate hostilities: Existing international law grants each nation territorial rights to the waters and seabed at least 200 miles from its coastline. Additionally, the countries can claim as national territory sea floor that extends considerably farther based on its geomorphic similarity to the mainland. Just a handful of minor border disputes need to be resolved, Caron says, and they can wait decades because there’s so much uncontested territory to exploit first.

But lack of conflict doesn’t equal consensus on regional issues, particularly in environmental matters. Russia—the number one Arctic poluter—is the region’s behemoth: Its Arctic coastline sprawls almost twice as far as that of Canada, and more than three million of Russia’s inhabitants live above the 60th parallel north, many in industrial cities. By comparison, Canada has fewer than 100,000 people living that far north. Russian river systems contribute 88 percent of the Arctic Ocean’s fresh water, much of that tainted with industrial pollutants.

But most alarming is the fact that the Soviet Union has dumped massive amounts of nuclear waste in the Arctic for decades. Russia, amidst the openness of the early 1990s, committed itself to addressing this nuclear legacy, but the funding has been slow in coming. And while most circumpolar nations have robust environmental regimes, Caron politely says Russia is “playing catch-up” in building the regulatory agency presence needed in its Arctic areas.

In time, Arctic governance and environmental protection will come from two institutions, Caron expects. First, the current Arctic Council, an informal organization of circumpolar and other nations, needs to be strengthened. Today, it can be hamstrung by politics; for example, by mutual agreement the Council will not discuss the nuclear waste dumped by the USSR in the Kara and White Seas.

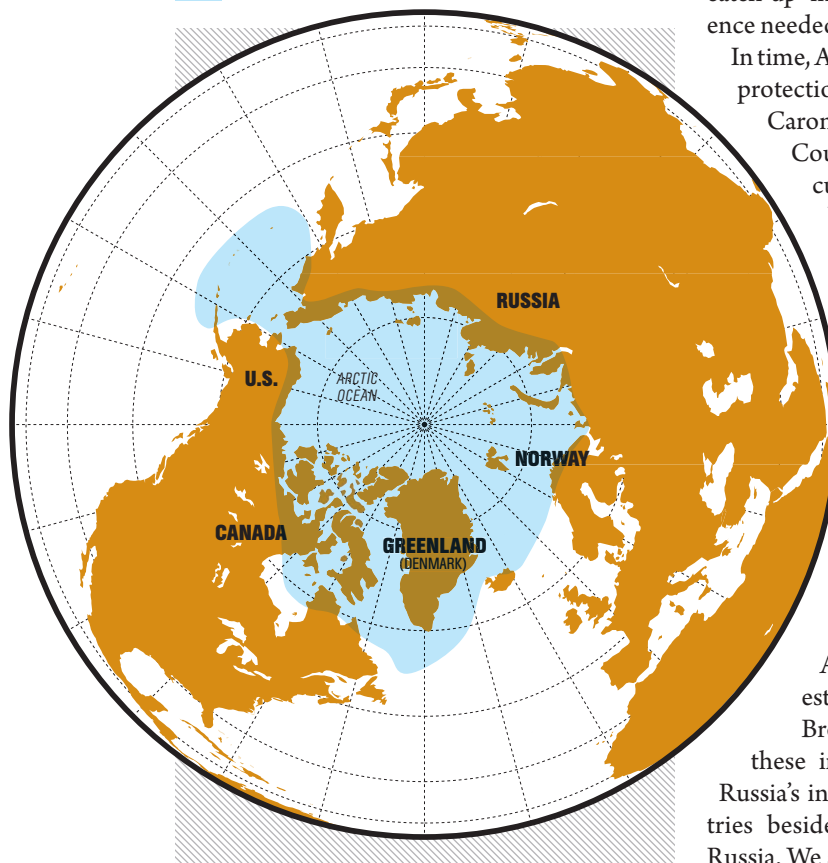
The second type of institution would be regional fishery management organizations (RFMOs), multilateral treaty organizations for fishery management on the high seas. Caron thinks the Arctic Ocean’s size—5.43 million square miles—may require two RFMOs. Asian nations seem particularly interested in fishing Arctic waters.

Broad international participation in these institutions would help to counter Russia’s influence. “I’d like to see other countries besides the United States talking with Russia. We already have so many things to work

THE ICE AGE GOETH

Some climate models predict ice-free summers in the Arctic as soon as 2015.

Arctic Region



out with them,” Caron says.

Caron is optimistic, but cautiously so. “Cooperative governance as a historical matter is not to be assumed,” he says, and militarization is always possible because nations want to protect their claims. There have been nuclear subs prowling the Arctic Ocean for decades, and one can easily imagine that a convoy of destroyers could ply Arctic surface waters by 2020, followed a

decade later by aircraft carriers.

Caron has had personal experience with Arctic military matters—and global warming’s effects. As a Coast Guard officer in the 1970s he flew over, walked on, and dove under Arctic ice. “The change is so dramatic in my lifetime,” he says with some wistfulness. “The place where I stood in August 1975 has been ice-free every summer for the last decade.” —Fred Sandsmark



Clipping the Hedge Funds

A BCLBE researcher cautions legislators seeking to expand hedge fund regulations

The global financial system remains in tatters, and the buzz about financial chicanery and the need for regulation is on the front pages (in cities that still have newspapers) and around water coolers (among those who still have jobs).

Legislators, regulators, and the general public are looking for ways to prevent another market meltdown—and for someone to punish. And while the role of hedge funds—large, secretive, private investment vehicles—hasn’t provided much ammo for current cable-TV finance show shouting matches, observers are wary. Historically, hedge funds receive scrutiny whenever financial problems arise—think Long Term Capital Management in 1998 or Amaranth in 2006—and the current crisis is no exception. “Any group of organizations that can wield hundreds of billions of dollars in market power every day should be transparent and disclose basic information about their operations to the agency that Americans rely on as their watchdog for our nation’s financial markets,” said Senator Charles Grassley of Iowa in introducing the Hedge Fund Transparency Act of 2009 last January.



COUNSELING CAUTION: Anita Krug urges lawmakers to fully understand hedge funds before enacting more regulatory laws.

Not so fast, says Anita Krug, a director with the business department of Howard Rice Nemerovski Canady Falk & Rabkin and a research fellow studying financial legislation for the Berkeley Center for Law, Business and the Economy (BCLBE). “I get the sense that policy makers often don’t have a clear understanding of how hedge funds are structured,” Krug says. “There seems to be a lack of awareness of what a hedge fund is versus what a hedge fund manager is.” She also thinks that Transparency Act authors may not fully understand hedge fund activities and the extent to which those activities pervade the capital markets. “It’s hard to see how they can achieve effective

regulation without becoming informed on all of those topics,” Krug says.

Willing and able

That’s an information gap Krug is ready to help fill. She certainly knows the topic: About 95 percent of her cli-

ents are investment managers, and most of them are hedge fund managers. After she taught a course on hedge fund law at Boalt in fall of 2008, Ken Taymor, executive director of BCLBE, approached Krug to apply her practical knowledge to dissecting and analyzing proposed financial regulations. She has authored two papers so far: “The Hedge Fund Transparency Act of 2009,” and “The Regulatory Response to Madoff,” both available at <http://www.law.berkeley.edu/4335.htm>.

Given the current crisis, the push for regulation doesn’t surprise Krug. The proposed law, she says, has two worthy goals: protecting individual investors from fraudulent activity, and protecting the larger markets against systemic problems that can occur when hedge funds—whose assets were,

until the market tanked, collectively greater than \$2 trillion—make sudden or unexpected moves. “I think most people knew that there would be a bevy of proposals that either were directed specifically at hedge funds or their managers, or directed at the activities that hedge funds tend to engage in,” Krug says. What surprises her is the lack of focus in the current legislation.

The aforementioned inability to differentiate between hedge funds themselves and the management companies that operate them is a major deficiency that can lead to well-meaning but poorly-targeted legislation. For example, the proposed Transparency Act requires annual filing with the SEC of the names and addresses of all beneficial owners of the hedge fund, and further requires the SEC to make that information public. “That implies to anybody who is relatively well-versed in hedge funds that the fund needs to report the name and address of each investor,” Krug says. “That seems really, really unusual—egregious almost. But it’s not what [Transparency Act co-author] Senator [Carl] Levin intended. He issued a press release a few days later saying he intended that anybody that has participation in the fees coming off the hedge fund would be identified to the SEC.”

A congressional oversight

Krug also disputes Senator Grassley’s assertion that hedge funds operate “free of government regulation and oversight.” Krug insists that there are regulations and she cites the experiences of her California clients, many of whom are already required to become registered with the state. Most hedge fund managers “know what regulation, in one form or another, is like, and they deal with it on a day-to-day basis,” Krug says. “Additional regulation is probably not the end of the world for them. It would increase their operational costs, legal costs, and compliance costs. All things being equal, their lives are easier with less regulation rather than more. But they can carry on.”

Krug’s goal is to play a significant advisory role in tempering regulatory measures with pragmatism. In addition to authoring papers, she hopes to convene roundtables of regulators, legislators, investment managers, lawyers, and academics to inject some reality into the process.

Professor Jesse Fried, co-director of BCLBE, says that Krug’s timing is apt. “This is an unprecedented period of regulatory action, as far as the financial markets and private investment funds are concerned,” he says. “We’re poised to play a role in that initiative. We’re trying to be in front of the action, or at least right alongside it, rather than lagging behind with commentary after the fact.” —Fred Sandmark

“I get the sense that policy makers often don’t have a clear understanding of how hedge funds are structured.”

— Anita Krug



TOP RECRUITER: BCLBE executive director Ken Taymor tapped Anita Krug’s expertise to help unravel proposed hedge fund regulations.



