FREE

TUESDAY, FEBRUARY 3, 2004 Volume 3, Issue 71

Santa Monica Daily Press

A newspaper with issues

LOTTO

FANTASY 5
6, 18, 31, 16, 29

DAILY 3
Afternoon picks: **8, 2, 6**
Evening picks: **3, 6, 5**

DAILY DERBY
1st Place: 10, Solid Gold
2nd Place: 6, Whirl Win
3rd Place: 5, California Classic
Race Time: 1:40.77

NEWS OF THE WEIRD
by Chuck Shepard

According to police in Spokane, Wash., two young men on a lark decided to stop their car at a Denny's on a cold Jan. 14 morning at 5 o'clock, take off their clothes, and give the customers and staff a thrill by cavorting through the restaurant. However, one customer had the last laugh. He left, got into the streakers' idling car (which contained their clothes) and drove off. The car turned up five days later, minus CDs and the clothes. (Remarkably, the streakers, and a third pal, who remained clothed, have not yet been identified by local media.)

QUOTE OF THE DAY

"Political history is far too criminal a subject to be a fit thing to teach children."
– W.H. Auden

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Playhouse lawsuit reaches new heights

BY CAROLYN SACKARIASON
Daily Press Staff Writer

VENTURA — The legal battle over an 8-year-old's playhouse is headed for the Supreme Court after lawyers failed to prove a councilman violated the law when he responded to a neighbor's complaint that the structure was too tall.

The 2nd Appellate District Court ruled in January that City Councilman Ken Genser didn't violate the city charter when he asked staff to check into the legality of the 12 1/2-foot-tall playhouse.

Genser has maintained that he only asked staff through a pair of e-mails to look into the playhouse, and never directed staffers to take any position on it, which is what David and Beth Levy claim he did in their lawsuit against City Hall.

The Levys sued City Hall in September of 2000 after building inspectors backed out of their decision to allow the playhouse as a legal one-story structure. The reversal came after the Levys' backyard neighbor, Tundai Garai, complained to then-mayor Genser. The Levys argued that Genser influenced their decision.

The ruling is a victory for City Hall, and for Genser, who said the suit was politically motivated by the Levys' attorney, Chris Harding. The court also ruled that the Levys will have to pay City Hall's attorney fees in the case, which span more than three years. It remains unknown how much those fees are and whether or not City Hall will force the Levys to pay them.



File photo
The circumstances surrounding the playhouse built for 8-year-old Jacob Levy, who was 4 when his parents sued City Hall over the structure's legality, may be considered by the State Supreme Court.

See PLAYHOUSE, page 4

Former deli has SM in a pickle



Michael Tittinger/Daily Press
The location of Zucky's, a once thriving corner on Wilshire Boulevard and Fifth Street, has remained vacant for nearly a decade.

BY MICHAEL TITTINGER
Daily Press Staff Writer

DOWNTOWN — It's famed brown and burnt orange sign still stands tall with the Wilshire Boulevard palms, proudly extending into the Santa Monica sky, but the Zucky's Deli sign belies the property's current fate — a shell of a structure enmeshed in development limbo.

Life and commerce have changed dramatically in nearly the decade since Zucky's closed its doors for good. While the eatery Polly's Pies directly across Fifth Street is set to transform soon into a Pinero Bread bakery, according to the city's Planning Commission, Zucky's remains stagnant, stuck in a bygone era when the likes of now-Gov. Arnold Schwarzenegger was roaming the streets for a pre-workout breakfast.

"We call it the ruins of Santa Monica. It seems like it's been sitting there since year one."
— HERB KATZ
Santa Monica City Councilman

"We call it the ruins of Santa Monica," joked City Councilman Herb Katz. "It seems like it's been sitting there since year one."

The story of the demise of the one-time Santa Monica landmark (pronounced zoo'-keys) over the ensuing years has become one primarily of innuendo and rumor — health department issues, costly required structural improvements, fiscal irresponsibility — but the fact of the matter is that the city is now stuck with one colossal development dilemma that isn't going away any time soon.

According to City Hall

See ZUCKYS, page 5

Jury gives up in murder trial of Santa Monica man

By Daily Press staff

DOWNTOWN LA — The jury charged with deciding the fate of a Santa Monica man charged with allegedly killing a cab driver nearly three years ago told a judge Monday they couldn't reach a verdict after two days of deliberating, throwing the week-long murder trial into jeopardy.

