

PHOTOGRAPHS BY HAROLD SHAPIRO

ENTERTAINMENT AND THE LAW



ALUMNI WEEKEND 2012

“**Entertainment and the Law**” was the theme of Alumni Weekend 2012, a reunion that saw the return of close to 1,000 alumni and their guests to New Haven. Alumni Weekend festivities spanned October 19–21 with panels of guest speakers addressing topics related to the theme, including the promises and pitfalls of **social networks**, ownership of **cultural capital**, hot topics in **sports law**, and **new ways to get entertainment**. On Saturday afternoon many classes held mini-reunions that ranged from ice cream socials to more formal panel discussions. Yale Law School Professor Heather Gerken offered a talk called “**Countdown to Election 2012: A Last Minute Assessment**” as a final formal discussion before the Saturday evening class receptions and dinners began. Reunion classes had a chance to gather on Saturday evening for special dinners throughout New Haven and again on Sunday for brunches held in the homes of many YLS faculty members.

Highlights of the weekend also included a special alumni-student “**Breakfast Connections**” event and Saturday’s presentation of the Yale Law School Award of Merit to **David Boies II** ’66, Chairman, Boies, Schiller & Flexner LLP.

Those gathered for the Saturday luncheon also paid special tribute in remembrance of former **Dean Louis H. Pollak** ’48 and former faculty member **Nicholas deB. Katzenbach** ’47.





LEGAL ISSUES SURROUNDING CULTURAL CAPITAL

Panelists at Alumni Weekend 2012 took on a range of topics having to do with the reunion theme of “Entertainment and the Law.” One of the panels—titled “Yours, Mine, and Ours: Ownership of Cultural Capital” tackled the subject of intellectual property. Using examples from the worlds of fine art and music, panelists discussed how cultural ownership can complicate legal issues surrounding tangible and intangible works of art. Susan M. Scafidi '93, Professor & President, Fashion Law Institute, Fordham Law, served as moderator. The panelists were: Barton Beebe '00, Professor of Law, New York University School of Law; David Boies II '66, Chairman, Boies, Schiller & Flexner LLP; Kristelia A. Garcia '03, Frank H. Marks Intellectual Property Fellow & Visiting Associate Professor, The George Washington University Law School, Washington, DC; and Marc Porter '87, Chairman, Christie's Americas and International Head, Christie's Private Sales.

Boies spoke about the case of appropriation artist Richard Prince who takes existing photographs and incorporates them into artwork. “If you take somebody's art and you transform it in a way so that you have a different purpose and a different audience, have you violated that person's intellectual property?” Boies asked. “Or have you created new intellectual property of your own? Or both?”

Porter—whose work at Christie's involves the transfer of tangible property—spoke about how large world forces including colonialization, genocide, and globalization affect the discussion and ownership of cultural capital. Porter spoke about developing more responsible ways to handle issues of restitution.

Garcia spoke about issues specific to music in the digital age. “Music,” she said, “presents a unique challenge in the field of intellectual property and cultural capital because it has both a tangible part and an intangible part, and in copyright law we've even gone so far as to give these parts two different protections.” Garcia spoke about the long-standing tradition of sampling and remixing songs and the issues those practices raise as far as traditional attribution and financial compensation.

Beebe discussed the overarching theme of intellectual property law. “Typically in intellectual property law people focus on copyright and patent—those are the glamorous subjects where, it is thought, the real money is to be made,” he said. “It turns out,” he continued, “that trademark law plays a very important role in intellectual property because copyright and patent terms expire. ...In the end, all things in intellectual property law resolve into a trademark question.”

ALUMNI WEEKEND 2012 included several panels devoted to the discussion of entertainment and the law. The quotes below give a brief glimpse into those discussions. For videos of the panels, visit www.law.yale.edu/AW2012.

Lori B. Andrews '78

Distinguished Professor of Law and Director of the Institute for Science, Law and Technology, Illinois Institute of Technology, Chicago-Kent College of Law
From the panel Many Voices, Many Eyes: The Promises and Pitfalls of Social Networks



“I love Dictionary.com. I had no idea until I started doing research for this latest book that it put 233 tracking mechanisms on my computer to collect information...If I tell my sister – in a private email over Gmail – that I'm thinking of getting a divorce, or if I do a Google search for old guitars and then I go to a credit card website I'm actually offered a less good credit card

because divorcing people and people in garage rock bands are less likely to pay off their credit cards. And I was shocked when I read a recent report by Deloitte Consulting to life insurance companies. They said, ‘Oh forget about doing those blood and urine tests. They cost you money, it takes time. You should decide on whether someone is worthy of life insurance by looking at their social network profile.’”

