THE ADVOCATE

SANTA CLARA UNIVERSITY SCHOOL OF LAW

School of Law Newspaper Since 1970 | Monday, January 27, 2014 | Volume 44 Issue 5

Levi's Stadium: A Perfect Fit

49ers CEO Jed York Visits Santa Clara University

By Brent Tuttle
Staff Writer

On January 15th San Francisco 49ers CEO Jed York visited Santa Clara University to participate in the second installment of the 2013-14 "President Speakers Series" here on campus. His appearance took place in Mayer Theatre amidst an eager and hopeful crowd just days before the San Francisco 49ers fell to the Seattle Seahawks in the NFC Championship.

The event itself was titled, "A Conversation with Jed York" and the primary purpose of the discussion was to engage the young CEO on his rise to power within the 49ers organization, his thoughts about the future of football in the Bay Area, and of course the process and innovation behind the development of the new Levi's Stadium here in Santa Clara.

Starting from the beginning, Jed recalled his early twenties when he first got involved with the team. At the budding age of twenty-four, Jed left his job with a New York financial services firm to join the 49ers, the team which his family owns and has managed for decades, a decision which he said was "not tough."

His Father, John York, informed him he would be splitting duties, working

Jed York discusses the new Levi's Stadium. Photo Courtesy Charles Barry.

fifty percent of his time with Larry Macneil, then the CFO and head of the Levi's Stadium development project. The other half of Jed's time was to be spent in a rotational program throughout the organization, giving him first hand experience in all the different departments of the team. York emphasized the value of this training process, saying it was the "best experience I ever had" because it allowed him to understand how the team as a whole functions, and additionally how his decisions now as CEO effect every employee of every department.

Five years later at age twenty-nine, Jed was named the Chief Executive Officer and took hold the reigns of the 49ers franchise. His tenure began as the team found itself in a slump, but Jed insisted that the pressure from this time period allowed him to be more free. He alleged that the expectations weren't as high

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When Takedowns Won't Stay Down: Copyright Law and Technical Mix-Ups

By Jake McGowan
Managing Editor

What happens when a website operator takes down a potentially copyright-infringing item, only to have it reappear through a technical mix-up?

Last July, a district court in California found that an online memorabilia seller was liable to a photographer for copyright infringement, but awarded the absolute minimum in statutory damages since it was "an honest mistake."

Background

This is a fact-driven case that revolves around four photographs of actress Gena Lee Nolin (The Price is Right, Baywatch) taken by plaintiff Barry Rosen and registered with the Copyright Office in 2004.

Defendant Stephen Pierson sells entertainment memorabilia by mail, online, and he once operated a retail store in Los Angeles. Sometime in the late 1990s, visitors showed up at Pierson's retail store and sold him several prints (including the Nolan prints). Upon purchasing the prints, Pierson offered them for sale through his store, through mail-order catalogs, and over the Internet. When

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JIL Hosts Symposium on Human Rights & Environmental Law

By Hazella Bowmani
JIL Symposium Editor

The Journal of International Law (JIL), Santa Clara Law, and the Center for Global Law and Policy (CGLP) recently hosted a symposium on Environment and Human Rights Law, featuring keynote speaker Dinah Shelton, the Manatt/Ahn professor of law (emeritus) at George Washington University Law School. On January 24 and 25, Santa Clara Law's Dean Lisa Kloppenberg and Professor Tseming Yang welcomed scholars and activists from around the country and world to discuss this important topic.

The opening panel, "The Human Right to a Healthy Environment," centered on the research of Rebecca Bratspies, Professor at City University of New York School of Law. In her paper, she explored the obstacles posed by climate change, how it impacts human rights, and the advantages and challenges of solving climate change as a human rights problem. Dr. Marcos Orellana, Director of the Center for International Environmental Law(CIEL), suggested framing the issue as it relates to the sovereign equality of states and the ability of the interstate system to address global challenges. Margarette May Macaulay, former Judge at the Inter-American Court of Human Rights brought the perspective of poor, small countries into the discussion, and offered a direct approach in dealing with governments who have failed to protect their citizens from environmental harm. Santa Clara Law's own Professor Francisco Rivera Juaristi, Director of the International Human Rights Clinic, moderated the lively discussion on how to connect the physical manifestations of climate change with human rights and responsibilities of states.

"Promoting Food Security: Human Rights, the Environment and the Fragmented Nature of International Legal Regulation" was the topic of the second panel. Professor Carmen Gonzalez of Seattle University School of Law presented the challenge of promoting food security at a time when the global economy exceeds ecological limits, impairing food production, and highlighted the role that international trade agreements play in exacerbating food insecurity. Christopher Bacon, Assistant Professor in the Department of Environmental Studies and Sciences at Santa Clara University, explored the factors behind the "hungry farmer" paradox, and how the fair trade model and agricultural cooperatives offer possible solutions. Professor Sumudu Atapattu, Associate Director of the Global Legal Studies Center at the University of Wisconsin Law School highlighted the impact that food insecurity has on vulnerable groups such as indigenous people, women and girls, and displaced people. Emily Yozell, a human rights attorney in Costa Rica, moderated comments on the role of genetically modified organisms (GMOs), the impact of war, and the efforts made to address the vulnerability of people displaced by land grabs.

Professor Rebecca Tsosie passionately describes the lack of redress to environmental hazards for native peoples. Source: The Advocate

Martin Wagner, director of Earthjustice's International Program, gave a special, poetry-filled lunchtime presentation on "The Heart of Environmental Rights," reminding us to connect with our clients with our hearts as well as our minds and suggested using the heart to solve complex problems in human rights advocacy.

Professor Maxine Burkett, University of Hawaii, William S. Richardson School of Law, presented her paper, "Rehabilitation: A Proposal for a Compensation Mechanism For Small Island States," as a response to slow onset events (compared to catastrophic events like the BP oil spill or 9/11) caused by climate change. Professor Randall Abate, Director of the Center for International Law and Justice at Florida A&M University College of Law focused on the nature of slow-onset events that make creating a compensation mechanism difficult, including the

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Prove You Are Passionate

SUBMIT TO THE ADVOCATE

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Writing and submitting articles to The Advocate is a great way to show that you have an interest in a specific area of law. Further, employers will be interested to see that you have sought means to enhance your writing skills beyond writing classes.

Writing for The Advocate is a low-stress, low-commitment way to enhance your resume and stand out from others, as well as a vehicle to learn about areas of law in which you have interest.

A career in law has many paths. The Advocate encourages all law students to submit articles about their own journey.

We can be reached at scuadvocate@gmail.com.