Los Angeles Superior Court Judge Robert J. Perry now has the responsibility of either declaring the case against Antonio Barba a mistrial or ordering the panel to resume deliberations. Perry was meeting with the jury as of presstime Monday.

Closing arguments in the case regarding the fatal stabbing of a 59-year-old cab driver in the Oakwood section of Venice were heard last Thursday, with the jury beginning deliberations on Friday.

Barba, 24, is charged with one count of murder and one count of armed robbery in connection with the July 8, 2001 slaying of cab driver Keum Kim.

According to police, Barba, after being picked up, is alleged to have repeatedly stabbed Kim with a butcher knife and robbed him as the driver drove him to the 800 block of Brooks Avenue, just off Lincoln Boulevard.

Barba, who hails from the 1800 block of 16th Street in the Pico section of Santa Monica, has pleaded not guilty to the charges.

The prosecution is not seeking the death penalty.

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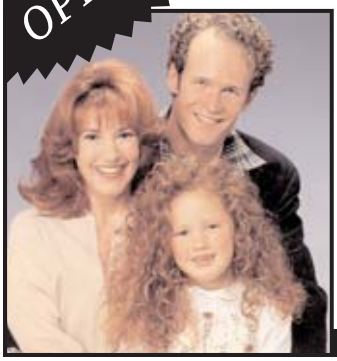


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JACQUELINE BIGAR'S STARS

The stars show the kind of day you'll have:

★★★★★-Dynamic ★★★★-Positive ★★★-Average
★★-So-so ★-Difficult

ARIES (March 21-April 19)
★★★ You might want and/or decide to make an investment involving family and real estate. You might push very hard in negotiations, especially when your dime is involved. Use your leadership skills. Tonight: Rent a movie.

TAURUS (April 20-May 20)
★★★★★ With mighty Mars moving into your sign, you are likely to tell it like it is, whether others want to hear it or not. The gift of this planet will be high energy and animal magnetism. Start trying them out as soon as today. Tonight: At a favorite hangout.

GEMINI (May 21-June 20)
★★★ Your impulsiveness could get you into a whole slew of trouble if you're not careful. You could get angry more easily. The trick will be to express your anger or hurt in an effective manner so that someone else can hear you. Tonight: Treat yourself to a favorite meal.

CANCER (June 21-July 22)
★★★★★ You know what you want and might be close to unstoppable the next few weeks. A male friend might play a significant role in your choices. Brainstorm to your heart's delight. Don't forget to return calls. Communication and reliability count. Tonight: Smile and ask for what you want.

LEO (July 23-Aug. 22)
★★★ Assume a low profile, and you will gain. A boss or someone who has clout in your life might not be very easy for a while. Right now, let this person lead, as you cannot stop him or her anyway. Remember which side your bread is buttered on. Tonight: Get some extra zzz's.

VIRGO (Aug. 23-Sept. 22)
★★★★★ News or an opportunity that involves travel and a possible learning experience could have you very excited. Don't push too hard. Avoid office gossip at any cost; it can only be damaging. Be your true self. Tonight: Just don't be alone.

LIBRA (Sept. 23-Oct. 22)
★★★ You know when to bend to higher-ups and superiors, and now is a perfect time. Let your instincts lead you. A partner or close associate could become most difficult as soon as today, and for a while. Tonight: Play the diplomat.

SCORPIO (Oct. 23-Nov. 21)
★★★★★ Keep reaching out for new information. Do needed research. An associate or those around you in general could become quite touchy. You will have to make a decision in the next few weeks on how to handle the more warlike people in your life. Tonight: Relax to a favorite piece of music.

SAGITTARIUS (Nov. 22-Dec. 21)
★★★★ Work with individuals rather than groups. You might find it a bit difficult to get others to agree to a plan, though you might be the main person here. Expect to put in some long, hard hours in the next few weeks. Tonight: Spend time with a loved one.

CAPRICORN (Dec. 22-Jan. 19)
★★★★★ Others present ideas that you don't want to say "no" to, but playing devil's advocate and asking questions help solidify thoughts. You have a way of seeing issues that others don't. Use and share these skills. Tonight: Please a loved one.

AQUARIUS (Jan. 20-Feb. 18)
★★★ Work demands your focus, but so does a special relationship. Changes in your household could be disconcerting at best. Either a family member is on the warpath or you are in the mood to totally rearrange things. Tonight: Work late.

