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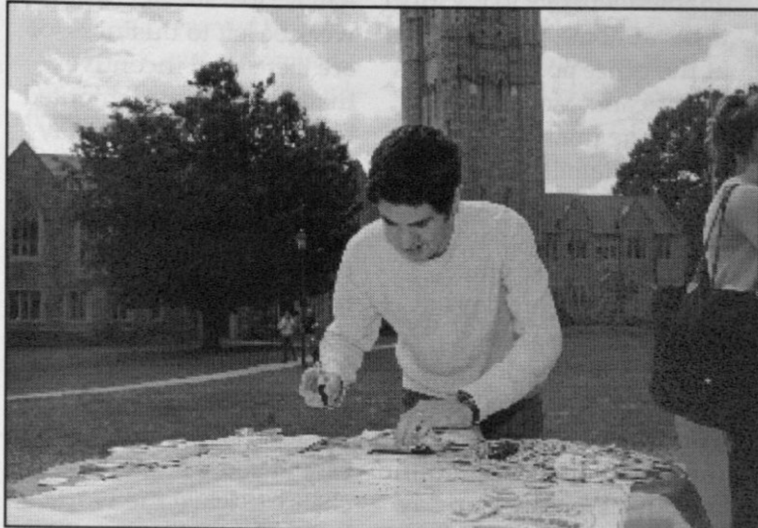
Pro Se

October 29, 2009

Metanoia events decry violence against women



Spencer Sloan/UConn

SBA President Gabriel J. Vidoni shows his support for Metanoia.

By Ken Kukish

Many of you are probably wondering, what exactly is a Metanoia? In short, it's a time for reflection and engagement with a critical issue. It's an institutional tradition first introduced at UConn in 1970, and this year's Metanoia "Preventing Violence Against Women," which took place from October 4th-9th, was held to commemorate the 1979 Metanoia "Violence in the Community."

To mark the event, the law school, with support from the Provost in Storrs, UConn Medical School, and a myriad of student organizations organized a weeklong series of events designed to address the issue and engage students and faculty in a meaningful discussion. The events ranged from an ice cream social with resources from local domestic violence organizations to a lunchtime discussion with Jill Davies, Deputy Director

See METANOIA, p. 5

Certification programs leave students perplexed

By Tim Cieslak

One of the premier offerings at UConn Law is its certification programs. For instance, students with an interest in intellectual property law can earn an IP certificate, giving them stand-out power in an increasingly competitive job market. However, the certificate process remains one of many things students have yet to understand fully, leading to some sharp criticism.

The law school created the IP certificate program in an effort to create a community for like-minded individuals. Rather than a simple checklist of credits, it encourages our students to become part of an identifiable group. The intellectual property professors strive to create a diverse group of students for the program, accepting those with backgrounds in engineer-

See CERTIFICATION, p. 4

Legal ethics panel weighs torture memos

By Allison Silva and Chris Wasil

On October 15, a number of distinguished legal minds convened in Janet M. Blumberg Hall to speak about ethics in government lawyering. While technically centered around the "torture memos," legal opinions issued by the Office of Legal Counsel (OLC) during the Bush administration, the discussion went far beyond that, touching on matters of legal determinacy, lawyer-client relations, and – believe it or not – Jack Bauer.

The panel was a joint effort of the law school's Federalist Society and American Civil Liberty Union chapters, and was moderated by Professor Neysun Mahboubi. Mahboubi began the event by briefly summarizing the significance of the torture memos and their authors. "The OLC is an office

See TORTURE MEMO, p. 6

Dean's Corner with Dean Jeremy Paul

By Jeremy Paul

It's been 23 years since that day I first walked out the door leaving my infant son cared for by a woman I had met days earlier when she answered our newspaper advertisement. I had done the customary reference checking and was confident in our nanny selection, but I remember the fear as if it were yesterday. I'm sure many members of our law school community have experienced similar emotions while seeking to combine a robust work life with the joys of raising a family. Others will do so soon.