Richard Cotton '69

Executive Vice President and General Counsel, NBC Universal

From the panel “Streaming and Beaming: Entertainment Where and When You Want It”



“We're clearly in the midst of enormous change as far as how people consume content and that's driven by a combination of technology and consumer demand...The question is how it's going to evolve that it's going to support a business model that supports the enormous investment in

terms of content...I would actually say the most threatened content, at the moment, is journalism, which is extremely expensive to do in a competent, intensive, thoughtful way. We're actually seeing the consequence of that, which is that newspapers are struggling enormously, the ranks of journalists have been thinned out enormously. You're seeing other things come in which are much less expensive...The question, as far as the impact of the Internet, is going to be what does happen to various forms of content that are expensive to produce?...You can't have the expensive content unless, collectively, we figure out some way in which the investment is justified.”

Charles S. Mechem Jr. '55

Commissioner Emeritus, Ladies Professional Golf Association; and Chairman and CEO, Taft Broadcasting Company
From the panel “In the Legal Zone: Hot Topics in Sports Law”



“Golf—particularly women's golf—has a very unique problem ahead of it. The rule states that the player must be eighteen years old to play unless the commissioner grants a waiver. During my years as commissioner I didn't grant any waivers ...in those days it was very unusual for a player under eighteen to even want to play the tour. That has changed dramatically... About five months ago, a fifteen-

year-old Korean girl won an LPGA event—beat all of the players on the tour. It was a full field event. She has indicated that she doesn't have any intention in applying, but this is an issue that is going to come up more and more... Parents can be very litigious if their little prodigy isn't allowed to play with the big kids.”



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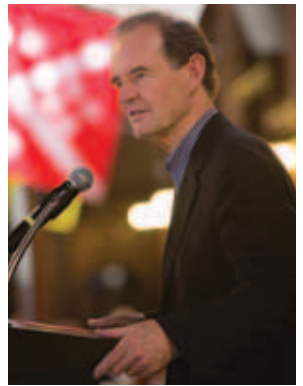
The 2012 reunion coincided with the Inaugural Gruber Distinguished Lecture on Women's Rights, which included two events headlining Supreme Court Justice Ruth Bader Ginsburg. Alumni Weekend attendees were first treated to a panel titled "Equality's Frontiers" which included discussion of cases related to sex discrimination, same-sex marriage, litigation as a source of equality, and reproductive rights. Justice Ginsburg offered remarks throughout that panel. Later that same afternoon, Ginsburg and Linda Greenhouse '78 MSJ were joined in a packed-to-capacity Battell Chapel for a discussion that lasted more than an hour. Read more about Ginsburg's visit and the Inaugural Gruber Distinguished Lecture on pages 2-3.

David Boies II '66

Chairman, Boies, Schiller & Flexner LLP
Excerpted from remarks made upon receiving the Yale Law School Award of Merit

"It was a great honor and a great privilege to have attended Yale Law School. Yale Law School has a special mission. It had a special mission forty-six years ago when I graduated, it has a special mission today. And that mission is to serve the cause of justice. And it is to remind young law students, young lawyers, and older lawyers that the cause of this profession is not really the practice of law, it is the facilitation of justice. ... Facilitating justice goes beyond simply what we do in the practice of law. It involves what we do in our communities. It involves what we do in making justice truly available to all of our citizens and, ultimately, to every citizen of the world. When this country started we had great ideals. And we incor-

porated those ideals into a written Constitution and a Declaration of Independence. But in practice, those ideals of justice and equality were limited to a very small group of people - essentially white, male property owners. Everybody else was outside of the 'We' in the 'We the people of the United States' - the preamble to our Constitution. The progress of this country has been to expand that circle of who is 'We' to include diverse religions, diverse races, to include diversity in terms of gender, and ultimately, if we are successful in our current litigation, people of different sexual orientation." Y



Reunion festivities included a rousing rendition of Happy Birthday (sung both in Italian and English) for former Dean and Sterling Professor Emeritus **Guido Calabresi '58** who recently celebrated his 80th birthday. Alumni Weekend's all-alumni Saturday luncheon concluded with a video honoring Calabresi and cupcakes for all.

To receive a complimentary copy of an excerpt from a forthcoming oral history about Calabresi by Norman Silber, please email publicaffairs.law@yale.edu.

