Debating Freedom of Speech

With the recent Snyder v. Phelps decision, and its 8-1 holding sent down by the Supremes, we take a look at the First Amendment and how far it should reach. See Page 3

ALSO
Japan's Nuclear Crisis See Page 8
Be Your Own Boss: It's More Do-Able Than You Think See Page 4
INSIDE THIS ISSUE

CHAPMAN LAW NEWS

Debating the First Amendment .............................................. 3
Dean Campbell hosts Town Hall meeting ......................... 5
Four competition teams advance to nationals ................. 6
Top ‘Watson’ murder prosecutor visits Chapman .......... 7
Prominent international lawyer discusses career .......... 12

CURRENT EVENTS

Japan’s nuclear crisis ......................................................... 8

STUDENT LIFE

Be your own boss .......................................................... 4
Farewell, Class of 2011 .................................................. 7
Guest Column: A call to compost .................................. 8
Guest Column: Sodexo catering monopoly? ................. 9
Healthcare, Shmealthcare: Part II ................................. 10
1L Column: All stick and no carrot ............................. 12

EDITOR’S NOTE

Thank you for picking up the fourth and final edition of The Courier for the 2010-2011 school year. The past nine months have been nothing short of crazy, and I very much appreciate you all allowing The Courier to report on some of the most controversial and important matters that have taken place during the academic year. Our school has seen a new dean, begun a student debate series, and watched our competition teams have excelled in national and international competitions.

I would like to say thank you and farewell to our 3Ls, Blythe Harris and Tim Cully. Both of them have been such a great help, and The Courier would not have been nearly as fun (or manageable) without their help and legal cartoons.

Congrats 1Ls for making it through the scariest year of your law school career. Congrats to my fellow 2Ls for making it through the busiest year of our law school career. And congrats to all the 3Ls for surviving all three years of your legal education.

Good luck on the bar. And to the rest, enjoy your summer!

Amber Hurley
Editor-in-Chief
Controversial Church’s Right to Protest Affirmed

Blythe Harris
Managing Editor

A jury held members of the Westboro Baptist Church, including founder Fred Phelps, liable for $2.9 million in tort damages for picketing near Marine Lance Corporal Matthew Snyder’s funeral service. Prior to the picket, Westboro members notified authorities of their intent to picket on public land 1,000 feet from the church where Lance Corporal Matthew Snyder’s funeral was to take place. Westboro members held signs which stated, “God Hates the USA,” “Thank God for Dead Soldiers,” “God Hates Fags,” and “God Hates You.”

Matthew Snyder’s father, the plaintiff in the case, did not know about the signs until he saw them on the news later that day. Snyder subsequently filed suit alleging five state tort law claims: defamation, publicity given to private life, intentional infliction of emotional distress, intrusion on conclusion, and civil conspiracy. The jury found for Snyder. Westboro appealed the jury’s verdict arguing the church was entitled to a judgment as a matter of law because the First Amendment protected the speech. The Court of Appeal agreed. Snyder appealed to the Supreme Court, which granted certiorari. The Court’s opinion was issued on March 2, 2011.

The Supreme Court affirmed and found that the speech contained issues of public concern; the Catholic Church and the United States Military. The majority opinion stated, “The church members had the right to be there where they were.” The First Amendment protected the Westboro picket, which was located on public land, was nonviolent, and did not disrupt the funeral ceremony.

This case turned on the Court’s classification of Westboro member’s speech as a matter of public concern. However the court also noted the “boundaries of the public concern test are not well defined.”

Chief Justice Roberts, who wrote the majority opinion, stressed the case was limited by the particular facts before the court. These facts did not include an Internet posting, called the “epic,” which was created by Westboro members and directly criticized the Snyder family about being Catholic and allowing their son to join the military. The Court declined to consider the “epic” because it was not specifically included in Snyder’s petition of certiorari, although the “epic” was submitted to the jury and a part of the record. In Justice Alito’s dissenting opinion, he criticized the majority for not considering the “epic,” which he considered part of “a single course of conduct...”

A question is thus posed - what balance or percentage of matters of private concern is needed to move away from protecting speech as a matter of public concern. Certainly, tacking a public issue to what would otherwise be an attack against private individuals as a pretext for First Amendment protection should not be allowed. But how do we decide what that balance is or should be? The Court's answer to this question is to decide the balance on a case-to-case basis. Is this the best approach? On one hand, such an approach allows to Court to adjust the standard to fit the facts before them. On the other, such a flexible standard makes it hard for individuals to conform their conduct to a specific set of criteria.

This case demonstrates the special honor free speech has in American society. The majority opinion stated, “Speech is powerful. It can stir people to action, move them to both joy and sorrow, and - as it did here - inflict great pain.” The majority also stated, “(a) a Nation we have chosen a different course—to protect even hurtful speech on public issues to ensure that we do not stifle public debate.” Free speech is certainly part of the foundation that makes this country great.