QUICK STUDY: Two weeks after arriving in DC, Dyanna Quizon '10 received a major assignment at the U.S. Department of Justice's Civil Rights Division.

Capital Gains

Boalt Hall is among only a handful of law schools boasting full-semester programs in Washington, DC

It didn't take much time inside the Beltway for Dyanna Quizon '10 to see that taking part in the UCDC Law Program—a new joint field placement effort by Boalt and UCLA's School of Law—was a smart move.

Granted, it wasn't easy leaving California for the coldest Washington, DC January in more than a decade. "And to see all that snow with no place to snowboard just seemed cruel," she laughs.

The gain's been worth the pain. "Just two weeks in, I was asked to help lead a substantive training session for 75 federal employees on how to recognize job discrimination issues," says Quizon, who worked for the U.S. Department of Justice's Civil Rights Division as one of seven Boalt students in full-time placements this past semester. "Me, a law student, telling government officials how to handle important situations was pretty incredible."

This fledgling program—an innovative expansion of the UC system's successful undergraduate

DC effort—immerses law students in legal theory, doctrine, and real-world practice. Students work for senators and congressional representatives, Senate and House committees, national nonprofit advocacy organizations, the U.S. Department of Justice, and various regulatory agencies.

While hundreds of UC undergrads flock to the UCDC program each year, Boalt and UCLA's partnership marks the first participation of grad-school level involvement. As a result, Boalt is among only a handful of law schools boasting full-semester programs in Washington.

Boalt professor Howard Shelanski '92—currently on leave in DC—played a pivotal role in developing the program, exploring its feasibility in Washington and securing commitments for placements and facilities. Last year, Boalt field placement coordinator Sue Schechter finalized a long list of details to clear the program for takeoff.

"The UC system as a whole was really support-

ive,” Shelanski says, “and I’m extremely pleased at how the program has taken shape.”

In addition to their full-time placements, students take a weekly seminar that spotlights the range of perspectives involved in federal lawmaking, expands their awareness of career choices in Washington, and explores different ways of being a lawyer. “Our program is unique in that it brings students’ varied workplace experiences into the classroom,” says program director Karen Lash.

Thanks to Lash’s extensive DC connections, the seminar features a powerhouse list of VIP guest speakers that includes senior counsel at the U.S. State and Treasury Departments, top Senate Committee staff, leading nonprofit directors, major lobbyists, and reporters from National Public Radio and *The Washington Post*.

For Brian Israel ’09, working in the Human Rights and Refugees Division of the U.S.

Department of State’s Office of the Legal Adviser, the program is a natural and timely fit. “Without it, being in Washington would’ve required an extra semester,” he says. “Instead, I’m earning credits here and finishing on time, which is a huge benefit.”

With a background in international law, Israel is

realizing a longtime career aspiration. The attorneys in his office have been “extremely generous” with their time, involving him in advocacy before a human rights commission, advising a State Department bureau on statutory mandates, and substantive work on pending human rights treaties.

“I think practical training is the most important and most neglected aspect of legal education,” says Israel. “Boalt is really pushing to expand those opportunities for students, and this program is a perfect example.”

In addition to Quizon and Israel, Boalt members of the inaugural UCDC Law Program include Eleanor Blume ’10 (House Committee on Financial Services); Eric Fong ’09 (Senator Barbara Boxer’s office); Aaron Gershbock ’09 (Senate Judiciary Subcommittee on Terrorism, Technology, and Homeland Security); Sam Houshower ’10 (International Affairs Office of the General Counsel, U.S. Department of the Treasury); and Henry Stern ’09 (House Energy and Commerce Committee). The recently established UC Irvine School of Law will eventually join Boalt and UCLA in the program.

Interested students may contact Schechter at sschechter@law.berkeley.edu or 510-643-7387. “I strongly recommend it,” says Quizon. “I got to actively apply legal theories we learned in class to real-life situations, which is the best possible training for future lawyers.” —*Andrew Cohen*

“Boalt is really pushing to expand practical training opportunities for students, and this program is a perfect example.”

— Brian Israel ’09

The Group of Five

A Boalt center hosts a UC Berkeley panel on the G20’s role in the world financial crisis



STIRRING THE POT: Boalt professor and panel moderator Aaron Edlin pushed the economists to amplify their positions.

Two weeks before the Group of 20 Finance Ministers and Bank Governors (G20) convened in London, another group—four UC Berkeley economists and one Boalt law professor—gathered at Booth Auditorium to offer and discuss their predictions and prescriptions for the critical international summit.

Sponsored by the Berkeley Center for Law, Business and the Economy (BCLBE), the forum “Global Economic and Financial Crisis: What Should the G20 Do?” is representative of the multidisciplinary component of BCLBE’s research and public policy strategy. “Events like this are at the core of our mission,” says Ken

Taymor, the center’s executive director. “It’s one way to keep building our body of concrete knowledge from various viewpoints and use it to inform and advise our target audiences on key issues.”

Boalt and economics Professor Aaron Edlin moderated the forum, which featured Professor Andrew Rose of the Haas School of Business, and Professors Barry Eichengreen, Maurice Obstfeld, and Pierre-Olivier Gourinchas of the Department of Economics. Each dissected a key aspect of the G20—comprised of nations that represent about 85 percent of the global economy.

The panelists offered critical assessments of

the G20 body and suggestions for making it more effective. Eichengreen recommended revamping the G20's unwieldy organizational structure, noting that "getting 20 nations together on a conference call in an emergency situation isn't easy." Examining the perils of plummeting trade and rising protectionism, Obstfeld revealed that 85 percent of G20 countries have recently instituted or raised trade barriers; Rose urged that nations rely on the World Trade Organization's dispute settlement mechanisms, not retaliation, to negotiate lowering or eliminating them.

Eye on the IMF

Beseeching G20 leaders to strengthen the role of the International Monetary Fund (IMF), Gourinchas explained why the organization has declined in influence over the last several years. "A growing number of countries believe it provides too little resources too late," he said, "and that the strings attached to the lending are too tough." Consequently, many emerging nations accumulated their own large reserves over the past 18 months—and have generally fared much better than those reliant on the IMF.

"There's particularly strong IMF distrust in Asia," said Gourinchas, winner of the 2007 Bernàcer Prize for best European economist under 40 working in macroeconomics and finance. "They'd rather fall on their own sword and self-insure in times of crisis."

Gourinchas will no doubt be encouraged that G20 leaders did in fact agree to fortify the IMF with new resources and functions, pushing through a U.S.-supported plan to triple its main lending reserves to \$750 billion. They also created a \$250 billion special drawing rights allocation and made \$100 billion of lending available to multilateral development banks, meaning the IMF will have \$1.1 trillion in tow.

Still, that pales in comparison to the \$7 trillion emerging countries have raised themselves, up from \$4 trillion in 2005. Beyond simply bolstering IMF reserves, Gourinchas outlined possible—if improbable—options such as a stronger insurance program, erasing certain lending conditions, and reforming the IMF's voting structure.

Gourinchas suggested that the IMF directly manage and invest reserves from emerging economies—as opposed to them earning just 1 to 2 percent in the U.S.

Treasury market: "You'd have access to whatever you deposit, and could potentially earn a much higher return. That would also avoid excess capital flows into places like the U.S., which can create instability."

Digging Deeper

Edlin didn't hesitate to drill down when he thought more explanation was required. "That was my role," he says. "I wanted the panelists to engage each other and flesh out the core issues." For example, he questioned Gourinchas's suggestion that the IMF recycle reserves from emerging countries, asking why countries that have accumulated their own reserves would invest in the IMF.

Gourinchas replied that these sovereign reserves are tied up in long-term assets and that "you want a lot of liquid assets in case something happens in the middle of the night." He also said global management by the IMF "would make it easier for those resources to be invested in higher-yielding instruments."

Taymor declared the panel a success. "We're providing forums where experts can interact and critique each other's work, which makes them more accountable for their analysis and offers a valuable perspective," he says. "Collaborating across disciplines makes it easier to pinpoint where there are important information gaps. Then we try to figure out the most useful way to fill them." —*Andrew Cohen*



PRAGMATIC PLANNER: UC Berkeley economist Barry Eichengreen called for reshaping the G20's bloated organizational structure.



THINKING GLOBALLY: Award-winning economist Pierre-Olivier Gourinchas of the UC Berkeley Department of Economics.





A CAMPAIGN PRIORITY: FINANCIAL AID

Dressed for Success!

Samika Boyd '10 Does It Right with Help from Friends and Financial Aid

It's springtime in Berkeley—weather that brings out the flip-flops, shorts, and sundresses—but Samika Boyd '10 wears a navy-blue suit, shiny navy-blue pumps, and pearls. Is she making a presentation, or interviewing? “No,” she says. “I always wear a suit to school.” Her grandmother taught her that if she practices something right, she'll do it right, she explains. She's training to be a lawyer, and being comfortable in the uniform is part of that. But there's a practical reason, too. “It's easy,” she says, laughing.

“Everything's on one hanger.”

Even having the option to wear a suit to law school shows how far Boyd has come—and the vital importance of Boalt's generous financial aid. She grew up in poverty in New Orleans. Raised by her mother, a shy and once illiterate woman, Boyd found herself filling out paperwork and sending off the family bills at age 12, and speaking up for her family. “I always had a voice,” she recalls. “I was a little advocate for my mommy, my grandma, my cousins, for people who felt they couldn't advocate for themselves.”

School was her refuge from the crime, drugs, and hopelessness of her neighborhood. There she learned about Charles Hamilton Houston, Thurgood Marshall, and other African Americans who used the law to change

“When I was asked why I deserved a scholarship, I said it’s not because of what it would do for me. Ultimately, it’s what it would allow me to do for others.”