30th Annual High Technology Law Journal Symposium

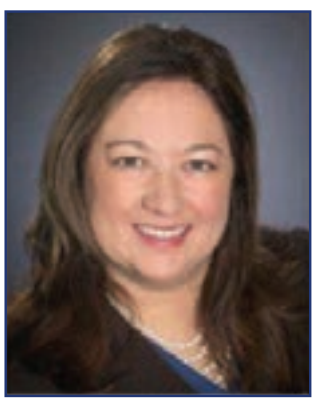
Exploring the Intersection of Privacy, Regulation, and the Social Economy

On February 14th, the Santa Clara High Tech Law Journal will bring together prominent scholars, policy makers, practitioners, and entrepreneurs at the Computer History Museum in Mountain View - an event not to miss if you've ever considered a career in high tech or privacy law. And best of all, registration is free for SCU students!

The SCU High Tech Journal is a progressive legal publication that has continued to maintain a strong presence in the legal world for over thirty years. Its position offers a unique opportunity for students and practitioners to explore traditional issues in the high tech context and the emerging challenges facing computer and high tech law.

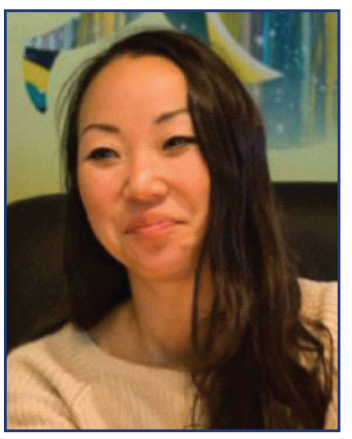
The Journal this year is very proud to be hosting a keynote series focusing on the intersection of government and the developing social economy. Topics will include privacy as a feature of service, potential security threats and abuses, and the emerging leadership role of California and San Francisco in balancing the demands of consumers with an increasing awareness about privacy and data collection.

The conference program will consist of six keynote speakers, organized into morning and early afternoon sessions. The entire event is designed is to teach the audience how to navigate regulatory structures and participate in the drafting of new government policy towards disruptive businesses like car sharing and crowd funding. Each speaker will provide a twenty minute presentation, followed by a moderated twenty minutes of Q&A.



Before lunch, **Commissioner Catherine Sandoval**, from the **California Public Utilities Commission**, will speak about the implications of software-enabled ride sharing, and some of the controversy that it is causing among traditional taxi services. She will also touch on privacy policy and describe the Commission's function as an authority in setting privacy standards.

Jeffrey Rabkin, the **Special Assistant Attorney General for Law and Technology**, will then will discuss the approach the current Attorney General is taking towards internet enabled companies and the balance it hopes to achieve between innovation, access, and security.



Shannon Spanhake, the **San Francisco Deputy Innovation Officer**, will share how Ed Lee and the San Francisco Mayor's Office are trying to change the way municipal governments interact with internet-enabled businesses to promote innovation, accountability, and accessibility – and some of the opportunities this has created for innovative businesses to help the government achieve community goals.

In the afternoon, **Corey Owens**, the **Head of Global Public Policy at Uber**, will discuss what Uber has done to work in tandem with local governments to challenge traditional regulation and some of their key decision promoting public safety. He will also discuss more generally how internet enabled businesses are making governments rethink traditional regulatory frameworks.

Kevin Laws, **COO of AngelList**, will discuss his own experience working with local governments and the SEC to define new legal standards for crowd funding, and how the web has changed the context and meaning of consumer focused investment.

And finally, **Laura Pirri**, **Legal Director for Products at Twitter**, will then discuss some of the key decisions Twitter has made to systematically build privacy into their product, and why they consider these policies integral to the success of their business.

To REGISTER for the 2014 High Tech Law Journal Symposium, please visit symposium.htlj.org, where you can find more information about the event. Attendance is limited, so be sure to register soon!

For questions about the Symposium, please contact Nicole Shanahan at Nicole.Shanahan@htlj.org.

Hope to see you there!

SANTA CLARA HIGH TECHNOLOGY LAW JOURNAL

About the Journal

The High Tech Law Journal at Santa Clara is a student run organization that has become one of the most prominent publishers of high tech related legal research and commentary in the country. Over its thirty year history, the Journal has built an impressive academic audience, and provides law student associates and editors with a chance to contribute directly to articles and publications that will shape the leading edge of policy, regulation, and jurisprudence.

For information about joining the journal, please contact Roujin Mozaffarimehr at roujin.mozaffarimehr@htlj.org.

Rumor Mill with Dean Erwin

By Susan Erwin
Senior Assistant Dean

Hi All!

Welcome back! It's spring, which means lots of things – Academic Advising Week, Graduation Events, Banquets, Spring Break, and so much more. Keep watching your SCU email for announcements and deadlines.

On to your questions –

Why are we making the switch over to Camino in the middle of the year? Some feel unacquainted with the website or feel that the professors may be unacquainted.

From Nic Bertino, in LTAC: "We are following the University's lead in integrating Camino, which is a modern learning management system that will wholly replace Claranet. While we are encouraging professors and students to utilize Camino for Spring, a full rollout for all classes won't be happening until the Summer. Transitioning to any new technology can be frustrating, but the implementation is necessary as Camino offers a wide range of benefits that ClaraNet simply cannot provide. We greatly appreciate your patience while we welcome this powerful new software. We are happy to answer any questions you may have about Camino, and have setup an email address to communicate with Camino administrators at law-camino-pg@scu.edu."

What are the consequences of switching from full time to part time? Will students lose financial aid or scholarships, even if it's their last semester?

On the student records side: you are free to switch back and forth from full time to part time at will after the first year. It does impact your registration appointment; part-timers register first because they have more scheduling issues than full-timers.

From Elinore Burkhardt and LaToya Powell in Law Financial Aid: "On the loan side, switching to the part-time program will affect loans because your cost of attendance (COA) will be less. While we give the same budget for living expenses for both the full-time and part-time program, the budget for tuition is different. It is the difference in the tuition budget that could cause the loans (usually the Direct Grad PLUS) to be reduced – usually about $6,750.

On the scholarship side, Santa Clara Law scholarships pay for SCU tuition only. The scholarships are adjusted if the SCU law tuition charge in a semester is less than the scholarship amount for that semester. The scholarship will be adjusted down to match the tuition charge."

For more information on student budget breakdowns, please visit law.scu.edu/lawfinancialaid.

There are rumors going around that SCU will be making cuts to visiting professors next year. Many are sad to hear that great professors like Prof. Wendel will not be available next year.