It's foolish to believe Americans could or would wish return to days where conventional wisdom expected one parent, usually the mother, to stay home during childrearing years. Nor should we forget the excruciating challenges working class parents have always faced in trying to earn a living while raising children. But the inevitability of struggle should not hinder creative suggestions that might enhance parents' ability to balance competing demands. That's why I'm so excited about the Law Review symposium on the four-day work week.

There are many reasons to explore a shorter work week. Fewer trips between home and office will save energy and reduce hours lost to lengthy commutes. Many workers have competing obligations such as caring for elderly parents or volunteering in religious or community organizations. Technological advances have enabled workers to perform tasks at home, making days at the office potentially less significant. More time on the home front might also improve families' spending decisions. Above all, however, for working parents, fewer days at the office might mean more days at home with the kids.

While our economy is facing intense global competition can we afford any step that might reduce economic output? Would a four-day week involve four ten-hour days or would it constitute a reduction in overall working hours? Could a shift be engineered at the national level given the varying implications across different economic sectors? Should a move to a shorter workweek be left to business, or are there legal incentives that might be implemented to encourage the four-day experiment?

I'm sure these issues will be fully aired in the pages of our Law Review. What's more important is that they will require creative input from lawyers such as all of you. You will get paid to tackle these vexing challenges, and you will have the chance to leave the world a better place for the next generation. Let us know how we can help.

Pro Se

Volume IV
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The student newspaper for the University of Connecticut School of Law.

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A note from the Student Bar Association

As the semester reaches full swing, one thing is clear to me as I take stock of the many events happening around campus. Since I first set foot on the UConn Law campus as a 1L just over two years ago, I have not seen such a broad array of activities being put on by our school's many student organizations, a sentiment that Dean Paul emphasized in last month's edition of *Pro Se*.

As SBA Treasurer and Chair of the Budget Committee, I presided over the many meetings during which funding requests were closely reviewed and final proposals formulated. SBA funds are equivalent to student tax dollars at work. We take each request seriously, with fairness, benefit to the community, compliance with the spending guidelines, and our overarching fiduciary duty to the student body at the forefront of our minds. Our student leaders' enthusiasm and dedication to bringing quality events, both social and academic, is incredible.

After what seemed like hundreds of hours of painstaking effort (okay, maybe 25 or 30), the SBA unanimously approved a detailed Fall budget that will make possible an impressive array of student-run events all over campus. I would like to take this opportunity to thank the student leaders, faculty and staff, and members of the SBA who were so instrumental in helping to see the Fall budget process through to its conclusion.

Fall semester will offer incredible opportunities and experiences to those who take the time to attend the many panels, luncheons, and annual staples such as the Halloween party and Fall Ball. To that effect, I encourage you to make the most of your student fee by participating often. Spring semester will no doubt be equally impressive. Finally, my sincerest apologies for our inability to provide an ice luge and trampoline in the student lounge for after finals. We have to draw the line *somewhere*!

All the best,
Justin Theriault
SBA Treasurer

Air Force appeals case educates, enthralls students

By Erica Siegel

Last month three appellate military judges flew from D.C. to Hartford in order to preside over an oral appellate argument presented by the Air Force Court of Criminal Appeals. More than 50 people flooded the Davis Courtroom in Starr Hall to observe the oral arguments, ask questions about the military appellate process and meet these distinguished judges.

As part of its Project Outreach program, The Air Force Court of Criminal Appeals travels to different locations to hear arguments. The project aims to provide greater insight to students and the community about the military criminal justice system. At UConn Law, the judges heard arguments in the case of *United States v. Airman Stephen A. Prather.*

This case dealt with an incident that occurred on Travis Air Force Base in California. Airman Prather and his wife held a party on the air base and prearranged to have a friend, Ms. SH, spend the night on his couch, as they planned on drinking heavily. After the party, Airman Prather and his wife went up to bed, and Ms. SH went to sleep on the couch. Airman Prather alleged that later he came down stairs, spoke with Ms. SH, and had consensual sex with her. Ms. SH contradicted that statement, saying she passed out, briefly returned to consciousness to find Prather on top of her, and passed out again. The next day she discovered evidence she had had sex. The United States then brought a case against Airman Prather, which went to trial. A jury convicted Airman Prather of aggravated sexual assault and adultery.