American history. When she graduated as valedictorian, she selected Howard University—her heroes’ alma mater—and earned a tuition scholarship and other assistance (including a scholarship from Wendy’s, the fast-food chain where she worked full-time while in high school). She left New Orleans for the second time—her first time was on the senior class trip—in her life, arriving in Washington, DC in 2001 with “three raggedy suitcases, \$75 in my pocket, and an unshakable dream of being a lawyer.”

She thrived, graduating—*summa cum laude*—completing a Master’s degree, studying in South Africa, and serving as an intern with Hillary Rodham Clinton. And in DC, Boyd met African-American professionals, including Scharn Robinson, Ph.D. ’98, Assistant US Attorney for the District of Columbia, who helped guide her toward Boalt Hall. “God puts little angels in my life to guide me along the way,” Boyd says of Robinson and others who have supported and mentored her.

Andrea Peterson, who taught Property in Boyd’s first semester at Berkeley, is another of her angels. “As I got to know her, I realized that she wasn’t just smart,” Peterson says of Boyd. “She is unusually eager to get the maximum out of her years in law school. She’s the type of person that Boalt is justifiably proud of.”

Boyd often speaks to young people about the seven Ps that guide her life: prayer, purpose, passion, a plan, preparation, patience, and perseverance. She’ll keep working with kids after graduation. “I want to be a go-to litigator,” she says. “I’m very interested in appellate work. But I have a personal responsibility to reach back and help, because many people have helped me.”

Helping Boalt Hall guarantee a superior law school education to students like Boyd is also

making a contribution to the future well-being of society. “When I was asked why I deserved a scholarship,” Boyd explains. “I said it’s not because of what it would do for me. Ultimately, it’s what it would allow me to do for others.” —Fred Sandsmark



YOU MAKE THE DIFFERENCE

Samika’s proud of her amazing journey but also deeply grateful for the help she’s received along the way, including the need-based financial aid that made her legal education possible.

Please help other outstanding and deserving people like Samika get a superior legal education by making a gift to the Boalt Hall Fund today. You’ll find a remit envelope on the last page.

 **CAMPAIGN FOR
BOALT HALL**





Q&A

Reliving the Dream

Dean Edley looks back with satisfaction and forward with confidence.

Interviewed by Jared Simpson

This July will mark the completion of Dean Edley's first five years at Boalt Hall's helm. The timeline highlights major milestones of a heady, invigorating, and enormously productive period in Boalt's history—a time when words like dream and vision have seemed less like ephemeral ideals and more like unequivocal marching orders. Transcript managed to catch up with Edley—not as easy as you might think—to get his assessment of how we've done so far and what the future holds.—J.S.

Dean Christopher Edley, Jr.'s First Five Years

JULY 1, 2004

Christopher Edley, Jr. begins tenure as the 11th Dean of Boalt Hall with plans to restore Boalt's standing as a premier law school. He immediately sets a goal to expand the core faculty by 40 percent, renovate facilities, create multidisciplinary policy think tanks, expand financial aid, and launch a capital campaign



FALL 2004 ▲
Berkeley Center for Law, Business and the Economy (BCBLE) launched

FALL 2004
Chancellor agrees to share financial burden of faculty expansion

FALL 2004
Planning begins for multiyear building and renovation



2005 ▲
Long-term remodeling plan to expand and transform Boalt's facilities begins with the library's Wilson, Sonsini, Rosati & Goodrich reading room, putting Wi-Fi and electricity for laptops in the large lecture rooms, and creating new seminar rooms



2005

2005

Collaboration begins with Haas School of Business on designing a shared new building between the two schools

2005

Dean proposes multiyear budgeting model, including increased fundraising and student tuition; long-term tuition benchmarked at "market minus \$5,000," with financial aid and public interest loan forgiveness to be the nation's most generous

FALL 2005 ▶
Chief Justice Earl Warren Institute on Race, Ethnicity and Diversity launched



FALL 2005
Center for Law, Energy & the Environment launched

FALL 2005 ◀
\$125-million Campaign for Boalt Hall launched

2006

Negotiations initiated with campus to restore disproportionate state funding cuts imposed on law and business schools earlier in the decade

2006

Dean proposes phased growth of LL.M. program to 100 per year from 40, and expansion of 2L "superstar" transfers to 40 from 20

SPRING 2006

Dean establishes guaranteed summer stipends for students to work in public interest or public service jobs, citing Boalt's public mission

SPRING 2006

A total of five new faculty added since the dean's arrival



FALL 2006 ▲
Boalt announces an extensive revision of its LRAP program, making it the most generous of any law school in the nation

FALL 2006 ▼
Campus puts a "hold" on the site for the planned Law & Business building, and planning is launched for an alternative—the 55,000 square foot South Addition replacing the courtyard facing Bancroft Way



2006

Jared Simpson: You joined Boalt with a very ambitious agenda for change and growth. Do you feel that after the first five years, we're on track to realize all of your hopes and dreams for the school?

Dean Edley: We are on track and we've exceeded any reasonable expectations—although not mine, I confess. Our strength and competitiveness have improved in every respect, from faculty to facilities, and from student services to summer fellowships. There's a giant hole outside my window, and almost nonstop construction noise that shouts "Progress!" rather convincingly.

A comprehensive answer would be quite lengthy, but tell us in broad strokes what you think the economic downturn means for the law school's future?

I'm most worried for our students and recent graduates. The tighter private and public interest job markets will require more aggressive and flexible job-hunting strategies, and therefore more support from Boalt. Paid summer positions for 1Ls and 2Ls will be fewer in number, which means more demand for summer fellowships from Boalt and more debt upon graduation. So we need to find the resources to invest in our students—from financial aid to career counselors. At the same time, we are expanding services for alumni job-seekers.

Our challenge is on the revenue side. Alumni and foundation support is doing a stutter-step, as nervousness and portfolio declines are forcing folks to hold back. But our needs are up at the same time that donors are feeling squeezed. There's no pretty way to describe it.

"Our important innovations in curriculum and real-world research will be the envy—and model—across legal education."

—Dean Edley

What will the school look like after your tenth year as dean? What will we be adding to the timeline in the spring 2014 issue?

Oy! I can't wrap my mind around that premise. Hard enough to believe I'm closing in on just five. But I can tell you with absolute confidence that we're going to be stronger. Our important innovations in curriculum and real-world research will be the envy—and model—across legal education. Our facilities will be dramatically improved, from the South Addition to a major overhaul of the interior of our 55 year-old structure. Our students will be far too smart, but our faculty will love them as much as we do today. Couldn't possibly love them more.

When you announced in your message in *Transcript* (spring 2008) that you were going to stay, you mentioned—a bit wistfully, it seemed—that you hoped to sail more. Have you realized that vision?

That's been a total, abject failure. But a good dean must be a dreamer, don't you think? ■

JIM BLOCK (DEAN & TIMELINE)

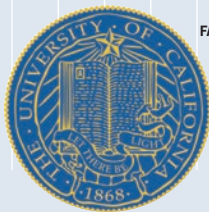


2007 ◀
Ambitious construction and remodeling continues with a new classrooms project and modernized large lecture halls

2007
Center for the Study of Law and Society undertakes effort to retain international leadership in empirical legal studies through additional faculty hiring and research activity

SPRING 2007 ▶
Berkeley Center for Criminal Justice launched

SPRING 2007
At this point, a total of 16 new core faculty hired since the dean's arrival



FALL 2007
UC Board of Regents approves Dean's tuition strategy, including commitment to let the proceeds be used exclusively at Boalt, a move necessary to maintain Boalt's status as a premier law school

2008 ▼
Competitive Compensation Initiative launched to keep Boalt's faculty salaries competitive with other top-tier schools; funding made possible through an increase in the LL.M. program for foreign lawyers



2008
West Terrace patio, new student center, 18 new faculty offices, completely refurbished moot court facility, and two new mid-size classrooms

2008
New high-tech classroom created through a Koret Foundation gift

SPRING 2008
Launch of The Honorable G. William & Ariadna Miller Institute for Global Challenges and the Law

SPRING 2008
Boalt jumps from No. 13 to No. 6 in US News & World Report's ranking

SPRING 2008
Campus-wide Climate Policy Institute formed as part of Boalt's Center for Law, Energy & the Environment

SPRING 2008
The \$125-million Campaign for Boalt Hall passes the halfway mark

SPRING 2008
Concurrent with his appointment as UC president, Mark Yudof joins Boalt's faculty

FALL 2008
Need-based financial aid program extensively revised, underscoring Boalt's commitment to enhance access and inclusion even while raising tuition

FALL 2008
Berkeley Center on Health, Economic & Family Security launched

FALL 2008 ▼
Groundbreaking for the 55,000-square foot South Addition expansion, with move-in scheduled for August 2011



FEB. 2009 ▶
Dean Edley named special advisor to University of California President Mark Yudof, focusing on UC's role on key state and national research priorities, such as school reform and climate change

SPRING 2009
For the second year running, Boalt Hall is ranked No. 6 among law schools by US News & World Report

SPRING 2009
Launch of UCDC Law Program—a new joint field placement effort by Boalt and UCLA's School of Law, making Boalt one of only a handful of law schools boasting full-semester programs in Washington

SPRING 2009
Boalt announces a new Accelerated Summer LL.M. Program for International Students to begin summer 2009

SPRING 2009
Berkeley Law Center for Research and Administration at 2850 Telegraph Avenue opens, including offices for Boalt's several research centers

SPRING 2009
Graduating J.D. class attains 96% participation rate for its fundraising campaign, making it the fifth consecutive class to exceed 90%, despite sharp tuition increases

SPRING 2009
At this point, Boalt has hired 32 new core faculty since Dean Edley's arrival



2007

2008

2009



COMMUNITY SPIRITS: (From left) Gracie Jones Whitaker, EBCLC housing intake specialist; Laura Lane '96, EBCLC Housing Practice director; Gabe Podesta '10, former clinical student

It Takes a Community

To keep the water flowing for tenants in foreclosure, Boalt students at the East Bay Community Law Center tapped new strategies.