PISCES (Feb. 19-March 20)
★★★★★ Your creativity is in demand. Others need your feedback. Choose your words with care, because what you might think is a dud of an idea, someone else might feel is his or her brainchild. Laughter surrounds your interactions. Tonight: Enjoy the moment.

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LOCAL

Dumped drunk



John Nafsinger/Special to the Daily Press

An alleged drunk driver took a dump truck for a joy ride late one night last week but only made it a block before crashing through a parking lot. See story, page 5.

Samohi Vikings stay afloat

Local Sports

THE HOT CORNER

By Jonathan Lee

Sports are like women. The more experience you have with them, the better you will be able to deal with whatever situation may come up. Your repertoire of skills increases as you practice more. If you agree with my analogy, you can start calling me the "Don Jon" of sports.

I live and breathe sports everyday. I have been a sports editor of The Samohi, Santa Monica High School's newspaper, for three years. I have participated on football, track and field teams and am now volunteering with the Special Olympics. The point of my braggadocio: Sports have permeated through nearly every level of my life.

As a junior, I can truthfully say that sports have a major impact on nearly every student's life. The purpose of this weekly column is to give you a play by play about the sports happenings within Samohi.

■ The boys basketball team, led by Tim McGrath, Greg Walker, Terrance Boozer and Jason Deutchman, is currently 14-7. Riding a six-game winning streak, the Vikings have proven they are a team to be reckoned with after beating quality opponents like South Torrance, Mira Costa, Leuzinger, Morningside and North Torrance. Four games remain in the regular season.

■ Their female counterparts are also playing well. Coached by Marcus Charuvastra, the girls are 10-7 and are coming off big wins against Inglewood and South Torrance. Amanda McGrew and London King, the team's blazingly fast starting guards, provide the spark plug to the girls' recent offensive outbursts.

■ This season, wrestler Matt Ishler has proved to be among Southern California's best wrestlers. Recently profiled in the Los Angeles Times for his many talents (he plays viola in Samohi's Symphony Orchestra and also serves as Samohi's mascot), Ishler continues to dazzle opponents and coaches alike with his skills. Juniors Brett Jellen and Alex Darkhovsky also have contributed greatly to their team's success.

With so many Samohi teams doing well, it's a great time to begin getting involved. All the teams could use more fans in the stands and more equipment. Check out The Samohi for further sports coverage or visit www.samohi.smmusd.org for sports schedules and scores.

surf report

Today will not be an epic day as far as surfing is concerned. The nasty front that moved in on Monday has wreaked havoc on water quality conditions. Storm water runoff, isn't it swell?

Monday's NW swell will build today and be joined by a much larger WNW wind and ground swell mix that looks strongest by this afternoon.

Expect 4-7' waves, shoulder-high to 2' overhead, occasionally 12' and poor conditions.

Outlook: That swell mix will be on the way down by Wednesday and through the second half of the week.

Write us at wood@smdp.com and tell us what the surf is doing today at your local break. Epic.

Today the water is:

58°

	LOW TIDES		HIGH TIDES	
	LOW ONE	LOW TWO	HIGH ONE	HIGH TWO
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TUESDAY	**12:49 AM**	**2:17 PM**	**7:00 AM**	**8:59 PM**
WEDNESDAY	1:25 AM	2:46 PM	7:32 AM	9:18 PM
THURSDAY	1:59 AM	3:17 PM	8:08 AM	9:42 PM
FRIDAY	2:34 AM	3:45 PM	8:41 AM	10:07 PM
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SUNDAY	3:45 AM	4:36 PM	9:48 AM	11:02 PM

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The Q Line

Former U.S. weapons inspector David Kay testified before the Senate Armed Services Committee that there were a series of failures in pre-war intelligence on Iraq. He said we were almost all wrong about weapons of mass destruction.

His statements solidify what many people have thought for months — that there was no imminent threat of Iraq building a nuclear arsenal. Now, there's been talk about launching an independent investigation into the United States intelligence community.

So this week, Q-Line wants to know:

"Should an investigation be launched and who should be held responsible if, in fact, the intelligence doesn't support the war effort?"