Still, there are Americans who disagree with the Supreme Court’s decision in this case. Justice Alito may have stated the opposite view best: “In order to have a society in which public issues can be openly and vigorously debated, it is not necessary to allow the brutalization of innocent victims...” Free speech is an important component to society. However, free speech is not an absolute right depending on the content and the context of the speech. Many do not believe in sacrificing personal privacy to accommodate what could be considered a minimal contribution to public debate, as was arguably the case in Snyder.

“See generally Snyder v. Phelps 131 S. Ct. 1207 (2011)

Chapman Law Students Debate Supreme Court Decision

On April 6th, the Chapman Law Courier and the Environmental Law Society hosted the last debate in the student debate series. The topic was the Snyder v. Phelps opinion that was issued by the Supreme Court on March 2, 2011. The debate was moderated by 3L Travis Chapman.

Mike King and Ryan Patterson, both 3Ls, argued the Snyder case was wrongly decided because the primary purpose of Westboro’s speech was to injure individuals. “When we say something, those messages have consequences,” Mike King said. The consequence he was alluding to is the tort liability Mr. Snyder was looking to invoke in his lawsuit against Westboro Baptist Church founder Frank Phelps and his family.

Regina Rivera and Jessica Travis, also 3Ls, argued that the Snyder case was properly decided in light of over 30 years of Supreme Court jurisprudence. Rivera stressed the problem of the “slippery slope” – i.e., if we allow an exception to the First Amendment protection in this case, where does it end? “We don’t have to like it,” Rivera stated, also stating that the driving purpose behind the First Amendment is to create a marketplace of ideas, both popular and unpopular.

When a member of the audience asked if she believed that there was a victim in this case, Ms. Travis said that Mr. Snyder was a victim, and there probably were many more. Unfortunately, the First Amendment trumped state tort law in this instance because the speech was directed to matters of public concern.

All four students eloquently and thoroughly discussed the different viewpoints posed by the case.
Be Your Own Boss: It’s More Do-able Than You Think

Melissa Mielke  
Senior Editor

There aren’t any two ways about it: the job market is tough. While those of us with a few semesters left can go around reassuring ourselves that the economy will turn around and the job offers will pour in, our peers who’ve graduated into this bleak economic backdrop aren’t so lucky - especially those who wanted to go into criminal law. The State of California is in an indefinite hiring freeze and the big firms are cutting associate positions and shrinking salaries.


Now, I’ll admit I’ve scoffed at the notion myself, dismissing it as both impossible and impractical, especially right out of law school. Imagine my surprise, and admiration, when I learned that friends of my own had decided to do just that. Martina Vigil and Lauren Mayfield, who both graduated from Chapman Law last year, partnered with Darrell Greenwold, who received an LLM in Entertainment and Media Law from Chapman, set out their own practice this summer, and haven’t looked back since.

The girls were kind enough to speak candidly about what it takes to start your own firm. They agreed that the decision was mostly prompted by the lack of jobs available. By August, when nothing had panned out permanently for either of them, they began to set things in motion for starting their own business. This initial decision was a “huge leap,” says Lauren, as they had to make “a million” different decisions, most of which were made prior to the trio receiving their bar results! Both girls describe the decision to branch out solo as “f*cking scary,” but admit that despite the “enormous pressure” to succeed,” the decision is one they are proud of. When the going gets tough, Martie relies on thoughts of her father for strength, who grew his tire company from a one-man venture to a successful business with well over a dozen employees and a hundred loyal clients. “If my dad could turn one truck and one set of equipment into the business it is today with four kids and a wife, maybe I could do it too.”

They also agree that the decision to work with one another was easy, as they had been friends throughout law school and had a good idea of each other’s superior work ethic. “I fully encourage anyone to open their own firm,” Lauren says, “but they have to do it with people the want to work with every day.” Martie also suggests that you find people that compliment your strengths and that you can trust, noting that Darrell’s business knowledge is a huge asset that brings a unique perspective to their firm. The day-to-day operations are admittedly hectic. Both girls will admit that while the MINIMUM salary (emphasis in the original) they are taking from the partnership is a sacrifice at times, the experiences they are gaining in “doing it themselves” are invaluable.

And I do mean do-it-yourself. These girls are in court all morning, every day of the week. And they aren’t just in Orange County. These ladies have done appearances as far away as Simi Valley! Then they come back to the office to return client phone calls, work on files, fill out paperwork, and even lick the stamps for the dozens of envelopes they’ve hand addressed. And when they aren’t in the office, both girls are “handing out business cards like it’s your job.”