By John Birdsall

Berkeley tenant Melvin Green recalls visiting his landlord at her five-bedroom home in Livermore. As a courtesy, he took his shoes off before going inside. But, says the 51-year-old disabled army veteran, she failed to show similar courtesy when, in mid-March, Green found a foreclosure notice

tacked to the door of his Sacramento Street apartment. No warning, no explanation from the landlord.

"I came home and was caught in a situation," says Green. "It was bad. Hurtful. Stressful." But this was only the beginning of his ordeal. A week and a half later, Green's water was turned off. "It was very humiliating. All of a sudden you're having to do things you've never had to do"—like showering and using the bathroom at an Oakland homeless shelter. "Mind-boggling," Green says, "especially when you don't know your rights and don't have many options."

Green may not have known his rights, but he did know about the East Bay Community Law Center (EBCLC), which provides free legal services to low-income residents in northern Alameda County. Founded by Boalt students in 1988, EBCLC is a community-based component of the law school's clinical program. Rather than giving up and leaving like his two room-

mates had decided to do, Green sought EBCLC's help.

Housing intake specialist Gracie Jones Whitaker—one of the center's front-line service providers—was swift and effective. She called Green's landlord and told her that if she couldn't come up with a solution for the unpaid

water bills, she'd refer the matter to small-claims court. The woman promptly settled with the East Bay Municipal Utility District (EBMUD) and, after two humiliating days of relying on the plumbing at the Howie Harp Center, Melvin Green was once again soaping up in his own shower.

Though a small skirmish in the larger battle for tenants' rights, Jones Whitaker's intervention on behalf of Green perfectly illustrates a central component of EBCLC's mission: problem solving. Though it has a staff of full- and part-time attorneys—and, in any given semester, as many as four dozen neophyte lawyers in the form of clinical students—the Berkeley clinic is more than just an engine of litigation for the under-resourced. "We're always going to keep in mind what our clients are experiencing, and either open the door so they have a place at the table, or advocate for them," says Tirien Steinbach '99, the center's executive director. "We try to look at

things more as problem-solvers rather than as litigators.”

The recent epidemic of foreclosures nationwide has hit Alameda County particularly hard—Oakland saw over 15,000 foreclosure filings in the third quarter of 2008 alone—and EBCLC-style problem solving is in especially high demand these days. Throughout 2008, the center was inundated by pleas for help from tenants whose power, heat, and water was abruptly cut off. The student volunteers in EBCLC’s Housing Practice suddenly found themselves not only in the midst of client interviews and deposition taking, but also at the center of a maelstrom of sometimes contentious policy discussions among public agencies. That wasn’t where Gabe Podesta ’10, a member of the student team that addressed utility shutoffs in fall 2008, expected to be. But it gave them—and the tenants they were advocating for—a powerful voice. “Having a wider reach can result in a better long-term outcome for your client,” Podesta says.

But first, Podesta and his fellow students would have to get someone to listen.

Tenants Squeezed

It’s late morning, and bright light is filtering through the high windows of the carrel-crammed offices of EBCLC in South Berkeley. With its gray walls, gray carpet in the waiting area, and hushed air, it feels a bit like a dentist’s office. But, rather

than extolling the benefits of flossing, a poster on the wall asks: “On probation? Off parole? YOU CAN VOTE! Even if you have a felony conviction. Register Now!” That, and Housing intake specialist Gracie Jones Whitaker’s voice suddenly breaking the quiet.

“I understand there’s illegal activity happening in this unit,” she says into the phone.

Jones Whitaker is speaking on behalf of a client, a gray-haired man standing at the reception desk. There’s mold creeping up the walls near his bed, and the landlord refuses to deal with it. “So you could have somebody come there and do the work, right?” she asks the landlord, in a tone that seems to leave little room for equivocation. “No, sir, there’s no way you can paint over mold. That’s gotta be a rip-out,” she says. The landlord speaks. “Can you put that in writing?” Jones Whitaker asks sharply. “When is that person going to come out and start that work?”

The man whose mold problem will soon be a thing of the past is one of about 20 clients Jones Whitaker will see on this day. She’ll also field between 60 and 70 calls from renters like him and like Melvin Green. The foreclosure crisis has added precipitously to what had already been a crushing demand for help—Oakland saw over 15,000 foreclosure filings in the third quarter of 2008 alone—causing EBCLC to institute a recent ban on drop-ins. Today, only clients with appointments will



Education + Advocacy = Justice

At EBCLC, Boalt students get real

Since its founding in 1988, more than 1,000 law students have interned at The East Bay Community Law Center (EBCLC), participating in the organization’s ambitious mission: justice through education and advocacy. In addition to Housing and Clean Slate, EBCLC practices include:

- **The HIV/AIDS Law Project**, which delivers a wide range of legal services to low-income clients in Alameda County; the Medical-Legal Partnership with Children’s Hospital Oakland serves kids and their families. The Health & Immigration Project helps residents’ regularize their legal status so they can access medical services.
- **Income Support**, which supports welfare recipients—especially people with language barriers in the Southeast Asian community—

facing reductions in grants and services.

- **Community Economic Justice**, which works with local activists, politicians, and labor and neighborhood groups to realize progressive change for Oakland’s working-class communities.

In 2007, EBCLC launched the **Community Legal Access Service Site** in a Shattuck Avenue storefront in South Berkeley. Staffed by Boalt students, EBCLC staff, and volunteer attorneys, the self-help center offers free public access to computers, legal forms, and referral guides. EBCLC also directs both a weekly **Workers’ Rights Clinic** and **Tenants’ Rights Workshop** in Berkeley. The **Suitcase Clinic** does homeless legal outreach at four Berkeley drop-in sites. And twice a week, the **Low Income Eviction Project** provides free legal help at the Wiley Manuel Courthouse in Oakland.

get to see someone.

Between July 1, 2007, and June 30, 2008, the center's Housing Practice—the largest of EBCLC's five practices—served almost 4,000 clients. You might expect this year's figure to exceed that. Except, of course, that the practice has only one Jones Whitaker, and a small handful of attorneys and a few dozen clinical students. "It doesn't matter if a million people are seeking help," says Housing Practice director Laura Lane '96. "The demand for services always exceeds our ability to provide them."

For the fiscal year ending June 2008, EBCLC received \$1.6 million in grants and contract support, and just under \$1 million in donations.

Tapped Out

Tenants who face eviction due to foreclosure live in an anguishing limbo of uncertainty and helplessness. Perhaps nothing better illustrates their vulnerability, and their need for advocacy from service providers like EBCLC, than the practice of utility shutoffs.

Here's how it often plays out: When rental properties slip into foreclosure, financially strapped owners often leave behind a stack of unpaid utility bills. Banks or other financial institutions that find themselves titleholders may be unwilling to pay for lights and water, and utility companies are understandably eager to cut their losses. In single-unit properties, or in buildings where each unit has its own meter, tenants might be able to transfer service to their names (assuming they can come up with the deposits and processing fees). But in multi-unit buildings with a single meter, that's rarely an option, since any one tenant is probably unwilling—if not financially unable—to assume responsibility for service to all units. So suddenly, without warning, the lights go out and the water stops—and often, as in Melvin Green's case, an eviction notice goes up. In many cases a notice is unnecessary; a dwelling with no utilities is uninhabitable and a shutoff is just as good—or rather just as bad—as an eviction.

Before you say that there oughta be a law, rest assured that regulations exist. The California Public Utilities Code states that a utility provider must not cut service when "a public health or building officer certifies that termination would result in a significant threat to the health or safety of the resi-



"We try to look at things more as problem-solvers rather than as litigators."

—Tirien Steinbach '99, Executive Director of the East Bay Community Law Center

dential occupants or the public." What's more, in Oakland and Berkeley, cities with Just Cause for Eviction ordinances, the simple fact of foreclosure can't end an otherwise lawful tenancy. And in 1985, *Gross v. Superior Court* affirmed that renters who stay on in foreclosed properties do so under essentially the same terms—meaning that, if the previous landlord paid the water bill, the new landlord is obliged to do so, too.

But these new owners—what EBCLC staff attorney Marc Janowitz characterizes as financial institutions that are worldwide in their reach, generally represented by out-of-town legal counsel—don't always play by local rules. "What we've found," Janowitz says, "is that these financial institutions and their attorneys ignore these laws at will and are extremely reticent about spending any of their resources on anything such as keeping the utilities on."

Throughout the summer and fall of 2008, amidst a growing clamor for help from

East Bay renters, clinical students like Suzanne Martindale '10 began to seek ways to put a permanent stop to the practice.

The Memo That Roared

Fall 2008: Martindale's first semester as a clinical student. After listening to scores of EBCLC clients relate stories she calls "infuriating," it was clear that low-income East Bay tenants were facing a perfect storm of foreclosure-generated abuses.

Martindale describes the tenants' predicament in much the same terms as Janowitz. "Many banks (especially if they are not headquartered in the Bay Area) do not know about the tenant protections in place in Berkeley or Oakland," Martindale explained via email. "As a result, they post illegal notices telling tenants to move within 24 or 72 hours, or simply shut off the utilities. Banks have no interest in being landlords. They simply want to buy properties on the cheap so they can fix them up a bit and flip them at a higher price."

When it came time to propose a final project, Martindale and her fellow clinicals wanted to do something big, tackle a seemingly intractable injustice that many clients had endured and many more would be likely to face. Stopping utility shutoffs seemed a no-brainer.