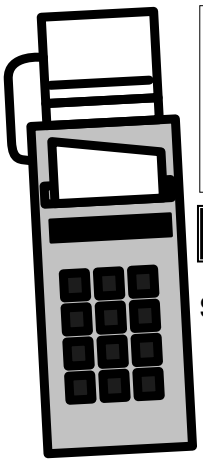
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LOCAL

Attorneys argue First Amendment at issue in suit

PLAYHOUSE, from page 1

"The judge was very clear that this was a lawsuit that did not need to be filed," Genser said. "In my opinion, Harding filed the suit for two reasons — to try and embarrass me politically, and to try and get the city charter interpreted in such a way that council members cannot discuss issues with city staff.

"He's trying to make council members less effective."

Harding, a land-use attorney who took the case pro bono, denied that the suit is politically motivated. Rather, it's an issue about how politicians hold sway over staff, and how citizens are treated by government agencies.

"This is about what a council member can and cannot do," he said. "I think it goes well beyond the (playhouse) ... it is much more fundamental than that."

After City Hall deemed it legal and David Levy, a psychiatrist who lives in Sunset Park, spent $11,000 to have it meet specifications, the playhouse was in jeopardy of being torn down. As a result, the Levys sued City Hall and the two sides have been embroiled in legal wrangling ever since.

The issue before the three-judge panel was whether Genser violated the law when he communicated with city staff. City law mandates that elected officials not order or request a city employee to carry out any action. The law exists so that city employees don't feel their jobs are on the line if they fail to comply with an elected official's request.

The court ruled that Genser is protected under the First Amendment to respond to constituents' complaints.

"This is a complete victory. This was a politically-motivated lawsuit, one that did not need to be filed. The judge stated that loud and clear."

— KEN GENSER
Santa Monica City Councilman

"Here, the city met its burden to show that the Levys' action arose from Genser's and Garai's constitutionally protected speech," Judge Arthur Gilbert wrote. "Garai's act of contacting her representative and Genser's act of contacting planning staff are petitions for grievances against the government protected by the First Amendment. ... The First Amendment protects everyone, even politicians."

Harding said the court misread the city charter and applied the First Amendment argument too broadly.

"The court didn't even try to read the city charter," he said, adding he will file a petition with the State Supreme Court by the end of the month in an attempt to reverse the appellate court's decision. "The (appellate) court adopted an extreme view of the First Amendment issue."

Harding said the court missed the fact that the city violated its own laws because Genser allegedly influenced city staff to change their minds and rule the playhouse was two stories, making it illegal under zoning codes. (The first "story" was open — a space under the elevated playhouse).

"Genser had many other options in communicating with city staff," Harding said. "He could've talked to the city manager or he could have agendized it for a city council meeting."

Genser said the court's ruling was clear that he didn't advocate that the playhouse be deemed illegal, but just inquired about it.

"The ruling was that his (Harding's) interpretation was so narrow that it would be considered advocacy," Genser said.

The court also ruled that there was no "actual, present controversy" about the playhouse because the City Attorney's Office informed the Levys that the playhouse could stay and the notices of violation had been rescinded.

But the condition City Hall attached to its rescinding the order is what caused the case to go to court in the first place. City Hall said it would legally treat the playhouse as a "non-conforming use," under which the city might change its mind again if someone complained, the Levys argued. It wasn't until the Levys sued that City Hall decided to make the structure legal again, according to their lawsuit.

The appellate court's decision reverses West Los Angeles Superior Court Judge Cesar Sarimento's decision to deny the city's motion to dismiss the case in March 2002. In its attempt to throw the suit out of court, the city filed an anti-SLAPP motion, which is based on a law that prevents people from being punished for exercising their First Amendment rights. It also is designed to protect them when they complain to government officials.

"Strategic Lawsuit Against Public Participation" — also known as SLAPP suits, are meritless lawsuits used mainly by big developers to chill the public's freedom of speech when speaking out against a project. It's also used to intimidate them so they will stop complaining.

The appellate court ruled that City Hall is protected under SLAPP and the Levys didn't demonstrate a probability of prevailing in any of their arguments.

"This is a complete victory," Genser said. "This was a politically-motivated lawsuit, one that did not need to be filed. The judge stated that loud and clear."

Free Report Reveals The Hidden Truth Of Headache Relief

Headache Victims Shocked and Amazed!

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Nominations are quick and easy! Visit www.smsqa.com and click on "SQA Nomination Form", or contact the Chamber of Commerce at 310.393.9825 for more information.
City of Santa Monica

LOCAL

The fate of former Zucky's restaurant remains in limbo

ZUCKYS, from page 1

spokeswoman Judy Rambeau, the question of what to do with the former Zucky's site "isn't even on anyone's radar."