That said, it’s amazing what you get simply by being nice to people, they share. “Surround yourself with other people,” advises Martie, “and you’ll be surprised by how much people are willing to give a helping hand.” In fact, Martie and Lauren both recommend networking and attending lawyerly functions as much as possible. “We are so lucky,” gushes Martie. “I worked for 6 attorneys in the De Sales Law Building in Fullerton after high school, and they are AMAZING. These attorneys have been so gracious to our law firm. We can call them for motions and legal advice, they let us sit in on new client meetings, and argue motions for them. The list goes on and on. I consider myself lucky to have gotten a job there at 18.”

In the end, when I asked what’s the one misconception of starting your own firm they’d like to dispel, both Lauren and Martie had similar answers: they love what they do and they wouldn’t have it any other way. “I wish people would stop telling me that I need to get a job,” remarked Martie. “I do have a job. And a pretty great one if you ask me. Broke or wealthy, I hope my enthusiasm for the position I’m in never changes.”

So you see? It’s not so bad. If they can do it, then so can you. And as I’m writing this story, the partners at Greenwold, Mayfield, and Vigil, LLP are out celebrating: Martie argued an illegal search and seizure motion today in court and got the case against her client dismissed. Congratulations - and thanks - to this very inspiring and talented trio of fearless young attorneys.
Chapman Law School recently selected Tom Campbell, a former politician, Stanford Law professor, and dean of U.C. Berkeley Haas Business School, as its new dean. Dean Campbell brings a wealth of experience in education management and experience to Chapman Law. Almost immediately, Dean Campbell has begun to implement policies to manage the law school and move it forward.

One of Dean Campbell’s first acts was to set up an ongoing series of “Town Hall” meetings where students are invited to ask questions in an informal setting and address the affairs of the law school. These Town Hall meetings are set to occur every month. The first of these meetings was held on March 15, in the seating area behind the stairs in the central lobby of the law school. Dean Campbell had Professor Tom Bell with him to explain the recent substantial changes to the methodology of the U.S. News & World Report ranking system. Professor Bell explained that a drastic change in the way the magazine calculates the employment percentage for each law school is largely responsible for the change in Chapman’s U.S. News ranking. Chapman Law School ranked No. 93 in last year’s report. The law school was placed this year at No. 104. Dean Campbell also had other faculty members, including Suzanna Adelizi of the Career Services Office, answer questions concerning the subject.

The truly refreshing part of the meeting was the open forum that Dean Campbell led after the planned portion of the meeting. He took several questions from students who voiced their concerns about everything from diversity issues to the school’s comparatively low median grade point average. At all times he had a notepad and took notes on students’ concerns. Overall, students received satisfyingly direct responses to their concerns.

As a new dean, Dean Campbell has wasted no time in getting involved with student concerns on campus. If this first town hall meeting was any indication of Dean Campbell’s priorities, he will continue to give precedence to student concerns as he works to better Chapman Law School.

We welcome you, Dean Campbell.
Fellow 3Ls,

Our days at Chapman Law are numbered. Soon, many of us will be going our separate ways to study for the Bar and, hopefully, find jobs. I am sure each and every one of you have fond and frustrating memories of your time spent at Chapman Law the past three years.

Recall those long days of orientation, when our journey was just beginning? I remember meeting many of you for the first time. Countless friendships have been made during our years here, friendships that may last the rest of our lives. Orientation seems so long ago, yet the time has flown by. These years have been full of fun, stress, excitement and, sometimes, disappointment.

We still have so many exciting days ahead of us! Among the most exciting are graduation and the day after we finish our Bar exam. Not to mention the day we will all be sworn in after passing the Bar!

This fall, some of us plan on getting married, taking a three-month tour through Europe, starting new jobs, or just relaxing on the beach somewhere. Some will finish the Bar only to gear up for studying for the Bar in another state. Others are looking at more time in school, aiming to complete their L.L.M. But for many of us, this will be our last year of formal education. Whatever your plans for after the Bar, just remind yourself that you deserve a break after three years of countless study hours and unimaginable pressures that have burdened you throughout law school and in preparation for the Bar.

I, personally, want to thank each of you for challenging and encouraging me throughout the past few years. I wish each of you the best of luck on the Bar, and I hope you all find a meaningful and enjoyable job. Good luck!

Sincerely,

Blythe Harris
Managing Editor, 3L

School Year Sees Four Chapman Competition Teams Advance to Nationals

Julie Anne Ines
VP of Layout & Design

The 2010-2011 school year proved to be a successful one for the Chapman Law Moot Court, Mock Trial and Arbitration teams, with some of the teams advancing to the national rounds of their respective competitions. “I think this was a pretty good year—you can’t be sad about four teams making national finals!” said Nancy Schultz, the faculty advisor and coach for the competition teams.

In the fall, two Chapman teams competed in the Thomas Tang Moot Court Competition. The team of Sam Kohler and Ruben Escobedo took first place, and the team of John Bishop and Jesse Cox took second place at the regional competition. Bishop also won Best Advocate, and Bishop and Cox won second place brief. Because of their exemplary showings at the regional competition, both teams went to the National Finals, where they both made the semifinals. Kohler and Escobedo made the final round and placed second. Kohler was the third place advocate at the nationals and Bishop was fourth.