The controversial issue is whether the new Article 120 of the Uniform Code of Military Justice violates right to due process under the Fifth Amendment of the Constitution. The new article indicates that the defendant must raise "consent and mistake of fact as to consent" as an affirmative defense. It also places the burden of proof for an affirmative defense on the defendant by a preponderance of evidence. Only after that burden of proof has been met does the prosecution have to prove beyond a reasonable doubt no such affirmative defense exists for the defendant.

This new statute conflicts with the Army Military Judges' Benchbook, the standard guide for military trial judges. The guide states such burden shifting is illogical and that judges should treat "consent and mistake of fact as to consent" the same as other affirmative defenses and place the burden of proof on the prosecution.

In the trial, the judge instructed the jury with the Article 120 guidelines, not the Benchbook guidelines. The defendant appealed on the basis that Article 120 violates his fifth amendment due process rights.

Military courts martial are authorized under Article I of the Constitution, and while defendants have Constitutional rights, they do not have all rights guaranteed in a traditional Article III court.

The three presiding appellate military judges later took questions from many UConn Law Students about the progression of cases through the military appellate court .

Pro Se Interviews: Prof. Steven M. Davidoff

By Brendan Horgan

I recently sat down in Hosmer Hall with Steven M. Davidoff, UConn Law professor, author, and *New York Times* Deal Book blogger:

Pro Se: *Tell us about the new book, and The Deal Book Dialogue.*

SMD: I have a new book out called *Gods at War: Shotgun Takeovers, Government by Deal, and the Private Equity Implosion*. It's a guide to corporate takeovers during the takeover waive from 2004 to 2007, which hinges on the financial crisis. I talk a lot in my book about the government's takeover of AIG, and the government's actions with respect to Bear Sterns and Lehman Brothers. The Deal Book Dialogue is an online round table that continues the discussion started in the book: What should we as a society do about the financial crisis and where should we go from here?

Pro Se: *How has the media portrayed the crisis, and have any real solutions been presented?*

SMD: The public, which I am a member of and have a lot of sympathy for, doesn't understand what is going on. They feel that it's a game and that they are always on the losing side – a "Heads I win, tails you lose" situation. They feel that finance has profited no matter what. The media, to a large extent has played out those themes – that "finance is bad" and that "the common man is good." But it's not that simple – we all bear complicity. The government kept interest rates low for too long and we as a society spent and borrowed too much. Finance certainly played its part, but people overleveraged their homes and failed to save. I think we have a complex situation where the government has exacerbated the financial crisis – for example in the 90's the Clinton administration removed the capital gains tax on housing which inflated housing prices. The government has acted in a de-regulatory process in regards to derivatives and securities. But it is a much more complex situation that requires self sacrifice by the American people if we are really going to solve the problem.

The Deal Book Dialogue is an incredibly insightful, candid look at the current state of the financial world. The conversation can be joined at http://dealbook.blogs.nytimes.com/category/dealbook-dialogue-main-topics/. Check out God's at War: Shotgun Takeovers, Government by Deal, and the Private Equity Implosion on Amazon.com.

Panel ponders the value of state government careers in hard times

Three UConn Law grads visit campus to discuss working for Connecticut

By Patrick R. Linsey

"Government is not a solution to our problem, government is the problem." Then again, Ronald Reagan never had to look for work in this legal job market.

Young lawyers from a range of state agencies spoke last month to UConn Law students interested in government employment. The Connecticut Bar Association's Young Lawyer Section and UConn Law's Career Planning Center (formerly Career Services) co-sponsored the event. Each of the three panelists was a UConn Law grad in either 2004 or 2005.