Says Podesta, one of Martindale's student teammates, "Instead of doing it tenant by tenant, building by building, we thought of trying to come up with a bigger solution that would—hopefully—positively impact as many of the tenants as possible." And the group wanted to devise not just a theoretical fix, but a solution with teeth.

It may be initially surprising to learn that the teeth-baring tactic was writing a memorandum. However, the memo was carefully crafted and targeted to begin a public conversation that could effectively end utility shutoffs. Or at least suspend them.

"One of our supervising attorneys tipped us off to the California Public Utilities Code," Martindale recalled. The students found the clause about utilities' obligation to keep the power and water on if a public official asserts health and safety reasons. And, Martindale says, "the PUC also provides that the utility has a cause of action against property owners who act or fail to act in such a way that causes termination of service."

Bingo—the students had discovered a way for the utilities to collaborate with city attorneys to protect tenants. They drafted a four-page memo on EBCLC letterhead and, in early

"The clinic's housing authorities are incredible. The service they provide is so crucial to the community, that I can't imagine the suffering that would go on without them."

—Sheena Wadhawan, Oakland City Attorney's office.

December, sent it to Andy Katz, a director on EBMUD's publicly elected seven-member board. Far from accusing the utility of acting the villain, the memo's wording is conciliatory. "Our goals are to maintain service to tenants and ensure that EBMUD may collect payment from the owner financial institutions," it reads. "After careful consideration of the issues involved, we have come to the conclusion that achieving both is possible."

Suzanne Martindale described the approach. "We demonstrated to EBMUD that, while they would have to comply with public officials' orders when water service was ordered to remain

on, they still had legal grounds to pursue delinquent banks."

Katz, who represents District Four, which includes Berkeley and North Oakland, had already been working to put a shutoff moratorium in place. In March 2008, he'd sponsored a successful resolution designed to suspend water shutoffs in multifamily rental properties, with a six-step review process for each case. A second resolution kept the moratorium alive through September 2008.

That's the date Katz was expecting legislation by Berkeley assembly member (now state senator) Loni Hancock to table shutoffs once and for all. But Governor Schwarzenegger vetoed AB1333, which would have given the district lien authority over foreclosed properties, a remedy for unpaid bills. At the time, Katz told the *San Francisco Chronicle* that, "with the governor's veto, any option will require a tenant to take some action to continue water service."

But, the same *Chronicle* story noted, Katz was looking into whether EBMUD could seek to collect the bills in small-claims court. And that's precisely what EBCLC's clinical students' memo provided Katz and his fellow directors. At the same time, the students reached out to Oakland City Attorney John Russo, whom they'd worked with through Russo's Neighborhood Law Corps, which does legal outreach to low-income Oakland residents. In essence, the students' memo upped the incentive for the attorney's office to work with EBMUD, to identify the financial institutions responsible for keeping renters' utilities on.

It's not as if EBCLC's memo broke ground. Instead, it served as a kind of catalyst for cooperation among public agencies. "The conversation was already well under way," notes EBCLC Housing director Lane. "EBMUD was actively looking for a way to not turn off people's utilities."

Today, Katz speaks of EBCLC as de facto partner. "I've always relied on the EBCLC as a helpful resource, and look

A New Chance

EBCLC helps ex-offenders reintegrate into society

After Housing, EBCLC's biggest practice is **Clean Slate**, which—among related services—offers free legal information and other assistance to those seeking to clean up their criminal records. Even after paying their debt to society, people find it difficult to reintegrate themselves into society because of the stigma of an open record. Eligible clients are those not on parole, or who have finished at least half of their probation. Like Housing, Clean Slate's approach involves both policy advocacy work and roll-your-sleeves-up assistance by law students and attorneys with job and housing discrimination, education, and voting rights. As a result of ongoing outreach and state and nationwide collaborations, Clean Slate has become, as its Web site states ". . . a leading voice for criminal records policy reform at the local, regional, state, and federal levels." —John Birdsall

forward to their help in protecting tenant rights.” Gabe Podesta seems somewhat awestruck. “We ended up working with the city attorney, with public utilities—groups you never thought would be a partner.”

A Mighty Trunk

Attorney Sheena Wadhawan had seen it all in Neighborhood Law Corps: the pregnant woman who had to haul heavy jugs of water from the corner liquor store back to her apartment, just so she could flush the toilet. The man desperate to get his electricity restored, since his wife depended on oxygen support. “Nothing more quickly deteriorates the quality of a family’s life than the lack of utilities,” says Wadhawan, an attorney in John Russo’s office.

Last December, two weeks after Martindale and Podesta’s team released their memorandum, the Oakland City Attorney’s office produced a declaration asking public utilities for the kind of shutoff moratorium Andy Katz had championed at EBMUD.

“Until December 31, 2010,” the declaration states, “neither East Bay Municipal Utility District nor Pacific Gas and Electric Company shall terminate the utilities at a tenant occupied foreclosed property where the owner was responsible for utility payments for the duration of 120 days from the date of the first notice provided to tenants at the address of service.”

“We asked for a limited amount of time—120 days—without a shutoff, to be reasonable,” Wadhawan explains. “To allow us time to figure out who the new owner is. We don’t want to completely burden the utilities, but just give us a window so we can sort things out.”

The attorney says PG&E has agreed, in spirit, to the moratorium. “We’re still talking with EBMUD,” she notes.

“We’re able to really bring folks to the table and get press around it,” Wadhawan says. “Create public pressure on the real estate and lender community not to do these shutoffs.” EBCLC, whose attorneys and students have been in constant communication with the City Attorney’s office, has been an essential partner. “Their housing authorities are incredible,” Wadhawan says. “The service they provide is so crucial to the community, I can’t imagine the suffering that would go on without them.”

The dialog between City Attorney and utility companies that EBCLC students helped spark has had an effect. Robbie Clark of Just Cause Oakland, a nonprofit advocacy group for low-income Oakland tenants, says that, since December, EBMUD’s service shutoffs have decreased dramatically. For the students involved, the shutoff initiative sparked something else.

“This exercise represented the best lesson that a clinical education provides,” says Gabe Podesta. “There’s this idea that lawyers prosecute cases, that the only way to get something done is through litigation. What I learned in the clinic is that an attorney should strive to be a problem-solver, sometimes through litigation, sometimes through other means.”

Executive director Tirien Steinbach ’99 says she’s been trying to come up with a tree metaphor to describe EBCLC’s role. “If there’s grassroots organizing and clients at the roots,” she says, “and at the top, the policy makers and policy advocates,



GREEN'S SCENE: Melvin Green of Oakland relaxes with a glass of water in his back yard after EBCLC helped restore his utilities.

then we’re the trunk, taking the nutrients—the wonderful ideas—from the roots all the way up to the branches and the leaves at the treetop. The trunk,” she adds, “is necessary for bringing all the various pieces together.”

Meanwhile, Melvin Green is thinking about the impending auction of his foreclosed apartment. Sitting in an office chair in his living room—the only other seat is a plastic patio chair—he wonders what will happen to him if he’s forced to move. “I’d like to keep this place,” he says. “I don’t want to end up in no drug atmosphere, no rat- or roach-infested place. It’s bad for folks that are not well off. Society takes advantage of people who don’t know their rights.” You get the feeling that, one way or another, Green hasn’t turned to EBCLC for the last time.

John Birdsall is an independent journalist who lives in Oakland. He has written for San Francisco magazine, the East Bay Express, the San Francisco Chronicle, and the Contra Costa Times.

One Tough Case

In a unique career spanning
six-plus decades,
Eleanor Jackson Piel '43
has been a scrappy
defender of the
disenfranchised.

By Bonnie Azab Powell



THE DEFENSE NEVER RESTS: In the eighth decade of her nonstop life, Eleanor Jackson Piel '43 is still practicing law in Manhattan.

To hear Eleanor Jackson Piel tell it, she didn't set out to be a pioneer. She was just ambitious and stubborn. Women weren't supposed to go to law school, so she did.

Big firms didn't want her, so she worked for herself. "With no one to monitor me and tell me I couldn't, I've taken all kinds of cases and issues," she says. "I've done it all! And it's been wonderful."

Eighty-eight years old and still actively practicing law—Piel has flouted convention all her life. Not only did she enter law school at a time when few women pursued a graduate degree, but she chose criminal law and proceeded to work alone. Piel is also unusual for her unwillingness to specialize in one area of criminal law. She's taken on civil rights cases, class-action suits for gender discrimination, and, in her later years, death penalty appeals. But she has also handled the odd case of patent infringement (over the Movado watch), anarchy, and libel (including for Nobel Peace Laureate Linus Pauling; she lost). She has argued before the U.S. Supreme Court four times—"but I only won once," she is quick to point out.

Says Linda Greenhouse, Yale Law School's Knight Distinguished Journalist in Residence, "Back then, women lawyers mostly got channeled into trusts and estates and matrimonial

issues. Very few chose the gritty business of representing convicted murderers." Greenhouse, who covered the Supreme Court for the *New York Times* until last year, first met the diminutive, elegant Piel back in 1971, while a cub reporter assigned to a murder-by-arson case. "Eleanor has devoted her energies to the most downtrodden, despised, friendless segment of our society."

Not surprisingly, Piel has collected a bottomless treasure chest of stories, and she relates them with a delightful Audrey Hepburnesque diction. They reveal that Piel is no accidental activist—her ambition has always been to make a difference in the world, and her stubbornness originates from a fierce, idealistic desire to see that justice is served for everyone.

Chosen by circumstances

Piel's profound distaste for injustice came naturally. Born in Southern California, she encountered prejudice firsthand at a young age. Her mother was a concert pianist and "a confirmed traditional Anglo-Saxon," as Piel puts it, who'd married a Jew and may have wished she hadn't. Her father, a Lithuanian who immigrated to New York at 15, had overcome tuberculosis to become a doctor. When fellow members of a Santa Monica beach club he'd belonged to for five years learned he was Jewish, they asked him to leave. "He sued; I think he lost, but I never really knew the facts," she says.