The ABA Arbitration Competition team also had a chance to compete at the national level. After competing in the regional final round, Jessica Travis, Jeremy Jass, Ryan Anderson, and Frank Mickadeit represented Chapman at the national competition.

In the spring, out of 207 teams that competed around the nation, Chapman Law’s ABA National Appellate Advocacy Competition team of Kelly Manley, Tom Nolin, and Jon Mason were one of only 24 teams to make it to the National Finals in Chicago, which took place late March. Nolin was the seventh place advocate at the regional competitions.

“I’d like to see us consistently at least making elimination rounds at most of the competitions we enter. I always have high hopes for our teams,” Schultz said. Those high hopes carry over into Schultz’s hopes for the 2011-2012 competition season. Chapman has “some returning folks who did well this year … That has to be a hopeful sign for next year,” she said.

“Although the law school’s successes in the competition program have brought valuable recognition to the school, the program is also a valuable tool for students,” Schultz said. Students who participate in the program “develop their lawyering skills, make themselves more marketable, and often enhance the likelihood that they will pass the bar.”

To find out more about Chapman Law’s competition teams, visit http://www.chapman.edu/law/programs/skills/.

Other Notable Achievements

Fall 2010:

see Teams, page 7
Top Watson Murder Prosecutor Visits Chapman

Blythe Harris
Managing Editor

On March 23rd, Orange County Deputy District Attorney Susan Price visited Chapman University School of Law to talk about the Adenhart case and her life as a prosecutor. Professor Ron Steiner introduced Price as one of the “top prosecutors in California who specializes in Watson murders.” A Watson murder is a murder under the implied malice theory. A drunk driver who has a history of driving drunk, has been warned of the dangers of driving drunk, and disregards those dangers can be charged with murder under this theory if their conduct while driving drunk results in the death of another person.

On April 9, 2010, Nick Adenhart, Courtney Francis Smith, and Henry Nigel Pearson lost their lives in a car accident. Another passenger in the same car, John White, suffered internal decapitation, which means his skull detached from his spinal column resulting in a severe head injury. The drunk driver was identified as Andrew Thomas Gallo. Gallo’s blood alcohol level was three times the legal limit at the time of the collision.*

Gallo had a prior record for driving under the influence and was on probation at the time of the collision. “The theory of implied malice requires subjective knowledge of the dangers and a conscious disregard of the great risk of harm caused by drunk driving,” explained Price. The fact Gallo was on probation for a DUI collision, had been warned by a judge of the dangers of drinking and driving, and both of Gallo’s brothers had been involved in drunk driving collisions established the facts Price needed to prove implied malice. In September of 2010 an Orange County jury convicted Gallo of three counts of second degree murder as well as one count of driving under the influence with injuries. He was sentenced to 51 years to life.

“I decided to charge Mr. Gallo with murder not because of who he killed, rather because of what he did,” Price stated during the crowded lunchtime presentation. “Every single case is important to me, regardless of who is killed,” Price passionately voiced. Price described another Watson case she filed just before Adenhart in which a young woman was hit by a drunk driver who was literally knocked out of her shoes and thrown into the hatchback portion of her car. She charged the drunk driver in that case with second degree, implied malice murder because the driver had a history of driving under the influence and was on probation for DUI at the time of the accident, similar to Mr. Gallo.

Price shared that the hardest part about Watson cases was convincing a jury to convict defendants who, for the most part, would not otherwise be considered “bad” people. “These are not your typical murderers. They aren’t evil. They don’t have tattoos on their eyelids or an eye patch. They are like many of us who have often faced the decision whether to drink and drive,” said Price. Price also stated that these cases are “very human.” “The defendants have stories. They have lives. It is devastating for them,” said Price. “The victims also have stories, but their lives are now extinct.”

* To read more about Adenhart please visit: http://www.ocregister.com/news/gallo-281330-adenhart-driving.html

Teams, from page 6

The National Pretrial Competition team of Jess Travis, Allan Kellogg, Zach Moura, and Elya Zarra won Best Brief.

The ABA Arbitration Competition team of Alex Mohajer, Tina Hanley, Jess Bagdanov, and Dhruv Sharma made it to the regional semifinals.

The ABA Labor Law Trial Competition team of Mike King, Ryan Patterson, Alex Khoury, and Troy Young made it to the regional final round.

Spring 2011:

The International Mediation Advocacy team of Tina Hanley, Scott McIntyre, Stephanie Brou, and Dhruv Sharma made the quarterfinals.

The International Law School Mediation Tournament team of Mason Waite, Sam Kohler, and Dan Chudleigh won fifth place mediation team and sixth place advocate/client team in London. Waite was the eighth place individual mediator, and Waite and Chudleigh won ninth place advocate/client. Kohler was the eleventh place individual mediator.