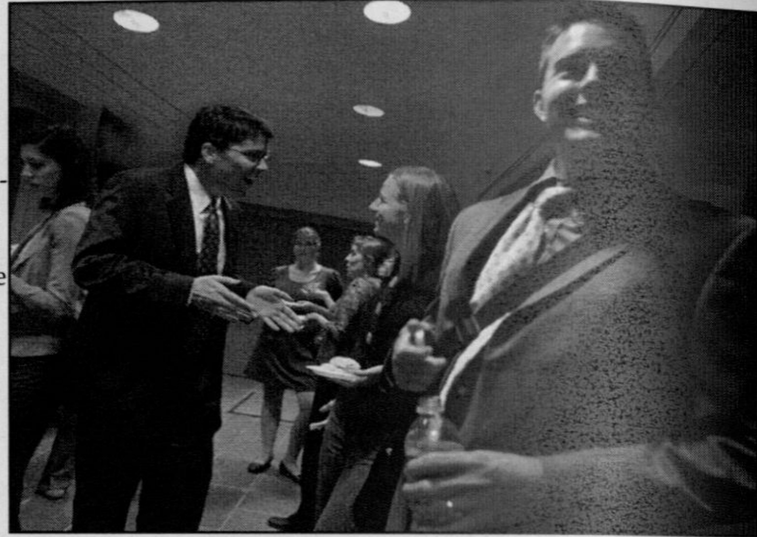
"[Working in government,] you're placed on the front lines even as a young lawyer," said Patrick Lamb, assistant general counsel at the Office of State Ethics, who moderated the panel.

Comprising the panel were Matthew Fitzsimmons, assistant attorney general at the Department of Consumer Protection, Jennifer Montgomery, a staff attorney at the State Elections Enforcement Commission and Elizabeth Rowe, an attorney the Statewide Bar Counsel.

Benefits of government employment include satisfaction taken in working on behalf of the taxpayer and a sustainable work-life balance, panelists said.

"I find that, in the public sector, you are less likely to take the clients' problems home with you," Rowe said. "And you are also less likely to experience 'imposter syndrome'" – the feeling that you don't know what you're doing but you have everyone fooled.

Of course in order to find a job in government, the government has to be hiring. Connecticut's budget woes have slowed or stopped hiring in many state agencies. And competition for federal jobs is fierce, as well – especially given the contraction of the private legal job market.



Michael Denis/Pro Se

Students and panelists chat following the panel on government jobs.

Panelists offered encouragement, forecasting improved employment prospects in the public sector. They recommended networking with fellow law students, many of whom will practice in Connecticut, and interning at government agencies.

"[K]eep your eyes open because they'll be hiring at some point," Fitzsimmons said.

Enthusiasm and personality are key when interviewing for government employment, Rowe advised.

"You can't walk into an interview thinking it's only a nine-to-five job and so you need not take it that seriously; they care very much," she said. "I went into the interview and got the job because I was far more eager and prepared than the other candidates."

IP certificate program evokes questions, concerns

from CERTIFICATION, p. 1

ing and liberal arts alike. Professors then assemble a multilayered collection of intellectual property law courses, encouraging students to explore the full range of trademarks, copyrights, and patents.

However, some in the law school community have met the certificate program with criticism. For example, some students complain about the IP certification program's low number of accepted applications, roughly fifteen a year. There is a variety of reasons for the low number. These decreased numbers strengthen the community the program hopes to build. It may seem counter-intuitive, but having a small number of students allows the group to be easily identifiable. The small number also ensures individual interaction between the faculty and certificate students.

Students have also criticized the inability for upperclassmen to apply to the program. However, changing the program in this way would split the already limited numbers and would hurt the cohesive nature of the community. It would also further increase the competitive entrance for the limited spots available.

The eventual outcome of the program, and arguably the law school in general, is to help students get jobs following graduation. However, any law student can get an intellectual property job; the certificate merely strengthens credentials, giving a select group of students an additional bright spot on their resumes.

UConn Law has attempted to strike a delicate balance with its certification programs, as illustrated in its IP certificate. Such programs do not intend to limit the abilities of students, but rather to promote those admitted. Since so much value is put into a limited number of spots, however, there are bound to be disappointed students on the outside.

Metanoia program educates and rallies campus

Students wear pins and sign posters to disavow domestic violence

from METANOIA, p. 1

of Greater Hartford Legal Aid. However, the theme of preventing violence against women resonated strongly throughout all of the events.

Wednesday evening's panel discussion, "Domestic Violence Laws in Connecticut: Current Practices and Thoughts on Reform," helped to underscore both Connecticut's and the law school's powerful leading role in helping to develop laws and put into operation various forms of protection for women who are the victims of domestic violence.