By all accounts the issue with the 5,000-square-foot building is parking, or rather, a lack thereof.

"Lots and lots of friends ask me what's going on there," said City Councilman Ken Genser. "But it's going to be hard to develop a business without any parking available to it."

Evidently, the site never had parking, even when it was a thriving restaurant-delicatessan under the stewardship of founders Zucky and Hy Altman. A parking lot north of the building on Fifth Street had apparently been "grandfathered in," according to Katz, but the proprietors never owned it. That tract has since given way to an apartment complex.

Coupled with the lofty rent such a desirable downtown location commands, City Hall and developers alike are at a loss. Vince Muselli, owner of Muselli Commercial Realtors in Santa Monica, suggests a lower rent might be necessary in order to release the decaying building from its proverbial shackles.

"Logic tells me that the rent is too high," said Muselli, whose firm listed the building about five years ago. Muselli estimates that the building's rent is going for about $5,000 a month once taxes, insurance and maintenance is factored in. "That's a lot of money. A business would have to generate between $1 million and $2 million in order to justify a rent like that.

"It's not out of line for the area it's in — just a little bit out of downtown," he added. "But most people want parking."

The property is listed for lease by Lee & Associates. Representatives from the company didn't return repeated phone calls seeking comment for this story.

According to Muselli, proposals have come and gone over the years, but nothing has materialized. It seems destined to become a retail business of one form or another now, as it is no longer deemed fit to serve as a restaurant given the parking pitfalls.

Genser explained that tenants would have had to take over the building within one year of its shutdown to keep it a restaurant, but once that window closed, any merchant would have to meet the least parking demands of the city's planning commission.

"It was a great deli. I miss it. But any building left that long eventually becomes an eyesore."

— SANTA MONICA RESIDENT

"When they closed shop, the license expired," Katz said. "I think we'll eventually come up with something that's not overly invasive, but I don't know how to resolve the situation, and no one else does either."

Katz explained that whatever business does eventually move in will not be able to make use of city garages — again punished for its location — due to its being situated on the north side of Wilshire Boulevard.

"It's on the wrong side of the tracks, in the wrong way," Katz said.

Few of the renters living in the apartment complex on Fifth Street north of Zucky's — on the site of the deli's former parking lot — even recall the one-time Santa Monica institution.

One 27-year city resident out walking her dog recently lamented the deli's demise.

"It was a great deli. I miss it," said the woman, who declined to give her name. "But any building left that long eventually becomes an eyesore."

Drunk driver dumps truck

By Daily Press staff

A La Mirada man is in legal trouble after he allegedly got drunk, took a dump truck from a construction site, drove through a fence and dragged it a block before he smashed into several cars in the parking lot of an apartment complex off of Main Street last Thursday.

Isaias Valenzuela, 32, was arrested for driving under the influence, misdemeanor hit and run, driving without a driver's license, probation violation and an outstanding Santa Monica warrant, said Santa Monica Police Department Lt. Frank Fabrega.

At about 11:30 p.m., officers and Santa Monica Fire paramedics responded to the scene at 2100 Neilson Way, where they found a white dump truck had smashed through a fence and into several cars parked in the lot at 125 Pacific Street. Witnesses said Valenzuela allegedly attempted to flee before officers detained him. Paramedics treated him at the scene and then took him to a local hospital. After he was treated by doctors, Valenzuela was released to the SMPD, who booked him and held his bail at $15,300.

As officers were treating him at the scene, officers noticed a strong odor of alcohol resonating from Valenzuela and his speech was slurred, Fabrega said.

And if he wasn't in enough trouble, Valenzuela could be charged with another crime — grand theft auto.

It's unknown whether Valenzuela had permission to drive the truck, which is believed to have been parked across the street at the former Pioneer Boulangerie bakery. Valenzuela is a dump truck driver by profession. Police are checking with the truck's registered owner to see if Valenzuela was authorized to drive the vehicle.

FIND OUT YOUR FORECAST IN TODAY'S HOROSCOPES ... PAGE 2

Santa Monica Daily Press

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OPINION

LETTERS

Safe from the evil laptops

Editor:

As if the 9-11 pigs have not caused us enough problems getting on planes, now there is a new twist. Coming back from Phoenix, my partner turned on her laptop computer at security only to have it taken to another location and connected to a TSA (Transportation Stupid Authority) computer and returned in a non-functional condition with missing files. Maybe they thought that a 59-year-old white woman fit the profile of a young male al-scumbag terrorist.