At the same competition, the team of Whitney Stefko, Stephen Fresch, and Chris Koras was the fourth place mediation team. Stefko was the third place individual mediator. Scott McIntyre was part of a hybrid team that won second place individual advocate/client honors. There were 34 teams from 23 schools around the world at the competition.
A Look At Japan’s Nuclear Crisis

Courtney Eskew
Staff Writer

Japan’s current nuclear crisis has compounded the challenges faced by a nation already saddled with a humanitarian disaster. On March 11th, an offshore earthquake with a magnitude now estimated at 9.0 struck Japan, flattening cities along the northeastern coast. Minutes later, a tsunami destroyed hundreds of thousands of homes along the coastline. Two weeks after the earthquake, much of the frigid northeast remains a scene of despair and devastation. The Japanese government has struggled to feed and house hundreds of thousands of homeless survivors, clear away debris, and bury the dead. Hundreds of thousands of people along the northeast coast still have no power, no hot meals, and in many cases, no running water.

The earthquake and tsunami also compromised the 40-year-old Fukushima Daiichi plant which is located 140 miles northeast of Tokyo and houses six nuclear reactors. Though reactors Nos. 4-6 were not operating when it struck, the earthquake knocked out the reactor’s cooling systems, quickly overheating the fuel rods inside the operating reactors Nos. 1-3.

Since then, low levels of radiation have been seeping out, and authorities have been scrambling to stop the overheated facility from leaking dangerous levels of radiation. Although there have been conflicting reports, it is clear that the plant has suffered multiple explosions and struggled to get them under control.

The first explosion hit reactor No. 3 on March 14th, tearing off the outer structure of the surrounding building. On March 15th, U.S. Nuclear Regulatory Commission inspectors reported to the New York Times that fuel rods inside reactor No.4 produced enough hydrogen gas to set off a second explosion, which blasted a gaping hole in the reactor’s building. A third explosion at reactor No. 2 further alarmed Japanese officials and nuclear power experts around the world, because it occurred inside one of the primary containment vessels. Containment vessels are fortress-like structures of steel and reinforced concrete, designed to hold very high-pressure steam and minimize radiation leaks. Tokyo Electric Power, the plant operator, made the decision to evacuate 750 workers from the Daiichi plant, leaving only 50 workers to stay behind.

In a nationally televised address, Prime Minister Naoto Kan warned of rising radiation. Chief Cabinet Secretary Yukio Edano urged people who live within 12 to 20 miles of the plant to take precautions. “Please do not go outside, please stay indoors,” he said. More than 200,000 people have already been evacuated from within 12 miles of the plant.

On March 16th, the remaining 50 workers struggled to keep hundreds of gallons of seawater a minute flowing through temporary fire pumps into reactors Nos. 1-3, where overheated fuel rods continued to boil away the water at a rapid pace. Japanese authorities announced that reactor No. 3’s containment vessel—the last fully intact line of defense against large-scale releases of radioactive materials—ruptured, releasing radioactive steam. The spike in radiation levels forced the last of the workers to retreat indoors, taking shelter in the reactor’s control room, which is heavily shielded from radiation.

On March 25th, two weeks after the earthquake hit, Nuclear and Industrial Safety Agency (NISA) reported to the Associated Press that suspicions of a possible breach in reactor No. 3 were raised when two workers suffered skin burns after wading into water 10,000 times more radioactive than levels normally found in water in or around a reactor. Tokyo Electric officials and government regulators said they did not know the source of the radioactive water. According to NISA, there might be a crack or hole in the stainless steel chamber of the reactor core or in the spent fuel pool.

This escalation in the nuclear crisis halted work at the complex. A breach could mean a much larger release of contaminants, with tainted groundwater the most likely consequence. In several areas of Japan, elevated levels of radiation have already turned up in the tap water and also in raw milk and vegetables, causing several countries to halt food imports from areas near the plant. Prime Minister Kan apologized to farmers and business owners for the toll the radiation has had on their livelihoods.

Here in the United States, President Obama responded to the crisis by vowing to “further improve” the safety of our atomic facilities.

Across the country, countless fundraising projects have been organized in response to these tragic events. For example, the Chapman Environmental Law Society held a fundraiser, and the Chapman Coffeehouse is currently donating all of their tips to the relief effort in Japan.

Sources: New York Times, Associated Press
This article is a call to action. A call to compost. Composting is the collection of organic materials in an effort to control its decomposition and utilize the nutrients left behind. Organic materials can mean an apple core or banana peel, even paper towels. The paper towels accumulated in the bathrooms are directly targeted. All of that waste, which could be reused to the benefit of others, is tossed in the landfill, to the benefit of no one. This organic waste takes up space. Space costs money. This organic material just gets piled together with old television sets, old car parts, and plastics. While in the landfill organic waste does break down, but it breaks down slowly and no one benefits from its decomposition which is a valuable resource. I compost at home. The amount of space I save in my trash is significant. I then use the compost in my vegetable garden, to fertilize my fruit trees, and add it to boost my sanctuary of California Native plants. I’ve got quite the hippy commune - you’re invited to check it out. At businesses, the compostable materials can be picked up by an industrial composting waste management company. Those nutrients can in turn be used by local farmers as organic fertilizer and soil amendment. The company will be helping the environment, but that’s just a by-product. Only hippy-dippies like me care about the environment. The real point is that those businesses, and Chapman, could be saving money. Saving money on waste management and disposal costs.