The law school is getting smaller. After this year's graduation, we will be a lot smaller. We won't need as many courses. We, therefore, won't need as many professors. We will most likely be seeing fewer visiting and adjunct professors. The plus side of a smaller student body is that more of you will be able to get into classes with your favorite SCU professors!

What does the class gift go towards and how can I be certain how it is spent?

To answer that one, I reached out to Susan Moore who has the fun job of working with the class gift committees every year: Students are encouraged to support the Strategic Initiatives Fund which is the Law School's top annual fundraising priority. The Dean and the University work together to ensure gifts to this fund support key areas such as student scholarships, library resources, clinical and other experiential learning programs, student learning opportunities such as the Law Review and Moot Court competitions, and graduate student fellowships. Watch for more information in the Bannan Lounge about the Class of 2014 Gift which is coming soon!

49ers CEO Jed York Visits Santa Clara

"Jed York"
From Front Page

then, compared to now, where there is a belief that the 49ers will get to the NFC Championship and the Super Bowl year after year.

When asked about moving the 49ers to Santa Clara, York insisted that the franchise has always been a regional team. Despite moving south, he stated that they will always be the San Francisco 49ers, but also emphasized that he believes "... that sports teams do more to cross barriers, erase boundaries, and bring a region together than almost anything else." Jed is adamant that the transition will help Bay Area fans "bring it together." He also acknowledged those who were in opposition to the Santa Clara site, stating that although they may never be in favor of the new 49ers facility, their feedback did allow the team to have a much better process in developing Levi's Stadium.

Father Engh dons Niners gear as he introduces Jed York to the Santa Clara University community. Photo Courtesy Charles Barry.

York also touted the economic benefits for the city of Santa Clara with the 2014 opening of the new 49ers stadium. Amongst a long list of perks, he emphasized the job creation aspect, not just in the sense of what the stadium will provide, but also in the development of other local businesses, and the swarms of customers that the team will attract to the area. Additionally, the 49ers will significantly contribute to the public coffers of Santa Clara, while no city funds were taken for the project. Most importantly however, Jed stated that this new partnership with Santa Clara will unlock their great infrastructure and give the city the worldwide recognition it deserves.

The development of Levi's Stadium was a venture which Mr. York said had to be flexible. "Bigger is not better in California...Smarter is better," he asserted. With this project, he feels that the 49ers organization and all those involved are pushing the envelope. The new stadium is smarter, more efficient, and cutting edge. It's a software stadium, geared for users who have adopted smart phones as a part of their everyday lives. The stadium will feature its own app that York called a "one stop shop." This new app will provide fans with a ticketless and cashless experience. They will be able to order food from their seats rather than baring long waits at the concession stand, to monitor bathroom lines, and to watch replays instantly on their phones, all of which Jed says will help fans enjoy the game more.

In the same notion of embracing cutting edge smart phone technology, the stadium's design is also embedded with environmentally conscious features. Indeed, as the NFL's first LEED certified stadium, Jed was proud to declare that the new home of the 49ers is "not green for green's sake, but functional." Some of the environmentally sustainable features include an overall design layout which allows for power usage to be optimized, and a green roof which will have natural vegetation, both of which will allow the 49ers to be net neutral on the grid for all home games.

Looking into the future, the 49ers CEO sees many opportunities in the team's partnership with the city of Santa Clara. York & Co. have already signed on as host to the 50th Super Bowl in 2016, an event he called "the Golden Anniversary of the Super Bowl in the Golden State." He anticipates that this will be the first of many major event showcases at Levi's Stadium, and is confident that this new venture will be the perfect fit for all parties involved.

SCU Law will Host the ABA's Law Student Division Spring Conference!!!

By Lila Milford
SBA President

SCU Law has been invited to host this year's Spring Conference for the 14th Circuit of the ABA's Law Student Division on February 7th and 8th. The ABA (or American Bar Association) Law Student Division is a group primarily concerned with legal education and offers leadership training, public service opportunities, career development programing as well as provides assistance in the search for jobs, both during and after graduation. The division divides law schools into regions across the United States. The 14th Circuit consists mainly of Northern California and Las Vegas law schools.

At the conference we will be voting for the new ABA leadership team for the 2014-15 academic term. The Circuit Governor for the 14th Circuit will be elected on Saturday, February 8th at the end of the conference. The circuit governors represent and advocate for law students in their regional circuits, work with the Division officers, delegates and other ABA leaders to develop and promote ABA programs, offerings, services and initiatives. The Circuit Governors are voting members of the ABA Law Student Division Board of Governors, which meets four times per year and is a great opportunity to give back to the legal community and also gain experience in policy and governance processes. If you would like to run for governor please contact me at lmilford@scu.edu before January 30th.

The conference will start Friday, February 7th with a Bar Review in Palo Alto at the Old Pro. Then throughout the day on February 8th we are holding a panel on alternative JD advantage careers that will focus on non-traditional ways students can utilize their law degrees. Many students today seek a law degree not because they want to practice in a traditional law firm but because they recognize the skills you acquire in law school can be extremely valuable in different career paths. We will also have a panel on extraordinary IP law careers and how leadership experience and teamwork played a part in their success. At the end of the day we will have break out sessions focusing on best practices of campus organizations, leadership, and team building.

I hope you take advantage of the great network of speakers coming to the event and come to support our SCU Law Candidate for the 14th Circuit Governor position. Be sure to cast your vote!!!

Service, Hard Work, Transparency, Integrity

Santa Clara District Attorney Jeff Rosen Shares His Thoughts on Criminal Justice and the DA's Office in Silicon Valley.

Photo courtesy jeffrosen2014.com

Edited By Michael Branson
Editor-In-Chief

Q: You've emphasized four core values while in office: Service, Hard Work, Transparency, and Integrity. I appreciate you taking on transparency here with this interview. How did you decide to make those your priorities?

A: Well, I can tell you how I didn't decide and then maybe that will help me remember how I decided. I didn't do a focus group. I didn't hire a management consultant. I actually didn't even talk to a lot of people about it. But in deciding what we're about as an office, I thought a lot about my experiences here as a deputy DA from 1995 to 2010 and what I was doing as a prosecutor.

We're here to serve the public, and with the public I mean that broadly. That includes witnesses, judges, attorneys, defendants, and people that call. That's the mindset you have to have when you're working here. We're here to serve the public.

I think it's important to work hard, to be diligent, and to be thorough. It's something that we owe the public. It's a mission-driven organization. I had always worked hard when I was here, and I think that's how I got better as a prosecutor. I just thought that was important.

And transparency, there are a lot of decisions that we make here, and we're just trying to do what we think is right. It's not about money; it's not about glory. So, we don't have anything to hide. People may disagree with our decisions, but I think in a democracy the people have a right to know as much information as possible about why their elected officials made the decisions that they made.