Judy Mauzaka '82, one of the panelists, spoke about her experience as co-counsel on the 1984 landmark domestic violence case *Thurman v. City of Torrington*. The decision in that case established that it was a violation of the Equal Protection Clause of the U.S. Constitution for police officers to refuse to arrest a husband accused of domestic violence simply because the assailant and the victim were married to each other. City officials and police officers are under an affirmative duty to protect the personal safety of all individuals in the community, regardless of gender or marital status.

Judy emphasized that the decision has "helped to put domestic violence laws on the books across the country." As a direct result of the case, many states enacted powerful new statutes designed to protect the rights of battered women. The case was also a driving force behind the Violence Against Women Act, parts of which were later struck down by the U.S. Supreme Court.

Students showed support for the Metanoia by wearing pins and taking the time to sign posters commemorating the event which were placed around campus throughout the week. These posters are now hanging in the library atrium, and serve as an powerful reminder that the issue of violence against women is ongoing and cannot be stopped as a result of one discussion, one panel, or one luncheon. Instead, we all need to work together as a community to help raise awareness.

Thirty years may have passed since the first campus-wide discussion of the issue, but unfortunately little else appears to have changed. For example, it's estimated that every fifteen seconds a woman is beaten by her husband or partner in the United States. Domestic violence against women is also believed to be the most underreported crime in America. While there is no easy answer or explanation to prevent violence against women, raising awareness is the first crucial step.

Mock and Moot host competitions during busy fall

By Alexa Lindauer

October and November are busy months on the law school campus, particularly for the Mock Trial Society and the Moot Court Board, with the former hosting the William R. Davis Competition in mid to late October, and the latter holding the Hastie Moot Court Competition in November. These intra-school events invite students to compete against each other while sharpening their trial or appellate advocacy skills.

Director Grayson "Colt" Holmes '11 stated that the Davis Competition, named after William R. Davis '55, primarily attracts 1Ls, but anyone who has not taken either Evidence or Trial Advocacy may compete. This year, teams of two compete as either the prosecution or defense, competing in two preliminary rounds before the top eight teams advance to single elimination rounds. Teams prepare an opening, closing, two direct examinations and two cross examinations.

This year the competition saw 14 registered teams. All who participate as either witnesses or attorneys are welcome to join the Mock Trial Society, although Holmes noted that students can also join the Society by attending membership meetings or joining a competition team as an alternate. According to Holmes, there are a number of other benefits to participating in the competition. "First, it allows law students to practice their oral advocacy and for many students to learn trial advocacy in a court-simulated environment," Holmes said. "Second, the competition affords the participants positive criticism and feedback from practitioners, faculty and judges. And third, the competition allows participants to work on a complex legal problem in a team environment."

The Moot Court Board hosts the Hastie competition, which is open to students who have completed their first year of law school and who have been eligible to compete in fewer than three intramural competitions. As Connecticut Moot Court Board Intramural Director Melissa Wong '10 explained, "The cases are typically based on cases which have been granted cert by the U.S. Supreme Court for that year. This year's case will be based on *Wood v. Allen*, a death penalty case focusing on whether defense counsel's failure to present evidence of a defendant's impaired mental capacity constituted ineffective assistance of counsel."

This year, 25 participants have signed up for the competition. Wong explained that the top 30% of contestants will be invited to join the Moot Court Board, with the finalists and best oralist receiving automatic bids.

Congratulations to the winners of this year's William R. Davis Competition: Chris de Ocejo and *Pro Se*'s own Brendan Horgan!

Noted scholars ponder viability of torture memos

from TORTURE MEMO, p. 1

within the Justice Department charged with providing authoritative interpretations of Presidential power," he explained.

What does this mean? Professor Robert Gordon of Yale Law School explained. "The OLC validates as legal the actions of an Executive branch officer," he said. "It effectively gives that person immunity from prosecution or even discipline." Thus, the torture memos, which addressed particular interrogation techniques such as waterboarding and found that they did not constitute torture, officially declared certain government actions legal and permitted Executive branch officials to rely safely upon this ruling.