After reading the Old Testament at her Christian maternal grandmother's home, the young Eleanor told all her friends that she was one of God's chosen people. "My mother was just horrified," she recalls, and told her never again to talk about being Jewish. "I was upset about the fact that people didn't like Jews, when I was half Jewish, and then I had my mother being anti-Semitic," Piel says. "It just didn't seem fair." From that moment on, she thinks, she began to take the side of victims of discrimination.

At first, she planned to expose injustice through journalism. Piel transferred to Berkeley as a senior after three years at UCLA: She'd run for student office and lost, and as a result had also lost her job with the *Daily Bruin*. "I had to leave—the newspaper was my life," she laughs. After graduation, she considered journalism school, but her father wouldn't pay for Columbia. Others in her class were going to law school, but some of them said she wasn't smart enough, she recalls indignantly. "So of course I applied," she chuckles. "Imagine this being my motivation! Because Barney Schapiro said I couldn't!"

Boalt initially turned her down. But after she excelled at the University of Southern California for a year, Boalt accepted her as a transfer student, and she was the only woman to graduate in the law school's 1943 class of roughly a dozen.

Wanting to be a labor lawyer, she applied to a big San Francisco firm, but was rejected. Through Boalt, she got a job as a law clerk to Judge Louis E. Goodman of the U.S. District Court in San Francisco. Goodman had specifically been looking for a female clerk, but not for politically-correct reasons. "He thought if he had a woman she would stay there forever," says Piel.

She and Goodman hit it off, and often engaged in heated debates about constitutional law. And in the summer of 1944, Piel got a front-row seat at a civil rights case that would prove

to be a historical landmark and a touchstone for the idealistic young lawyer.

Wartime injustice

Every year, Humboldt County asked a San Francisco District Court judge to come up to rule on a few cases, usually minor ones, in the small town of Eureka, about six hours north of San Francisco. Piel drove Goodman up, expecting a few hours of morning work followed by lazy summer barbecues. Instead, they walked into a shameful case brought by the federal government in a town with a long history of anti-Asian prejudice that had been greatly exacerbated by the war.

In *United States v. Masaaki Kuwabara*, 27 Nisei (American-born citizens of Japanese ancestry) were arraigned for failing to appear for a draft physical—the first step in the conscription process. Like 120,000 other people of Japanese descent, they had been taken from their U.S. homes after Pearl Harbor and placed in internment camps. This particular group, however, were among those classified as especially “disloyal” and incarcerated behind barbed wire the nearby Tule Lake Segregation Center.

Piel was shocked that the men’s refusal to fight for a country that had found them disloyal could result in felony charges. And her boss, she says, was dismayed that he was expected to rubber-stamp the proceedings. So, after an intense huddle with Piel, he decided against it. He called a sympathetic lawyer friend in the area to mount a genuine defense, and told Piel to find supporting case law. Not so easy without a law library.

In a copy of the Selective Training and Service Act—the 1940 law (and America’s first-ever peacetime conscription) that required adult men to register with local draft boards—they found something on which to hang the case: The law’s prefatory Declaration of Policy stated that “in a free society the obligations and privileges of military training and service should be shared generally in accordance with a fair and just system of selective... service.” Arguing that the case against the Nisei was neither fair nor just and that they had been deprived of due process, Goodman dismissed the indictment. The 27 men were sent back to Tule Lake. The decision, which was not appealed, was the only one of its kind issued that was favorable to the Japanese-Americans.

Goodman, who was Jewish, took the opportunity to caution the government against “overzealousness in an attempt to reach, via the criminal process, those whom we may regard as undesirable citizens.” As Eric L. Muller and Daniel K. Inouye write in their book, *Free to Die for Their Country: The Story of the Japanese American Draft Resisters in World War II*, “Behind this defense of the Tule Lake ‘undesirables’ can be seen the passionate views of an immigrant’s son on the role of tolerance in good American citizenship.” And, it can be said, an inspiration for the passionate views of another Jewish immigrant’s daughter.

The freedom to fight

In 1945, Piel traded her clerkship for a job with California Senator Sheridan Downey in Washington, DC. She hated it. What she saw of politics in action offended her idealism. “It did not fit my ideal of wonderful government or make me want



A BUSY DAY: On the same day that she married Gerard Piel, publisher of *Scientific American*, Piel represented—and won dismissals—for a group of three defendants.



INNOCENCE MISSION: Piel and Innocence Project cofounder Barry Scheck '74 flank Warith Habib Abdal on the day in 1999 that he was released from prison after serving 13 years. Piel worked for over a decade to overturn Abdal’s rape conviction.

“With no one to monitor me and tell me I couldn’t, I’ve taken all kinds of cases and issues. I’ve done it all! And it’s been wonderful.”

—Eleanor Jackson Piel ’43



TWO BIG JOBS: top: Piel on the steps of the U.S. Supreme Court in 1970 when she argued *Adickes v. S. H. Kress & Co.* bottom: Piel with her daughter, Eleanor Jackson Piel, Jr.

to participate in it,” she says. “I got very discouraged and disillusioned.”

She next jumped at the chance to go to Japan to work with the American group taking part in the international war-crimes tribunal. But this also proved disappointing. Housed in a drafty YWCA in bombed-out Tokyo, she caught diphtheria and worked mainly as a “geisha, going to parties and ball-room dancing” with the assembled dignitaries. (Among her beaux was Brigadier General John Profumo, then chief of staff to the British Mission in Japan and as yet unsullied by the “Profumo Affair.” “He was quite a good dancer,” Piel recalls wryly.) But the work bored her and she felt it unfair that the emperor of Japan, whose orders the war-crimes defendants had merely carried out, was not being charged. She ended up resigning and going to work for the Economic and Scientific Section, a group under General Douglas MacArthur’s command, which was charged with helping to rebuild the Japanese economy.

In 1948 she returned to Los Angeles and opened a one-woman office. Over the next several years, she handled miscellaneous cases, and then rented an office in the suite of former California Attorney General Robert Kenny, who had represented the Hollywood Ten—the screenwriters blacklisted during the McCarthy era. At one of Kenny’s many parties, she met Gerard Piel, publisher of *Scientific American*, and chairwoman of its board of editors.

They were married in 1955; Piel went to court the morning of the wedding, earning her the headline “Three Youths Freed and Lawyer Wed” in the *Los Angeles Times*. Shortly afterward, Piel moved to New York City to join her husband. They were together until his death in 2004; she “has been at sea ever since,” she says wistfully. The marriage was a mutually beneficial partnership: He went with her to Mississippi where she initiated her U.S. Supreme Court case, *Adickes v. Kress*, and edited her briefs; she accompanied him on his world travels, visiting scientists and creating 11 foreign editions of *Scientific American*.

A lawyer for tumultuous times

Piel jumped feet first into the political turmoil of the 60s by taking on the defense of William Epton in the first anarchy trial in New York since 1925. Epton, a Maoist communist and labor organizer, was charged with anarchy and inciting riot for inflammatory statements he made during the Harlem Riots of 1964. Piel lost the case but became known as the go-to lawyer for political radicals; she next represented Black Panther Fred Fernandez, charged with, among other things, advocating the overthrow of the New York state government. Piel took the case all the way to the U.S. Supreme Court, but lost.

In 1964, appalled by the murder of a civil-rights worker in Philadelphia whose Upper West Side mother she knew, Piel joined a Lawyer’s Guild expedition to Mississippi. While in Hattiesburg, she stumbled across a case in which a Kress lunch-counter waitress had refused to serve a young, white freedom-school teacher named Sandra Adickes because she was with her black students, whose orders the woman *had* taken.

Incensed by intimidation—she and Gerard were followed by the FBI as well as “threatened by rednecks”—Piel filed a

civil lawsuit against Kress in New York, where the company was based and Adickes was a resident. She lost the case twice in New York courts before the Supreme Court agreed to hear it. In the fall of 1969, she argued the case before new Chief Justice Warren Burger and won. Adickes settled out of court with Kress, donating the money she received from the settlement to the Southern Conference Educational Fund.

Other civil rights cases Piel handled involved gender discrimination. In 1969 she lobbied for a 13-year-old female math genius who wanted to attend the all-boy Stuyvesant High School. In the 1980s she represented the appeal of 50 women professors at the Albert Einstein College of Medicine in a class-action suit alleging that they were not paid salaries equal to male faculty. Einstein settled the suit with a lump-sum payment. Less successfully, she represented Cynthia Fisher, a biology professor who claimed she was denied tenure by Vassar College because she was married: That victory was reversed on appeal.

Tackling the death penalty

Piel volunteered for her first death penalty appeal in 1982, after reading in the *New York Times* that there were more than 2,000 people on death row in America—it is now more than 3,000—many of whom wanted to appeal but had no lawyer. She called the Florida legal center mentioned in the story and was assigned *William Riley Jent v. State of Florida*.

“That case,” she says, was a real lulu.”

And that it was, from start to finish. In 1979, a young woman was strangled, doused with gasoline, and set on fire in a game preserve in Pasco County, about 60 miles from Tampa. Her body was not immediately identified, and the police and prosecutors fabricated an identity for her and a guilty case around Earnie Miller, a roofer and suspected marijuana grower, and his visiting half-brother, “outlaw biker” Bill Jent.

As chronicled in David Von Drehle’s 2006 book *Among the Lowest of the Dead: The Culture of Capital Punishment*, the case presented a truly breathtaking breach of justice. At every step, the Pasco County police and prosecutors intimidated and even jailed witnesses, suppressed evidence, and even tried to prevent the body from being properly identified. (The real victim’s family was pretty sure her boyfriend had killed her, not the two brothers.) Piel got the appeal just a month before the brothers were to be executed, and there wasn’t time to spare: The state of Florida was eager to resume capital punishment after *Furman v. Georgia*, and for political reasons wanted to start with white death-row inmates.