And, yes, a small amount of information is confidential here in a prosecutor's office. The reason it's confidential is it's personnel related, or it's about an ongoing investigation. Or it could put some people at risk if we do disclosed information. But other than that small amount, the rest is open.

By integrity, I think that there's certain minimum standards we have as prosecutors. But Silicon Valley is not a place where you just meet the minimum standards. Google, Apple, Santa Clara, and Stanford don't just meet the minimum standards. They go above and beyond that. And I feel the same way in terms of our office.

Q: In 2010, you made the decision to run for DA against the incumbent DA. That was a big decision to make given how rarely a deputy DA decides to challenge an incumbent. Why did you feel so strongly about running for DA at that moment?

That's true. I wasn't planning my career to run for DA, or to run for any office. It's really not what I was thinking about. The truth is I had been on the homicide unit for about five years and I was thinking after the two or three homicide cases I had set for trial, I would do something else in the office.

But then the previous DA was elected. During the time she was DA, I over time thought that she wasn't leading the office in a good direction. There are some specific decisions she made that I disagreed with. We had a cold case unit that she cut. We had something like an innocence project within our office—we call it a conviction integrity unit now—that looked at old cases to see if we got the right person. She cut that unit as well.

I thought those two decisions were not good decisions. I thought if we're not trying to solve old murder cases, I'm not sure what else—I mean, all of the cases we handle are important. But certainly murder cases are important, and we have a lot of unsolved murder cases in our county as do many counties. So I disagreed with that.

There were also some decisions that she made that I think were ethically questionable that revolved around her having a financial interest in a case.

So I thought that I could make the office better. I think it's a great DA's office. And I just thought we weren't being led in the best direction.

Q: You mentioned that one of your goals was to work on homicide cases. Many people have heard that when you are interviewing for a DA, and they ask you, "Where do you want to be in ten years?" The only correct answer is the homicide unit.

A: Ohhh. No! No! No! [Laughter]

Q: How would you respond to those who have interest in different tracks, perhaps in economic crimes?

A: That was the right answer for me of where I wanted to be in ten years. But no one asked me that when I interviewed here. The first thing I would have said is just, "I really hope I'm here. I'd like you to hire me because I want to work here and be a prosecutor."

But if after I was hired and someone asked me that, I would have said homicide. I would have said I want to be there in five years, in three years. I wanted to progress in that way, but that was me. And there are a lot of other great things to do here after you've been a prosecutor for ten years. That's a good number, ten years. After you've gone through a lot of different assignments in the office—misdemeanor, juvenile, law and motion, maybe central felony, maybe done a stint on gangs, or the sex team, or family violence—there's a lot of great stuff.

So there are a lot of good answers to that and we need all different kinds of people in the DA's office. We need people with all different kinds of interest and skills. People that have a science background: that can be very helpful. People with financial backgrounds, and business or accounting of some kind: that can be very useful to us as well, because there's all kinds of stuff that we do.

And it's funny that you mention economic crimes because that's one area I didn't do when I was a prosecutor.

Q: Well, I mentioned it because, I think a lot of people have the impression that its very separate from the other work that's done.

A: No, in our office we have twenty-five lawyers, almost fifteen percent of our office, that prosecute real estate, major fraud, consumer, environmental, high tech, securities, identity theft. Had I had to do that all over again I would have gone to that assignment. Since I've been DA, I've seen the work that we do there is fantastic. There is more community involvement and interest in our economic crimes prosecutions than anything else in the office. We do more press releases, by far, about scams, rip-offs, real estate fraud, and Ponzi schemes.

It really affects a broad section of the community. More so than violent crime. Violent crime is terrible for an individual, and it obviously affects their family and their neighborhoods, but it's relatively rare to be the victim of murder, rape, or violent robbery. Relatively. Whereas economic crimes, every year there are thousands of victims of different economic crimes. And it really cuts across the whole community.

And one thing that I'm particularly proud of about our DA's office is that a lot of the economic crimes prosecutions that we do, in other parts of the country, in other counties, would be done by the U.S. Attorney's Office. The level of work that we do is that sophisticated, complex, and wide reaching. And we're able to do it because we have the resources to do it. And we're pretty aggressive about it.

Q: What are the specific responsibilities for the DA as opposed to a prosecutor or the DA's office as a whole? What is the kind of day-to-day life, if it can be described that way at all?

A: Well, I think that the main things that I'm doing each day, or each week, or each month are: Number one, I am explaining to the public what we're doing. And what I mean by that is I'm explaining to the public through different media interviews something that we've done and why we've done it. That could be a certain case that we're prosecuting, or a case that we've declined to prosecute and why we're not prosecuting it.

Number two, there's a bit of personnel work that we do here like hiring. We're going through hiring right now, and we have a whole process. We have a paper screen, then oral interviews, and then I meet with the finalists and make decisions about hiring people. That's probably the most significant thing that I'll do as DA is who I wind up hiring, because it has long-term implications for what the office is going to look like.

I want our office to reflect this area. Silicon Valley is excellent, and it's diverse. And so our office is going to reflect that. It's going to be excellent, and it's going to be diverse.

Number three, I'm always trying to position our office in the best way with the Board of Supervisors and with other state and federal agencies to make sure that we're adequately supported. The Board of Supervisors has been very good to the DA's office, providing us with the resources we need. I want to make sure that we're giving them good value for what they're giving us so that they will continue to support us. So the budget is something that I think about.

And then there's just kind of more general public policy things that I'm interested in. So, just last week we were meeting with the Drug Policy Alliance. It's a group that wants to fundamentally change the drug laws in the country, and handle drug abuse with a more public

> **"I want our office to reflect this area. Silicon Valley is excellent and it's diverse. And so our office is going to reflect that."**

health approach rather than a criminal justice approach. I had a team here and we met with this group for a couple hours from LA, and you know, there's, maybe there's things we'll do a little differently here.

Q: What can law students do to prepare themselves specifically for a DA's office? What do you look for?

A: There's not a magic code. It's not like if you come in and say thirty-seven we'll hire you. You just have to say the magic phrase like, "The sun is rising."

Q: You don't have to have three different DA's offices listed on your resume?

A: [Laughing] So, we are looking for a few things. Number one, we're looking for an interest in being a prosecutor. Why do you want to be a prosecutor? So you should have an answer for that. What have you done at this point in your academic career that demonstrates your interest in that?

And you could demonstrate that interest in a lot of ways. It could be, sure, externing or interning at a DA's office or at the state attorney general's office. It could be working with victim's groups like a domestic violence shelter. It could be that you worked at a public defender's office, and realized, OK, I liked certain aspects of that. I like the courtroom setting, or I have an interest in criminal justice, but I realized I would rather be a prosecutor than a defense attorney.