Elizabeth Goitein, Director of the Liberty & National Security Project, said that in this case "shoddy legal analysis became the law of the land." As she explained, the OLC "assume[d] the conclusion they [were] supposed to prove." Specifically, the OLC accepted without questioning the CIA's assertion that waterboarding does not cause severe pain. It then defined torture narrowly to require a specific intent to cause severe pain for its own sake, putting waterboarding on safe ground.

This error, in Goitein's view, was a result of the OLC's failure to recognize its legal and ethical responsibility. "Because [the OLC is] a quasi-adjudicatory body, they shouldn't be trying to assist the Executive branch in doing what they want to do – they should only answer the question 'What is the best reading of the law?'"

UConn Law's own Professor Alexandra Lahav contributed to the conversation by relating the stories of former prosecutors within Guantanamo Bay's tribunal system who resigned for ethical reasons. Among them was Army Lt. Col. Darrel Vandeveld, who last year told the LA Times, "I went from being a true believer to someone who felt truly deceived." As Lahav explained, Vandeveld dealt with his professional-ethical conflict by talking to a priest online, who advised Vandeveld to take a stand. Vandeveld would go on to testify for a detainee regarding the prosecution's hiding of detainee abuse.

Professor Brad Wendel of Cornell Law School concluded the discussion with a fascinating look at some of the more philosophical questions implicated by the torture memos. For example, he examined what has become a common theme in torture debates: deontologism versus utilitarianism, or as Wendel put it, "What Would Jack Bauer Do?"

By now, the phrase "zealous advocacy within the bounds of the law" has become an easy-to-memorize, if not trite, statement of a lawyer's responsibility. As the panel's discussion of the torture memos demonstrated, government lawyers have no less trouble grappling with its meaning than their private counterparts.

Get sporty, UConn Law

By Karen Rabinovici

We all know a law student can pen a brief, question a witness, argue an appeal. But did you know some of UConn Law's very own can corner kick, slap shoot and slam dunk? Well, if not slam dunk, than at least hit for extra bases while four beers deep.

The soccer team, captained by Phillip Titolo and Alexander Bates, finished second in the championship for three consecutive years. This year, they hope to claim the title. Practices (but not games) are co-ed, so anyone can join in a good-natured pick-up game Fridays at 4 p.m. Games are Sundays between 6-11 p.m. for anyone wanting to lace up some cleats or just stop by and cheer.

Enjoy cold temperatures? How about random acts of violence? Meet law school hockey team Capital Punishment (can we say best name ever?). Captained by Alexander Tingey, anyone can play, but most have at least three years experience. They play Tuesdays or Thursdays at 9:45 p.m. at a rink in Newington, where fans are welcome.

Last but not least, we have the softball crew. The team, headed by Anthony Mantia and Tim Nast, plays once a week in the fall. Every Arpil, the team competes in the UVA Law School tournament. They're hoping for a large turnout in 2010, as they're sending three teams, including, says Mantia, a "co-ed team for whom softball may be a secondary concern to the bars in Charlottesville." For those interested in going to UVA: There is a mandatory meeting at 9:00 pm November 7th at Sully's Pub.

Library can save your rear

By Scott Robson

COMMENTARY

The newly rebuilt and refurbished library boasts many exciting features and highlights, yet the most undisputedly important facet of the new facility remains an unknown soldier; serving humbly and without any reward for toil.

So who is our faceless benefactor? Odds are that he is probably helping you right now. Unbeknownst to you, he is supporting you and providing you comfort. Without this silent hero, you would fall, quite literally, on your behind.

Our savior happens to be the most ubiquitous and vital piece of furniture ever to grace the law school: the chair.

From the hard-working utilitarian plastic stool to the leather-wrapped thrones of high offices, our seats are the most essential and thankless objects with which we interact on a minute-to-minute basis. They work all hours without relief and support us in good times and bad, so that we may labor and learn without the worry of knee problems.

By the time we finish law school, we will have spent more time in a UConn Law School seat than we ever spent in our mothers' arms as infants: Who should we really be thanking? One way of helping repay our colossal debt is by evaluating the incoming replacement seats at the Law Library, which cycle in and out periodically. With your help, our well-loved veteran chairs can at last take a well-deserved rest from the dictatorship of the derrière. No chairs could be reached for interview.