Working with another female lawyer, representing Miller, Piel threw every resource she had into freeing the brothers, including—by chance—the persuasive powers of her husband. Finding himself on a plane with a former *Washington Post* managing editor, he convinced the man to have the *Post* assign an investigative reporter. The reporter was able to get a fingerprint match that identified the corpse as the missing woman with the suspicious paramour—he was suspected of having torched another female friend. The Florida newspapers ate up the new evidence. Piel got the television news show *20-20* to cover the case, and not long after, the judge issued a writ of habeas corpus granting the brothers a new trial.

One day before the execution was scheduled, Piel admits to losing her composure in court and tearing up. It was a rare breach of her self-control. “She’s very tough in the courtroom,” says Leon Friedman, the Joseph Kushner Distinguished Professor of Civil Liberties Law at Hofstra University, who has known Piel since the ‘60s. “She will not take any shit from anybody, whether it’s opposing counsel or the judges.”

In 1988, after two more long years in jail, Miller and Jent ended up making a bizarre deal: In return for their immediate release from prison, they agreed to plea guilty to murder. The state offered no compensation for their ordeal. Piel and her co-counselor were there waiting with new suits that they had bought for the brothers. At the press conference that followed, reported the *St. Petersburg Times*, Piel distributed a seven-page statement proclaiming their innocence despite the guilty plea.

“It was a travesty,” she says, still angry. “But they were freed.”

As was Warith Habib Abdal, whom Piel had first represented for manslaughter in the 1970s. Abdal—then known as Vincent Jenkins—was later convicted of rape in 1983. Although she was not his lawyer then, he wrote to her for help in the appeal, and she agreed. In 1991, after learning that there was still physical evidence from the rape trial, she approached Barry Scheck ’74 of the Innocence Project to help her obtain the best DNA testing. Piel paid \$3,000 out of her own pocket for the tests, but DNA science was still in its infancy, and the results were inconclusive. Still, she battled on. A long 10 years after Abdal first contacted her, findings based on more sophisticated DNA tests led to the conviction being thrown out.

“It’s hard to tell how I feel,” Abdal told the *New York Times* in 1999 upon his release, “because your heart is like your toe. It grows skin on it and it gets hard. But people like Mrs. Piel soften it up.”

Piel is modest about her accomplishments, but her friends and colleagues, such as Leon Friedman, are eager to pick up the slack. “Here’s someone who, on her own, has handled the most unsympathetic cases—against the government or others where the opposing side has unlimited resources—and sometimes she’s won, which is incredible,” says Friedman. “Think about it. Big criminal trials are so difficult. She does all her own exhibits, all the scutwork, everything. She’s amazing.”

And Piel is still working. In early March she was handling, she estimates, about 16 habeas cases assigned to her by the Second Circuit Court of Appeals. Talking about them, she sounds as animated and as passionate as any fresh-faced young defense attorney. Then she stops herself.

“I do go on,” she says apologetically. When her listener reassures her that she’s not once been boring during several hours’ worth of chatting, Piel admits with a touch of pride: “I’ve had a fascinating life, I think.”

No argument there, counselor.

Oakland freelancer Bonnie Azab Powell has written about the technology business for Red Herring, the New York Times, and Corporate Board Member, and about food politics for the Washington Post, Mother Jones, Meatpaper, and other publications.



ON THE MOVE

BOALT
STUDENT
ACTION
FIGURES

Keeping His Balance

According to his profile page notes on UC Berkeley's sports portal, *Calbears.com*, Kyle Brady's coaches consider him "an incredibly driven person." That—plus the possibility that Brady doesn't sleep—explains a lot.

Somehow, while shouldering the legendary academic burden of a Boalt 1L, Brady managed to be a top performer on UC Berkeley's powerhouse men's gymnastics team. "Our team practices 3½ hours a day, six days a week," he says. "Then there's another hour of strength training at night three to four days a week."

Practice makes perfect, and Brady is an old hand at deftly juggling the demands of academics and athletics. As a Cal undergrad, he received the 2006 Golden Bear Achievement Award for highest GPA on the team, and was a three-time Mountain Pacific Sports Federation all-academic team selection.

This year however, thanks to the law school's immutable 1L class schedule, Brady's balancing act became exponentially tougher. While Cal's gymnasts practice year-round, their season unfolds during second semester. Brady's former strategy—piling up course work in

the fall and taking a lighter load in the spring—was off the table.

"No wiggle room whatsoever," he says with a laugh. "This is when you'll be in class, and if any of that conflicts with practices, tough luck. Fortunately, my coach (Barry Weiner) was amazingly flexible. Last semester he came to the gym three days a week at least an hour early just to help get my training done."



Kyle Brady '11

That mutual commitment was rewarded. The team opened its season by vanquishing top-ranked Stanford, bested their arch-rival twice more in multi-team events, surged to a No. 2 national ranking, and placed 4th at the NCAA Championships in April—their best finish during Brady's time on the team.

Individually, Brady capped his career in spectacular fashion at the NCAA meet—placing second in the parallel bars and sixth in the still rings. That gave him double all-American honors, awarded to the nation's top eight gymnasts in each event.

"Law school and gymnastics are both so time-consuming that mentally I'd prepared myself for the worst," he says. "But first-semester exams went well and I was able to do better than I expected in the gym. It wasn't easy, but that made the process even more rewarding."

As for his future legal career, Brady is still processing the myriad possibilities. He cites antitrust and intellectual property as potential focus areas over the next couple of years, and he's eager to learn more outside the classroom.

"There's a lot I wish I could do as a 1L, especially with helping refugees gain political asylum," Brady says. "But I still have two years for those kinds of things. This was my last go-round on the gymnastics team, and I just couldn't give it up." —Andrew Cohen



Angelica Guevara '10 (center) with Rosie O'Donnell (left) and Tyra Banks

A Real Showstopper

Growing up in an impoverished home, surrounded by domestic violence and alcoholism, and with little support from her family, Angelica Guevara '10 hardly seemed destined for law school—let alone Boalt Hall.

When Guevara was a high school sophomore in southern California, her mother urged her to drop out to help pay expenses at home. She refused, and persevered with the help of a willing teacher who took her in. “School was my escape,” says Guevara, who took additional classes at a local junior college while also cleaning houses and babysitting. “It gave me independence and taught me how to fend for myself.”

Her remarkable story gained recognition in 2001, when she was featured on “Beating the Odds,” a news segment on the NBC affiliate in Los Angeles. The Rosie O’Donnell Show took notice, and surprised the UCLA-bound Guevara with a four-year paid scholarship. She accepted gratefully—and gracefully: “It was a week after 9/11 and the victims’ families needed that money. I could still work, so I donated half my scholarship to the 9/11 Relief Fund.”

A week later, a visibly moved O’Donnell gave Guevara an on-air

tribute and allowed her to keep the full scholarship; The Kellogg Foundation followed up by donating \$100,000 in her name to the 9/11 cause. “I was totally stunned,” Guevara says. “It was quite a shock to have come from nothing and now have this amazing opportunity.”

Guevara, who just finished her second year at Boalt, hopes to practice civil rights law and eventually become a law professor. “I’m extremely lucky now, but I want to make sure the cycle I grew up with is not repeated,” she says. “That’s why I hope to one day teach Chicano Studies through the lens of the law.”

This summer Guevara will intern at The Impact Fund, the nonprofit that sued Wal-Mart in the largest employment discrimination class action to ever go to trial. The Berkeley-based organization

provides funding, training, and advice to lawyers seeking to bring public-interest litigation in civil rights, poverty law, and environmental justice. Part of Guevara’s time will be spent working on an initiative designed to help organizations manage volunteers more effectively. “Los Angeles has better weather,” Guevara laughs, “but I just love Berkeley’s political activism.”

—Will Leivenberg

“The victims’ families needed that money, so I donated half my scholarship to the 9/11 Relief Fund.”

Making Waves

Her mentors have called Lindsay Harris '09 a “hurricane” and a “force of nature.” Both fitting descriptions for someone who took three Boalt clinics by storm. The winner of this year’s Sax Prize for Clinical Advocacy, Harris has worked at the East Bay Community Law Center (EBCLC), the International Human Rights Law Clinic (IHRLC), and the student-run California Asylum Refugee Clinic (CARC).

“Each experience was different,” says Harris, “but incredibly gratifying.” At EBCLC, Harris represented HIV-positive immigrants seeking asylum, facing visa revocation, and applying for immigration relief as domestic violence victims. Her clients included a Tanzanian woman who’d suffered an attempted rape by her uncle—and later the abduction of her child—an Algerian man who feared persecution because of his sexual orientation and HIV status, and a Caribbean woman suffering from AIDS and a stroke. “I won’t pretend I never cried or lost sleep or over these cases,” says Harris.

At IHRLC, Harris worked with a Washington, DC organization to craft legislation to improve the U.S. response to genocide and crimes against humanity. Her tasks, says IHRLC program officer Jamie O’Connell, “required incredible intelligence, creativity, and a staggering work ethic.”