And then I'm always interested in people that have done well at whatever they've done before-- whether that means they did well academically, or they played a sport, or they had a different job. I'm just looking to see that they've done well.

We're looking for people that can get along with other people, and I don't mean go along to get along. As prosecutors, we interact with all different kinds of people: different socioeconomics, different ages, different races. Sometimes it's a stressful time for them. I mean, when we call a witness to a robbery and we say we'd like you to come to court, that's like going to the dentist's office. Nobody is looking forward to that. While in our back pocket we have a certain amount of power. There's the subpoena: You have to come. But of course, it's much better to get people's cooperation and to get them willingly doing things. You don't call somebody up and say, "You got to come to court next week. It's at 9 o'clock. Goodbye." That's not nice. How can we talk to them and explain why it's important?

In terms of the office environment, we're not hiring assholes. You can quote me. I don't want to hire an asshole. Or a jerk. At the end of the day, when people meet with me, if I don't think you're a nice person, I'm not going to hire you. And you're not going to last here if you're a jerk also. We'll ask you to leave. So, I think it's really important to have a nice respectful work environment. I think that helps an organization be more efficient. And it also is just the right way to be.

I'm interested in people's non-legal jobs that they've had. I always find that kind of interesting. You know, people that have been waiters or waitresses, that's a lot of service, and that's interacting with people. So I'm just interested in different types of jobs people have had.

We certainly try to test people to see how they think on their feet and how they do under pressure because there's a certain aspect of that in our job. So I know that we look for moot court, advocacy, public speaking, because that's a big part of what we do.

Q: What would you say specifically to Santa Clara students who sometimes feel like this office has closer connections to Stanford and Berkeley in terms of the hiring practices?

A: I'd say I've heard that said before, and it's just wrong. I've hired more people from Santa Clara Law than any other law school. Now, I haven't hired only from Santa Clara. We hire from everywhere. In fact, before you walked in here, I just hired a woman who just graduated from Santa Clara. I think that there are great aspiring prosecutors in every law school, of every race, both men and women, and we've hired fantastic people from Santa Clara. We will continue to do so. I just think we won't only hire from Santa Clara. That's all.

"In terms of the office environment, we're not hiring assholes. You can quote me. I don't want to hire an asshole. "

And I think Santa Clara University has a very good relationship with our office. I have to say, as somebody who went to Berkeley for law school, I find that—and this will be great if people at Berkeley actually read this—I find that Santa Clara University—the law school, the undergraduate, the dean of the school, the dean of the law school—they have been so welcoming to me and to our office and have partnered with us. We've sometimes done offsite retreats there and we have a very close relationship with Santa Clara. Some of our prosecutors teach there. A number of their students are here. And I think Santa Clara's mission as a Jesuit school, about trying to create lawyers who are going to make the world better, that really resonates with me. I think that's really important, and I want to support them.

I do much more with Santa Clara and get many more calls and much more activity with them than Berkeley where I went to law school. I think Berkeley could care less that I'm the DA here.

Q: I believe you were one of three DAs that supported the change to the three strike law. First off, why do you think it was such a small group, and why did you support it?

A: Yea, it wasn't a big group. I supported it because I thought it was the right thing to do. I think the three strikes law in our state was being applied too broadly. It wasn't focused enough on serious and violent offenders. It was bringing people in for twenty-five-year-to-life sentences that I think were not the serious and violent offenders that needed to be put in prison for life.

In our own office, I worked on the three strikes team in the late 90s. We had an evolution in the cases that we saw twenty-five-year-to-life sentences on. Before the *People v. Romero* decision where the Supreme Court said there's discretion by the court and the DA to not automatically seek twenty five year to life, there were people that received twenty-five-year-to-life sentences that we nowadays in our office would seek twenty five year to life.

So I thought that just internally it wasn't consistent. So, what I said I was going to do if this reform didn't pass was that I was going to go back for fifty, sixty defendants in our county and try to get those people resentenced. We thought it was legally possible, but very very difficult to do. But we were going to do that because it wasn't right. It wasn't fair to those people.

The reason I supported this particular reform, Prop 36, was I thought it was a reasonable reform and it didn't get rid of three strikes altogether. There was something on the ballot in 2004, I think it was Prop 66, which would have really gutted the three strikes law. This reform I thought was modest and reasonable.

The big thing that I liked about it was it didn't say anybody got automatically released. Prop 66 said yes, for this class of people, they are automatically resentenced and released. I didn't like that. This said, for people whose third strike was not serious or violent, who didn't have a murder or a rape as a prior strike, there's a sentencing hearing. So I like that process where the people, the DA, were heard. That's why I supported it.

Why the other DAs didn't support it, of course I can say you should ask them, but I think that this is what really happened: as a DA, you spend a lot of your time talking to other prosecutors. They have spent a lot of their professional life talking to prosecutors. So after doing this job for a while, you may have a more conservative view about criminal justice.

I think there was a little bit of a disconnect between some of the DAs and the communities that they served. And I say that because, DAs would say to me, well you're from the Bay Area, that's so liberal. They would say, well I'm from Riverside or from San Bernardino and my people don't support this. Even if this was a good idea, the people in my district don't support it.

Well, it turns out that it passed by 70% in the state, and even in the most conservative counties, more than 50% of the people voted for Prop 36. So I think there was a little bit of a disconnect. And I thought—and I know Steve Cooley in LA, George Gascon of San Francisco thought— this is a reasonable reform. And if we don't support a reasonable reform, we're just going to get something worse that's going to gut it.

Now that this reform has been passed, nobody's talking about three strikes reform anymore. It's been done. The voters, the public, they've checked the box. "Oh, the three strikes law, we liked it, I think it's a little too broad, I've read too many stories about going to prison for stealing pizza, boom we're done." Now move on to something else. If it doesn't pass, then there will be more and more efforts and we may get something worse.

Q: What's the office's position on Capital Punishment?

A: This is actually something where it's more a question of what's my position on Capital Punishment. All the cases where we could seek and we are considering seeking the death penalty, I'm very involved. We have a process for deciding whether to seek the death penalty where a case qualifies.

We have a committee that I sit on along with the supervisor of the homicide team, the trial attorney on the case, two other experienced prosecutors, and the chief trial deputy. If it's a case where we think we might seek the death penalty, the attorney handling the case will make a presentation to the committee about what the evidence in the case is, what are the aggravating and mitigating factors for a death verdict, what's the likelihood that we think we'll get a death verdict in the case, and also what does the victim's family think. That's not dispositive, but we certainly want to know what their input is even though we've explained to them, look, the DA is going to make the final decision, but we want to know what their thoughts are.