Commentary

Releasing torture memos could endager lives

By Drew Schaffer

It doesn't take a calculator to count the number of times the United States has been hit with terrorist attacks after the fateful day of September 11, 2001. Or an abacus. Or even any fingers. More than eight years later, we have gotten lucky and have not been hit again. But has it been luck?

The answer is no. The leaders of our nation took the necessary steps to secure our borders and interdict radicals pursuing the Lesser Jihad of Islamist aggression. One of the ways of ensuring our safety was the use of questionable interrogation tactics by CIA and other operatives. These methods were used when desperate times called for desperate measures, and they gained crucial intelligence that helped the United States stay ahead of Al Qaida's criminals.

The release of the "torture memoranda," recently discussed at length here at UConn Law by a panel of distinguished guests and professors (*editor's note*: see page one story for more details), calls for an examination of these measures.

Though I agree with Justice O'Connor that "we must preserve our commitment at home to the principles for which we fight abroad," I also believe there are times the security of the American people supercedes our concern for protecting terrorists – terrorists who, themselves, made the decision not to play by the rules of civilized war.

President Obama believes strongly in transparency and accountability. I commend that stance in most circumstances, but I cannot condone it here. If the President wishes to "understand how these policies were formed … to ensure that this can never happen again," he should do so behind closed doors. A public inquiry displays the operations of our nations' most prized clandestine forces to enemies they are currently engaging in armed conflict.

The last thing we, as a nation, want is information that could prevent another terrorist attack left undiscovered for fear of retribution from this or subsequent Presidential administrations. By publicizing techniques used and pursuing legal action against the defenders of our nation, we encourage second-guessing and apprehension. This would have devastating consequences for our brave soldiers and operatives on the front lines. The release of these memorandums was a big mistake – one that could potentially endanger many lives.

Tort du Stade: *Needle* could lead to blackout

By Melanie Dykas

The outcome of a case awaiting argument before the U.S. Supreme Court could severely alter the landscape of professional sports. There has been more than a decade of comparative "peace" on the sports labor front – however, team owners may bring a halt to that era as they pose to flex their proverbial muscle over the unions. If the NFL is triumphant in *American Needle v. NFL*, an antitrust case, the consequences could be lockouts and strikes in all four of the major American sports leagues – almost guaranteeing an NFL lockout in 2011, as collective bargaining talks will end with a resounding screech.

Unfortunately for some NFL fans, they do have to wait until 2011 to spend their Sunday afternoons and Monday nights playing Canasta with neighbors. For fans in markets such as Jacksonville, Detroit, San Diego, St. Louis and Oakland, their teams' games have been/will be blacked-out because of a Congressional act over twenty years old.

The blackout policy began as a public law and quickly moved through the Senate in 1973, with the House of Representatives approving it 336-37; only three days before the '73 season was to kickoff. Under the rule, if a game if not sold out within 72 hours of kickoff, it will be blacked out within a 75 mile radius – even to those who subscribe to the NFL package with their satellite or cable companies. In 1973, the NFL's goal was to blackout ALL local broadcast of games.

Then-Commissioner Pete Rozelle reasoned, "We mustn't let ourselves become just a TV-studio show. We need the electricity of the crowd. It isn't enough to sit in the stadium and hear just the chirp of pigeons and the crunch of peanuts."

Even though the NFL was not granted the ability to blackout all local games, somehow, the league was able to survive. According to Forbes, the NFL is the single richest sports league on the planet. With the historically bad economy still lingering, fans who can no longer afford the pricey tickets can't even watch their favorite games at home. The league is essentially giving its loyal fans an ultimatum – come up with the money or no football for you. Assessed as a business move, the policy makes sense – as empty seats add up to an estimated $30-40 million. However, the NFL may be making quite the marketing fumble. It risks alienating a certain audience that, even though unable to afford season tickets, is certainly willing to ante up for overpriced merchandise and NFL cable packages. Clearly, the NFL will continue to prosper, blackouts or no blackouts, but the good-will generated from lifting the black-outs during the lay-off soaked season would have done wonders for the reputation of a league dubbed the "No Fun League."