The idea is to have a composting bin in the student lounge, the patio, and in the bathrooms. It’s gonna take some getting used to while we figure it out. It really is simple enough – place all organic materials in one kind of bin. But in the heat of the moment, you’re going to get tripped up. Don’t panic. There will be signs to guide you.

This is where you come in. This is a call for you to get involved and truly make Chapman a better place. Here’s how you do it. Start talking to the Deans. Now. All of them. Especially the new Dean. It will be an opportunity to meet the new Dean and demonstrate that you care about Chapman. This will send a ripple effect of inspiration all across the school. Contacting the Deans will put them on notice to recognize the issue. They will then direct you to talk to Miguel Viveros. What a pleasure. He knows what’s what and he’s an awesome dude. You then tell Miguel about the awesomeness of the idea. He gets it. Then, it’s only a matter of time.

We need everyone to get involved. We need everyone to stand up and carry their weight in making Chapman number one. You have a choice. You can let someone else be the hero, or you can do it. If this idea is not your cup of tea, hopefully it will spark your own idea. Take pride and ownership in your school. In our school. Let us not just attend Chapman, let us be the change we want to see in Chapman.
Kat James
Staff Writer

If you read the first part of this two-part series, I would like to apologize. It was heavy on the theory and light on application. If you enjoyed it, I would like to thank you, as you clearly possess a gross multiplication. If you did not, I would love to hear from you – don’t get all jumpy. Rather, my point is that the Supreme Court’s decision on this matter is not actually at the heart of the healthcare reform debate, and I still believe that. My point is not that the constitutionality does not matter, mind you – so don’t get all jumply. Rather, my point is that the individual mandate is a small part of a much bigger puzzle whose purpose is being obviated by that conversation.

That aside, I actually did enjoy the opportunity to have an exchange with Professor Barnett. He is the brains behind the constitutional challenge to PPACA’s individual mandate, and – despite possessing an air of politicking in his rhetorical style when engaged on the issues – he acknowledges that (a) some form of healthcare reform is a necessity and (b) the Supreme Court might feasibly come down either way on the mandate. But, there is one major bone I have to pick with him, one enormous claim that stuck in my craw.

I posited to him the claim that I asserted in Part I – that we have, in the United States, acknowledged healthcare as more than a commodity but less than a right, i.e., the refusal to turn away anyone who walks into an emergency room irrespective of their ability to pay versus the prohibitively high cost of insurance for the working poor and the so-called “death spiral” that ensues therefrom.

His response? The government created that problem by mandating the inability of emergency rooms to refuse care, and there is a myth floating around that there is a unified “we” that believes that was the right thing to do and that healthcare reform should follow in that tradition of a pseudo-right to health.

Well, ok.

Here is my problem with his position: First, his claim presupposes an anathematic view that natural rights – in all of their mystical splendor – still constitute a viable notion today. That is, he is suggesting that the government created that pseudo-right to healthcare and that in turn leaves it suspect as opposed to all of the other rights that it did not create but rather just formally recognized. Now, let me say that I think the notion of natural rights has its place in the philosophical discourse of jurisprudence (disambiguated from its practical meaning as we are accustomed to it in law school), but to suggest that any rights that are today enforced are anything but the province of state creation seems ludicrous to me.

Second, there is a larger issue here that stands as the elephant in the room in this discussion. The federal law against denying emergent care based on the inability to pay points to it: your health should not be congruent to your socioeconomic standing. This is where the strong argument for the mandate arises – one that Barnett conceded to as a sound one, I might add. That is, there is an issue of cost because so many are forced to default on their debt to the medical industry, which defaults to the taxpayer. In other words, if insurance costs too much, I will wait until I am sick as a dog, rack up a $100,000 medical bill, and then declare bankruptcy along with a few hundred thousand others of my fellow under/uninsured cronies.

But there’s something much larger at issue here, which I touched upon in Part I as the public/private health dichotomy: there is no dichotomy; there is only public health.