After that person makes a presentation to our committee, then sometimes at that point we'll say OK we're not going to seek the death penalty. We don't need to hear from the defense attorney. Other times if we're still thinking about seeking the death penalty, we invite the defense attorney to make a presentation to us as well.

After we hear from the defense attorney, then I'll discuss it with the people that are on the committee, and we'll talk for as long as we need to. At the end I usually say, "So, how do you vote?" And then I think about it for a while, a few weeks usually.

Q: So regardless of the vote, the final decision is yours?

A: Yes, exactly. I'm asking people because I just want to know what they really think, and then I decide. So that's the process; that's how it works. We spell that out, the defense knows what our process is. And I think we've explained this publicly as well, how we go through this.

I do support the death penalty. I support it for the absolute worst of worst offenders, the absolute most heinous criminals. I think about it like this: is executing this person the appropriate response of a moral and civilized society? Is the appropriate moral response of a civilized enlightened society to execute this person? When you put it that way, you realize there's not going to be very many people that you want to say that about. However, I think of myself as moral and enlightened, and progressive. But I do think there are some people that fall into that category where, yep, I'm moral, I'm enlightened, I'm a good dad, and I love my children, and I go to temple every weekend and yes, this person needs to be executed. It's a very high standard. But I do think that there are people that need it.

I almost have to feel that this is what we have to do here. That just having the person die in prison is not enough. We call it life in prison and life is good. Life's a positive word. To life! And so when you talk about the death penalty and you say somebody's getting life in prison, actually what we're saying is, "You're going to die in prison." And I think to myself, when I'm explaining this to the public why we didn't seek the death penalty, basically I'm saying I think it was enough that I protected the community, this person will never get out of prison, and they will die in prison. And that's really what they're being sentenced to.

Since I've been DA, we have had two jury's that have come back with death verdicts on cases that were tried in the first year that I was DA. And while those were decisions that were made by the previous DA, I was aware that these cases were in a death posture, and I supported it. Since I've been DA there have been six or seven cases that I've reviewed where we've been considering the death penalty, and in none of those cases have I sought the death penalty. It could change. I take the obligation real seriously, I haven't yet seen the case where I thought we have to execute this person, it's not enough that they die in prison. So that's how I think about it.

The Downfall of a Chieftain

Christie constipates traffic, will it back up his presidential hopes?

By Bill Falor
Staff Writer

In the Spring of 2012, a friend of mine invited me to attend, as his guest, a swanky political fundraiser in Pebble Beach, CA. Among the speakers was the man of the current political hour, a man who needs no introduction, the current Governor of the Garden State, His Heftiness, Chris Christie. He did not speak at length, and to my best recollection, his topics of discussion were not particularly extraordinary or memorable. But I'll be damned if the man wasn't the consummate embodiment of charisma and imbued with talent the likes of which lesser politicos could only dream.

I shook his hand before I left, and I told him, genuinely and sincerely, that I had great respect for him as the head of New Jersey. I watched him leave and mused to myself that I would be able to tell my kids that I had met Chris Christie, future President of these United States, back when he was only a governor.

When he wasn't nominated in 2012, I wasn't surprised. Mitt had paid his dues and Mitt deserved his shot. I held out hope that Christie would be next in line; the man was flawless in front of a following and we in the GOP just couldn't, for the sake of our integrity in the American political system as adversaries to Democrats who feverishly expected another mediocre nomination, ignore his so-obviously redolent potential to reclaim the Oval Office from the Donkeys.

And then Fort Lee happened.

It's a fiasco, a catastrophe, a calamity on par, per capita, with Nixon. Christie's credibility is crumbling as he faces an exceptionally hostile media only too eager to smugly witness his fall from grace. They, this media, are saying "I told you he was a bully" as they prophesize a premature partition from his kingdom. Depending upon how the news cycles (and as-yet unforeseen developments), they might get their wish, and Christie could leave before his term has expired. Most importantly, however, even if Chris is booted out of Trenton, it appears a foregone conclusion in that he will not be sitting in the rows of the chairs behind Reince and Co. (or their respective successors) in 2016 when the GOP trots out yet another "hope for the future."

Christie watches in disdain as his hopes for the White House seem flushed. Source: AP

So what's the point here? Are you to conclude that this piece is simply a book-report-style examination of yet another political scandal, magnified only in our societal consciousness by virtue of the apparent importance of the vilified party? Or is there something larger afoot, a more meaningful lesson to be learned, something worthy of Aesop and his fables?

I guess I, as your humble writer, am simply using this platform to vent about a hope lost, an opportunity wasted, and a man exposed, as well, a human being prone to human behaviors in distinctly human circumstances. I seek to offer neither any sort of apology for the man, nor any explanation in furtherance of those pesky whys that so desperately require their respective becauses. I suppose I'm simply reflecting on the very real time in our recent history that Christie was a lightning rod for the anti-partisan movement and a very real contender to head the most rotund regime since William Howard Taft and his bathtub.

The title of this article comes from Treasure Island by Robert Louis Stevenson, and is written in regard to Long John Silver, the sea cook turned mutineer turned double agent. If Christie is Silver, charming yet oh-so duplicitous, I count myself among the ranks of those GOP faithful who regard themselves as a young Jim Hawkins. Disappointingly, we've been duped by one who only so effortlessly earned our trust.

The 1L Adventure: Thoughts After One Semester Down

By Nicole Webster
For The Advocate

Waking up to a morning in the first semester of law school is a lot like those mornings when you wake up somewhere and you have absolutely no idea where you are or how you got there, and then you suddenly realize you are in your own bed. The shock of realization sends waves through your body and you just lay there for a moment. Then the alarm wakes up from snooze and it's time to get ready for another day of brain revolution.

I had expected law school would be a challenge. That's all I heard about from family, friends, none of them attorneys. "I hear 1L is the hardest," they would say, and proceed to offer me advice about the importance of sleeping and maintaining balance. Sleeping, ha! It seems that whenever that happens I wake up with highlighter on my face from accidentally falling asleep with my books and open highlighters. As for balance, balance is the rare moment when you're caught up on all of your classes and outlines and you get to do something for yourself, like the laundry. It's strange that it feels like vacation to clean and run errands, to have a quiet moment in which the law is a murmuring brook in the background instead of a survival swim through white water rapids.

What people don't tell you about law school is that it is actually an immersion process. Much like attempting to live in a foreign country where you don't know one word of the language or anything about the culture or the people, 1L is an adventure. The difficulty is the medium: words. Text fills endless pages of books, supplements, opinions, commercial outlines, and more. And there's really only one way to absorb it all. Good thing I've always loved to read.