Last year, Harris won a campus Golden Circle Outstanding Student Leader Award for her work running CARC, which trains students to become legal advocates for international asylum seekers. Under her guidance, a record 117 students participated—and obtained winning verdicts in every case. After clerking for Judge Harry Pregerson of the U.S. 9th Circuit, Harris hopes to become a clinical professor. “It’s important work,” she says, “and it’s what I love to do.” —Andrew Cohen



Lindsay Harris '09 (left), with a client



ON THE SHELVES

NEW AND NOTABLE WORKS FROM THE BOALT COMMUNITY

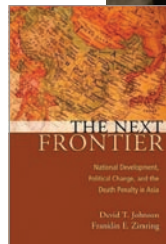
BOOK: DAVID T. JOHNSON AND FRANKLIN E. ZIMRING

Deadly Expedience

Mention global capital punishment, and what comes to mind? Maybe it's the thousands put to death in China every year for crimes that include racketeering and tax evasion, or the fact that, in Singapore, firearms possession and drug trafficking are both capital offenses. It's tempting to look at these as expressions of their societies' deeply lodged cultures. But, suggest the authors of a new book about law and executions on the world's most populous continent, capital punishment is hardly an Asian value.

Indeed, writes former South Korean President Kim Dae Jung in his foreword to *The Next Frontier*, "the practice of capital punishment is inconsistent with the main currents of philosophical and religious thought in Asia." Confucianism, Buddhism, Hinduism, Islam—all are steeped in recognition of human dignity and compassion, if not explicit injunctions against all forms of violence. So how did Asia become the place that carries out more than 95 percent of the world's executions?

The answer, argue David T. Johnson and Franklin E. Zimring over some 500 pages of detailed case studies and painstaking analysis from China, Vietnam, Singapore, and North Korea, is political expediency. Asia's shocking capital punishment rates are the result, not of culture and values, but of hard-line governments determined to exert control over their people. China, for example, is too vast and crowded to maintain police forces that compare on a per capita basis with those in other countries. "This is one reason why it has frequently been attracted to 'cheap deterrence' strategies," the authors write, to maintain social control—especially over political dissidents.



BOOKISH: Professor Frank Zimring is a prolific writer and an expert on criminal sanctions.

As the book's title hints, the global trend away from capital punishment is already curtailing Asian execution rates. Johnson, professor of Sociology at the University of Hawaii, and Boalt's Zimring, a leading expert on criminal sanctions, note that only a handful

of Asian nations have large numbers of state-sanctioned deaths; the rest have low rates or none. Even China's government, which won't be abolishing the practice anytime soon, is—like others in Asia—inching toward the moral high ground of reduced executions. Chalk one up for the long, slow squeeze of international public opinion. —*John Birdsall*

The Next Frontier: National Development, Political Change, and the Death Penalty in Asia

By David T. Johnson and Franklin E. Zimring

Published by Oxford University Press, 2009

Long-Awaited Sequel

Michael C. Donaldson's extensively updated reference book is as essential for filmmakers as the *vente latte*. Written originally for indie auteurs treading tricky legal waters, *Clearance & Copyright* has become a leading resource for guiding even seasoned Sundance moguls through the perils of insurance, fair use, right of privacy, and licensing. Donaldson notes in his introduction that the guide is now used in some 50 film schools in the U.S. and abroad.

Revised, updated, and expanded with three new chapters (including one on international copyright), this latest edition reflects changes to statutory and case law and includes a multitude of examples of contracts and other forms. Donaldson's lively style—and careful selection of enticing examples—renders potentially dry-as-dust material engaging and often humorous. A Beverly Hills entertainment lawyer, the author draws examples from a film roster as varied as some wildly improbable Netflix queue: *Animal House*; *Beyond Control: The Amy Fisher Story*; even the vintage porno flick, *Debbie Does Dallas*.

Chapter One sketches a brief history of copyright, from English kings' virtual censorship of books and pamphlets ("I guess the world has always worked in a certain way," muses Donaldson) to 1776, when the U.S. Constitution granted citizens "exclusive right" to their writings and inventions. Chapter Two wades into the

nuanced realm of fair use, which a Massachusetts court ushered into U.S. copyright law in 1841, when the Reverend Charles W. Upham wrote a book quoting letters of George Washington owned by a Mr. Sparks.

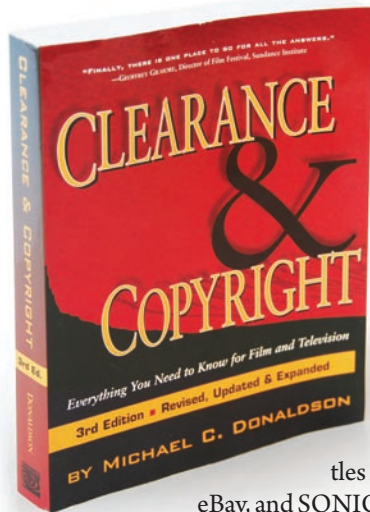
It's not hard to imagine some aspiring Michael Moore poring over the table that lays out the limits of fair use in documentaries: using copyrighted material in political critique, say, or quoting copyrighted works to illustrate an argument. The latest edition fleshes out copyright law for the Internet. Donaldson acknowledges the flashpoint legal battles involving Napster, eBay, and SONICblue, before settling on more practical ground, like what to do if you stumble onto infringing copies of your movie online.

Clearance & Copyright delivers wisdom that has a whiff of the hard-learned lesson. "If you back away from doing business with those you don't trust, with whom you don't connect on a human level," Donaldson writes, "you have reduced the odds of unhappy encounters...." Pick your friends and business associates carefully, he advises, and "you won't have to spend so much time with lawyers."

—John Birdsall

Clearance & Copyright: Everything You Need to Know for Film and Television
Third Edition, Revised, Updated, and Expanded

By Michael C. Donaldson
Published by Silman-James Press, 2008



Stories Set to Music

Many Boalties know John Martel '59 as the author of four best-selling novels. One, *Billy Strobe*, will soon be a major motion picture. But in the early 70s, well before he began penning prose, he bought his first guitar, and—guided by diverse muses like the Beatles, Bob Dylan, Cat Stevens, and Leon Russell—he wrote and performed songs. In 1973—as his musical alter ego Joe Silverhound—he assembled a touring band. "I giggered by night and litigated by day," he says laughing.

Martel is equally at home going country, having been steeped in the hillbilly likes of The Maddox Brothers and Rose while growing up in Modesto, California.

In 2008, he self-produced two collections: *Now and Then*, a rock and pop feast—sometimes gritty, sometimes sweet, always tasty—and the deliciously down-home *Country Hound*, that offers, says Martel, "short stories about romantic despair, loneliness, adultery and murder, and the inevitable black train." For Martel, the move from tunes to novels was a natural transition: "Lyrics and story are critical to music, and words alone can evoke music and magic, too."

Will Joe Silverhound be making a comeback any time soon? "Hard to say," says Martel. "I've shelved new music projects until after filming and post-production work on my screenplay adaptation of *Billy Strobe*—and I complete the new novel I'm working on." —Jared Simpson

Now and Then (original rock and pop)
Country Hound (original country)

By Joe Silverhound
Order CDs or download MP3s at CDBaby.com





INSIGHT: Don't Cry (Too Much) for Us



BY NEIL A.F. POPOVIĆ '87

An apt soundtrack for a future movie about the ongoing financial crisis might include a continuing loop of bursting bubbles: the housing bubble, the stock market bubble; even the executive pay bubble. The collective reversal of fortune has brought hardship to many, including law firms and individual lawyers. The consequences can be devastating for those affected. But let's pause a moment before we add too many doleful violins for lawyers to our imaginary soundtrack. At the risk of alienating some of my fellow alums and Boalt friends, I offer the proposition that our current misfortunes might, in the end, yield a net positive.

The legal community continues to take its hits. Venerable law firms (including my former firm, Heller Ehrman) have closed their doors, leaving many lawyers and more non-lawyers without jobs. As of April 2009, *American Lawyer* reported that more than 90 well-known law firms had acknowledged laying off attorneys and staff, including partners. Many eager new lawyers have been frustrated as firms postpone start dates, rescind offers, freeze, and even reduce salaries. Some firms have cut partner compensation and some have asked non-equity partners to contribute capital. The law firm bubble.

Law firm chairs everywhere find themselves in the unfamiliar position of cutting costs, and reducing or eliminating perks that many of us have come to enjoy and even rely on. Fringe benefits can bolster productivity and morale, and their disappearance can be annoying, and in some cases counterproductive. Put in perspective, however, the hardships many in the legal profession are suffering, painful as they are, can seem relatively trivial to those truly in need.

Don't get me wrong. I sympathize with the many individuals who—like me—lost their jobs. And the disappearance of esteemed law firms

that contributed in many ways to civic life is truly sad. But perhaps there is a silver lining. Perhaps our troubles reflect a much-needed "correction" in the legal market. What needs correcting? For starters, astronomical billing rates; billable hour requirements that discourage efficiency and drive too many able lawyers out of law firms (if not out of the profession altogether); and inflated salaries that put enormous pressure on law firms to generate profits.

The new realities have forced many law firms to confront these issues, and the results are not all bad. Reining in attorney billing rates and salaries (and perhaps de-emphasizing billable hours) may have salutary effects, such as alleviating the pressure on individual lawyers and improving the accessibility of high quality legal services. Creative billing arrangements such as success fees can help align client and law firm imperatives, ensuring that effective law firms remain profitable.

Besides their obvious functions, law firms have a lot to offer. They facilitate commerce; they help resolve disputes peacefully and, at their best, efficiently. Law firms train lawyers who often go on to important positions in business and government. They also provide pro bono legal services, often shining a light on injustice. There is nothing wrong with law firms making high profits—especially when it allows them to give something back to the community. Perhaps the rocky economy we are living through provides an historic opportunity for law firms to recalibrate their metrics, shed some inefficiencies, and emerge better equipped to serve their clients, society, and themselves.

Neil Popović '87 is a partner at Sheppard Mullin Richter & Hampton in San Francisco. His practice includes international litigation, complex commercial disputes and white collar criminal defense. He also practices international environmental law, which he taught at Boalt Hall from 1996–2007.

“At the risk of alienating some of my fellow alums and Boalt friends, I offer the proposition that our current misfortunes might, in the end, yield a net positive.”

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