When you put it in terms of dollars and cents, as with the medical bankruptcy argument, people listen because they see their pocketbook being more directly targeted. But, it is the non-monetary (but still economic) cost that is the central issue in this debate that has evaded significant discussion. I think the reason for this is what I call the pervasive myth of unincorporation that saturates every US debate involving a clash between communitarian and individualist values (which is nearly every US debate). That is, the fact that there are nearly 50 million uninsured people in this country is your see Myth, page 11

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**GUEST COLUMN: Sodexo Catering Monopoly?**

**Hugh Myers**  
*Contributor*

Sodexo. Whence this tyrannical monopoly issued is a clean mystery. But its effects are undeniable. This beast latches onto club funds, leach-style, and sucks them dry. It wouldn't be so bad, except that the food provided is a lot more expensive than it should be and far too limited in the area of options. If our Constitution stands for one proposition above all other others, it is the freedom of food choice.

Many questions occur to the mind at times like these. What sort of shadowy cabal of food interests thrust this menace upon us? And how can we be empowered to lift this veil of food oppression? These questions may still be unanswerable, but hopefully we'll soon be able to form the biggest flashlight on Earth, Voltron-style, by merging the might of every club and interested student.

Under the contractual agreement with Sodexo, any time a club wants to do an event with a speaker from outside the school, they must exclusively go through Sodexo for all their food needs. Catering is an expected aspect of these events and is, no doubt, critical to the turnout. Outside speakers enrich our school by expanding topics and giving critical insight into the more practical applications of the law. They increase awareness and foster links between the law school community and the world of practicing lawyers outside. Having high caliber and interesting speakers is important for Chapman's publicity at large. Thus, any restriction of club funds and resulting decrease in the quantity of speakers affects all of us at the school in a more profound way than simply reducing the number of free lunches (also an admittedly bad side effect).

Available at: [http://www1.chapman.edu/dining/catering/index.html](http://www1.chapman.edu/dining/catering/index.html), under the student menu link, the student menu shows a limited range of tray options with exorbitant prices. For example, purchasing the mustard and mayonnaise alone for 30 people is an automatic $15.99. Meat and cheese trays are another $59.95. What's worse is that the quantities aren't scalable. Clubs are locked into a choice between 20-25 servings and 30-35 servings. If your event happens to have a turnout that is marginally less or more than those amounts (or any permutations thereof), then you are left buying either too much food or too little. And that's after accepting that the serving sizes are accurately described.

But the main concern caused by Sodexo's contractual stranglehold is the effect it has on our clubs' sustainability. Clubs at our school have limited funding that is brought in through a combination of student fees and fundraising events. Any suggestion about an increase in fees is met with quick ire from already cash-pressed students and organizing fundraising is an arduous task that doesn't always pay off. Moreover, these funds must be used up by the end of the year or be forfeited. The problem is especially acute at En Bancs and any event that features alcohol. Between bartender fees and other fees, clubs are faced with a $130 charge at the outset, before even paying for the alcohol. Once added to that, Sodexo's food charges ($382 for the last event) are unconscionable.

What makes this even more atrocious are the concerns about the quality of this overpriced food. Complaints about the blandness and sameness of the food abound. Sandwiches are a perfectly fine meal, but should they really be served at every event?

Though the contract may be an unavoidable obstacle at the moment, we students have the power to urge that the contract not be renewed the next time it comes up.

As of this writing, Sodexo has not replied to a request for a statement concerning its justification of the contract terms.

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**Myth, from page 10**

Problem, even though the myth of unincorporation says that it is not. The reality is that you are not an island, but instead, a member of a social system whose success hinges upon the ability of all able persons to vitally contribute. And – I hate to shock you – but that is capitalism (pause for shrieks). It is a hell of a lot harder to make that vital contribution (which may be as a dock-worker or a custodian or a small start-up business owner) if that nasty case of rheumatoid arthritis doesn't nicely go away because it knows you cannot afford to treat it, or if you cannot afford to get your kids treated for whatever playground ailment or congenital defect they pick up. You don't have to have an altruistic (or say, socialist) bone in your body to believe that capitalism works better when there are more contribu-

tory, efficient arms as opposed to fewer, oligopolic tentacles. In other words, the health of the national community isn't only of interest to you when there is a threat of a pandemic. It is of interest to you if you truly believe that your personal welfare is contingent upon a robust economy.

And if the free rider problem is the only problem you can point to, give me a break. I don't care what kind of political system you're in. There will always be a free rider problem. The trick is to facilitate the creation of a system that engenders little incentive and moreover little need to free ride, such as in Germany, where its multi-payer system results in only 0.2% of the population being uninsured. And, just for the record, I can personally assure you that most people given the choice don't want to live the life of a free-rider because – quite simply - it sucks.

Fortunately, while Professor Barnett uses political rhetorical tactics, he seems to genuinely believe that some kind of healthcare overhaul is irrefutably necessary. He'd prefer that the Republicans author it, and I don't begrudge him that. Frankly, after being fool enough to plod through PPACA, I think it is ultimately fated to undergo an almost total renovation. We ended our conversation in agreement that irrespective of your feelings on PPACA, we as a nation should be delighted that we have opened the Pandora's Box of healthcare reform and that we cannot now shut it. Sadly, I cannot say that I trust its architects are up to the task. But that does not mean that I cannot hope they are while continuing to loudly comment on it as though my opinion actually matters.