The other challenge is with the content. Once you've absorbed the law, it must be organized in a way that can be applied to an infinite myriad of fact patterns. I soon realized as I researched cases online that professors' hypotheticals were actually tame compared to real life. You just can't make up the legal happenings that occur in reality, where the facts themselves seem like impossibilities.

At first, 1L seemed like its own impossibility. But now that I've made it through the first semester, I realize it is all about the approach. To survive the immersion process, you have to embrace it. Let in all of the jargon and ambiguity and accept that while maybe you don't understand it today, the light bulb may click on tomorrow. While family and friends outside of law school and the legal profession may think that it is about studying and memorizing all day and all night, learning the law is so much more. Learning the law is about understanding and becoming part of a new world, complete with its own language and people and culture. The true challenge of law school is to remember who you are and let the learning help you grow.

JIL Hosts Symposium on Human Rights and Environmental Law

"JIL Symposium"
From Front Page

complex logistics of adaptation funding, donor fatigue, and how to limit loss and damage remedies. Dr. Damilola Olawuyi, the Director of Research and Training of the Institute for Oil, Gas, Energy, Environment and Sustainable Development (OGEES Institute) at Afe Babalola University in Nigeria, spoke of small island states in Africa and how statistics about climate-induced stresses are more severe for them. He also warned that we must be prepared to answer questions about institutional proliferation, accountability, and why small-island states should receive climate change compensation while other, equally vulnerable African states should not. Natalie Bridgeman Fields, Executive Director of Accountability Counsel, moderated the panel and audience questions on restorative justice, the legal responsibility for climate change, the conflation of rehabilitation and compensation, state claims on behalf of their citizens, and international equity.

Day one concluded with the Keynote Address from Dinah Shelton, "Whiplash and Backlash – Some Thoughts on a Rights-based Approach to Environmental Protection." In it, Shelton highlighted many of the precedent-setting cases in international law involving private corporations, and that increasingly, corporate counsel have the duty to fully inform corporations about their environmental and human rights responsibilities. She concluded that litigation is still the best tool for climate change work and petition procedures in many national and international bodies allow individuals to bring claims when their governments fail to provide redress for human rights violations or fail to regulate such perpetrators.

Saturday's discussions opened with a paper by Regent's Professor Rebecca Tsosie of Arizona State University, Sandra Day O'Connor College of Law, entitled "Indigenous Human Rights and the Ethics of 'Remediation': Redressing the Legacy of Uranium Contamination for Native Peoples and Native Lands." In it, Professor Tsosie advocated for reparative justice, using human rights to frame policy and countering the epistemic injustice—ineffective judicial remedies, unfair tribal law, and the failure to account for indigenous land loss, self-determination, and cultural degradation—faced by indigenous peoples. Commentator Robert (Tim) Coulter, Executive Director of the Indian Law Resource Center, addressed the topic through his work on self-determination for the Rapa Nui people of Easter Island and criticized the unconstitutionality of U.S. tribal law, namely the one-sided trustee relationship between First Nation people and the U.S. government. Elizabeth Kronk Warner, Associate Professor at the University of Kansas, School of Law, highlighted cases of indigenous people as agents of change and leaders in human rights and the environment. She also encouraged a move away from the short-term view in current policymaking and instead to embrace the native practice of considering our impact seven generations forward. Associate Professor David Takacs at UC Hastings College of Law, moderated comments on epistemic injustice as it relates to the epistemic framework of human rights, the success of indigenous Hawaiians in building public trust land, and the goal of fundamentally changing how we think about the world.

The concluding roundtable continued the theme of indigenous self-determination and discussed the Western assumption of property as an individualized and absolute right, the legal theories that pose a duty to remediate, the balance between politics and international human rights law, and ways to navigate different sets of laws and values in the area of international environmental and human rights.

Professor Yang closed the symposium by sharing three of the main themes of the conference: (1) rethinking the concepts of environmental law and international human rights law and ways to integrate the different values; (2) the role of politics in the discourse of environmental protection as a means of ensuring human survival; (3) and how to ensure that institutions designed to address these environmental and human rights are properly implemented and carried out.

We thank all the participants, student volunteers, and especially our co-sponsors: CGLP, JIL, the Markkula Center for Applied Ethics, the American Society of International Law, and IEnLIG. Video of the symposium and copies of the presentations will be available on the CGLP website, and final papers will be published in the second issue of the Volume 12 of the Journal of International Law.

When Takedowns Won't Stay Down

"Trademark"
From Front Page

Rosen found out, he began confronting Pierson and demanding that he back off from selling the prints.

In the early 2000s, Rosen issued several notices under the DMCA demanding that the photographs be removed from eBay and Pierson's website, "dejavugalleries.com." But Pierson did not learn of the notices from his webmaster until around 2004, at which point he decided not to risk it and ceased trying to sell the photographs online.

A year later, however, his website crashed and he discontinued his online business. In 2010, Pierson hired someone new to rebuild his website. As part of the rebuild, the new site iteration pulled content from an older database that included Rosen's photographs, even though they had been removed from the original site in 2004.

Defenses

The case for infringement was not a hotly contested question, and the court quickly put away any defenses. First of all, the first sale doctrine is not applicable in this case because Pierson presented no evidence that the prints he tried to sell were authorized copies. The court also dismissed any laches argument, noting that the evidence showed that Rosen did not unreasonably delay in asserting his rights–he refrained from bringing a suit earlier because he believed Pierson had gone out of business when the website went down.

Remedies

Pierson argued that statutory damages were unavailable under the doctrine of continuing infringement. After all, these were the same prints he had been trying to sell since the late 1990s, which was before Rosen had registered the prints with the Copyright Office. While this may be true with regard to the catalog, the court found that Rosen could pursue statutory damages arising out of of the offers that occurred through Pierson's website:

The doctrine of continuing infringement does not apply to these acts because Pierson ceased displaying the Photographs through his website between 2005-2010, and this cessation of infringing activity renders the defense of continuing infringement inapplicable to the claims arising out of the website.

Thus, the court found that Rosen could be awarded statutory damages for each of the four photographs. But while the standard amount per work ranges from $750-$30,000, courts are able to award as little as $200 per work if the infringement is "innocent." In this case, Pierson argued that the infringement was innocent because he was unaware that he had actually posted the photos online with offers to sell. The court agreed:

The evidence at trial showed that Pierson did not personally handle technical duties regarding his website, but instead retained Romero and Daniel for this purpose. Moreover, Pierson consistently directed both Romero and Daniel to remove the Photographs from the website upon learning of Rosen's complaints . . . when he reestablished his online business in 2010, Pierson had no reason to believe that he would engage in infringing acts by reviving the website . . . Pierson's infringement was the result of a reasonable mistake, and therefore Pierson's infringement was innocent.

The court denied Rosen attorneys fees, citing much of the same reasoning and especially noting Pierson's "good faith attempts to avoid infringement."

This is one of those copyright cases where after all is said and done, was it really worth it for the rights holder to pursue? Four photograph prints whose asking prices were roughly $50 each? This was an extremely fact-driven case, which means higher attorneys' fees and thus a diminishing return on investing in a lawsuit. Even to this cash-strapped law student, it seems like the juice is not worth the squeeze.

It's possible that Rosen may have been deceived by an "easy win." By "easy," I mean that it did not take too long for the court to establish a prima facie case for infringement. The key was always going to be the remedies, and in this case the court thought the defendant's actions throughout the dispute warranted an appropriately measured response.

One last thing: this case seems like it would have been suited well for some type of copyright small claims court. For an update on the potential of such a court, check out Jonathan Bailey's coverage at Plagiarism Today (http://www.plagiarismtoday.com/2013/02/28/update-on-copyright-small-claims-court/).

Upcoming Networking Opportunity!!!

Calling all law students! Help Santa Clara Law (your future alma mater) look good and make career connections at the same time.

Honors Moot Court External is pleased to announce that Santa Clara Law is hosting the ABA Region 9 Client Counseling Competition on February 15-16, 2014. This practical skills competition gives law students a unique opportunity to use the client interviewing and counseling skills they've learned in the classroom. The topic of this year's competition is First Amendment Law.

Whether you are interested in first amendment and public interest law, in refining your client interviewing and counseling skills, or just want to experience the excitement of an external competition, volunteering at the ABA Client Counseling Competition is the perfect opportunity for you!

Reasons to Volunteer:
Build your professional network with attorneys, counselors and judges who will be scoring the competition
Learn from observing live client counseling sessions and hearing the judges' feedback and practical advice
Experience the excitement of an external competition without having to prepare a single thing
Free food and camaraderie
Sign up for a shift (or two) by emailing the Event Hosting Chair, Huma Ellahie at SantaClaraLaw.HMCE@gmail.com for the link to the sign up page.

Thanks For Nothing

Player and Fan Indifference Toward Irrelevant All-Star Games

By Michael Bedolla
Sports Editor

There is perhaps no greater heartbreak an athlete experiences than when his or her team is eliminated from title contention. Despite an excellent season and a heroic effort in the NFC Championship Game on January 19th, the 49ers experienced this pain following their loss to the Seattle Seahawks. While this was the end of the 2013 season for most 49ers, a few players - such as tight end Vernon Davis and running back Frank Gore - received what is probably the worst consolation prize in history: a trip to the NFL's all-star game, the Pro Bowl.

The all-star game is such a great idea in theory. Fans typically flock to sports arenas to see the superstars - just look at how team attendance figures increase anytime LeBron James or Sidney Crosby visits. Because these superstars are scattered amongst the 30-odd teams that populate each league, a game that features only the best of the best should present unparalleled quality of play. Star players should finally realize their full potential by being surrounded with A-list talent, while rising to face the challenge of a more daunting opponent. Meanwhile, the fans themselves are able to choose the players they want to see, introducing an element of democracy into sports and channeling the fantasy sports craze.

All-Star Games have become irrelevant exhibitions featuring all sizzle and no steak - Source: AP

Once upon a time, the all-star game was just that. The first all-star game in America came from the MLB in 1933, and was a resounding success. The players themselves took the game seriously and gave full effort, best exemplified by Pete Rose's home-plate collision with Ray Fosse to win the 1970 All-Star Game. In an era before interleague play and free agency, the all-star game was sometimes the only opportunity for a player to test his meddle against the cream of the crop from the opposing league. Other sports leagues soon followed, and the all-star game became a midseason (or, in the NFL's case, end-of-season) tradition for the elite to display their talents.

Sadly, the all-star game has devolved into a lackluster snoozefest. Rather than selecting the best players, all-star selections have become contests in seeing which team's fan base can best stuff the ballot box. When selected, superstar players prefer to skip the game entirely, using the interruption in the season schedule to rest and recuperate from the extreme physical demands of the professional sports player. Those players that cannot escape the all-star game "treat" fans to effortless performances rather than risk injury in a meaningless exhibition, and seem more preoccupied with comedic antics amongst themselves on the sidelines than the game itself. Without a dedicated coaching system and meticulous practice, all-star players cannot even function as a true "team," especially in the modern sports era with ultra-calibrated offensive plays and highly complex defense strategies. It is no wonder that fans have begun ignoring all-star games in droves.

The precipitous drop in spectator interest has not gone unnoticed, and the sports leagues have responded with increasingly desperate means to generate attention. Leagues continue to tinker the already heavily-modified all-star game rules to alleviate player risks and encourage spectacular play, with little effect. Sports leagues have expanded the spectacle from a single game to a weekend of individual activities, best exemplified by the NBA's Slam-Dunk Contest and the MLB's Home Run Derby. Baseball hoped to compel performance and generate interest by tying home field advantage in the World Series with the league that won the all-star game. Rather than remaining with the stale conference vs. conference format, the NHL and NFL now use the alternating-selection method, returning to a player selection process employed mainly on the schoolyard, and allowing for the intrigue of regular teammates to face-off against one another on opposing all-star teams. Despite all this manufactured novelty, the players themselves and the fans continue to show little interest.

Now, the all-star game may be coming to a merciful end. Team officials and even league commissioners have begun to openly question whether the all-star game truly serves its function anymore in an era where players confront high risks paired with little reward for their participation. Thankfully, there is no NHL All-Star Game this year, since hockey fans will be treated to a meaningful world-class display: the 2014 Winter Olympics in Sochi, Russia. The NFL's Pro Bowl, on the other hand, lingers on, despite the ridicule of football's otherwise fanatically loyal fanbase, and fails to wrestle any meaningful attention away from the NFL's next scheduled game and its signature event: the Super Bowl.

This leaves the future of all-star games in doubt. The best proposal to salvage the all-star game appears to be to treat professional players as mercenaries: rather than relying upon cheap gimmicks, players would receive financial incentives for participation and victory in the game, paired with severe penalties for deliberate absence. While this might work for sports that rely primarily on individual efforts, those that require well-oiled team performance like football may be best left to wither. It certainly speaks volumes when the most common suggestion for improving the Pro Bowl is to disband it forever.