Happy studying.
All Stick and No Carrot

1Ls look beyond finals to the end-of-the-year payoff

Lauren Crecelius
Junior Editor

The second half of the second semester is a juggernaut of a time period. The same problems and concerns from the start of the semester remain, with the final brief and oral arguments to act as the cherry atop a perfectly insane studying schedule. Spring break was even a beast in and of itself! There was more work than a regular school week, and as a result, some spirits were broken. Yes indeed, spring break broke hearts.

One of our professors jested earlier in the semester that his teaching method was “all stick and no carrot.” 1L life in general feels a lot that way, especially now. I want my flippin’ carrot, and I want it now! It’s getting more and more difficult to abstain from pulling a Veruca Salt move—though I suppose it didn’t work out for her either. However, I have to believe that through the correct combination of hope, study, tears, and liquor, we can remain afloat through May.

On campus, the persistent onslaught of suits proves the interviewing process for summer internships continues. I am heartened by the fact that week by week the trickle of internships gained grows larger among the 1Ls. But many are still searching. When I was looking for an internship, one of my professors suggested applying around my small hometown in Nor-Cal. Don’t get me wrong, I love Nor-Cal, and I am ready and willing to battle any of you So-Cal zealots as to why Nor-Cal is much more productive than this part of the state, but I really don’t want to go back there this summer. As awesome as living with my parents in 110 degree heat would be, I’d prefer to stay here. I considered pitching a tent in the CSO office and snagging all the fruitful internship opportunities before anyone else can get to them. Use Simplicity and Martindale until your fingers bleed and you shall be rewarded.

Other post-spring break events included the introduction of our new dean (yay!) and the notice of our new ranking (uh-oh!). My friend joked that he thinks we should have a tuition reduction as reflected by our new ranking. It’s nothing to fret about, I think, merely a hiccup in a general upward trend. Of course, the most important upcoming event, after the brief and oral arguments is second semester finals. Have I already referred to anything as a juggernaut? My brain is too fried from school to remember something that happened three paragraphs ago. Well these finals in particular seem the worst creature of them all, second only to the BAR perhaps. Five finals with caffeine-cracked-out 1Ls exhausted from the first year but green-eyed for grades. It sounds about as fun as running away from junkyard dogs.

My dad keeps telling me that when times are easy, you don’t learn anything. I suppose the inverse of that is the very description of the first year in law school. We have learned so much since August it is almost unfathomable. And we are nearly home-free from this year. We are so very, very close to getting the carrot, fellow 1Ls, and come 2013, it will prove to have been worth the wait.

Prominent International Lawyer Discusses Wallenberg Case

Jessie Brownell
Contributor

On a Friday evening, in a small third floor room of the law school, eager, knowledge-hungry law students gathered to experience a poignant and inspirational event. Well-known in his field, Morris Wolff stood before a group of twenty students, inspiring them with his hopeful words, his many accomplishments, and his youthful demeanor: “After all,” he quipped, “I’m only 32.” With a long list of accomplishments that include graduating from Yale Law School (after admitting to the dean that his late application was a result of his rejection from his first choice, Harvard), being one of ten young lawyers to work under Bobby Kennedy, starting his own firm, arguing successfully for damages for the unlawful, decades-long imprisonment of Swedish diplomat Raoul Wallenberg by the Russian government and relentless effort to see that judgment satisfied, Morris has a lot to be proud of. However, instead of some well-deserved boasting, he leveled with his audience, giving them simple yet compelling advice: “Take all that you got going for you, and then use it.”

Anyone who meets Morris knows instantly that he is friendly, likable and approachable. Instead of lecturing the entirety of the hour presentation, he opened up a Q & A. He was curious what his audience - those that had taken time out of their precious Friday evening to listen to him speak - wanted to know. When asked, “What advice do you have for a young attorney?”, he succinctly replied “Don’t be shy. Find like-minded people and have a mentor. There’s no magic to it...do what you love.”

Though Morris talked a fair bit about his notable work in the infamous Wallenberg case, he spent a lot of his time asking the audience what their life goals are. It seemed that every response – at least to Morris - was phenomenal. By the look in his eyes, you could tell he was beaming at the thought of young minds being developed, ready to make great changes in this world. In his case, he had to be creative and well researched as he was actually taking a hand in reshaping international law during the Wallenberg case. When asked if the judgment was ever satisfied, he laughed a bit, paused, and said “not yet.” He went on to speak about the briefs he had been writing to request that his judgment be satisfied, and emphasized the importance of thinking creatively and seizing every opportunity you are given. When discussing creating international law where there was none, he movingly stated “People are resistant to change. Unless you are a change agent - then change excites you.”

Morris, without a doubt, is a change agent.