These TSA morons are going to keep us safe? I don't think so. They can't even keep from screwing up your laptop. And you can't sue them for the damage, they won't let you. More of your government under Bush.

Bunnie Meyer
Santa Monica

Lack of intelligence somewhere

Editor:

Bush wants to investigate the failure of intelligence regarding WMDs in Iraq. If there was any failure of intelligence, it was Bush's. He was determined to invade no matter what was found. At least Nixon would have made sure WMDs would be found, even if he had to put them there.

Mike Kirwan
Venice



Cut the fat

Editor:

I read today's article about potential tuition hikes at Santa Monica College, (SMDP, Feb. 2, page 1). But that is not the topic I'm writing about.

Displayed prominently on the front page with the article is a boxed quote by Don Girard, who is identified as the college's director of marketing. What I want to know is why does an institution that seems to be bursting at the seams with a reported student body of over 26,000, and which has had to cut programs, students and staff to keep its doors open, need a marketing director probably making well in excess of $100,000, plus benefits, a year? Maybe if you cut out the administrative fat there would be more programs and more students — certainly without the need for a marketing director.

Saul Cohen
Santa Monica

From environment to education, city rich with goodness



THE FLORA FILES

By Todd Flora

This week, we explore a few new examples of "what works in Santa Monica." If you missed my two previous installments Jan. 13 and 20, you can view them online at www.smdp.com.

I invite readers to continue contributing their own examples of what's right about this city — be it within city government, our business community, or our various natural advantages. I'll say it again — I'm no Pollyanna. I know there is much to improve about Santa Monica. But any city of 90,000 people is going to have some warts and challenges. I don't think the way to solve it is to continuously point fingers and scapegoat one group of city staff members, the City Council, the homeless, or the business community. We must bridge this political divide that consumes us. And I personally believe that healing process starts with our collective acknowledgment of what is good about the city we share.

With that, here's another attempt to bring a positive vibe to the pages of this paper:

■ The education community — whatever one's feelings may be on the role of a City Council in funding a school district, I applaud the parents and activists who have organized our education community in Santa Monica. Hundreds have stood up and joined committees, organizations and campaigns to keep Santa Monica schools to the high standards we've come to expect.

■ Our diversified tax base — sounds pretty technical and maybe even nerdy. But the city finance department over the years has done a sound job of diversifying the city's revenue base. Santa Monica does not rely solely on property taxes, or sales taxes, or the hotel transit occupancy tax. Instead, those and others each make up fairly similar percentages of the revenue pie. This approach best protects the city from dips in any one of those markets.

■ Transportation — taken a ride on Culver City's Big Blue Bus lately? Seen Beverly Hills' exciting new "Tides" Shuttle? … No? Exactly. Our Big Blue Bus and Tides systems are known countywide and are a model for local mass transit.

■ Palisades Park — thank you to the reader that reminded me of the wonderful strip of land many of us enjoy for walks, jogs and beautiful views along the coastal bluff. Palisades Park is truly a Santa Monica institution, and one made immortal through dozens of familiar location shots in TV and movies along the park's famous guardrail.

■ The NRDC — the Natural Resources Defense Council has come to Santa Monica. With the arrival of this wonderful organization, Santa Monica solidifies its place as an environmental capitol. Already the city is host to headquarters for Heal the Bay, Environment Now and Global Green USA. Further, the NRDC's arrival brings to the city an exciting new storefront for environmental discovery and gifts, and a building recognized for its clean, "green" design.

■ Community Corp. of Santa Monica — thank you to the reader that pointed out the work of this neighborhood-based nonprofit that is dedicated to using public and private funds to purchase and rehabilitate buildings to develop affordable housing. Apparently, a recent survey among the residents it serves produced rave reviews for Community Corp.

■ Law enforcement — kudos to our men and women in public safety. The crime rate is at a 40-year low.

■ City government — say what you will, but I'll bet you'll say it due in part to the uncommon openness of our city government. Specifically, the city has been repeatedly recognized for its use of technology and public affairs television and radio to broadcast public meetings and "let the light shine in" on the work of the council, boards, and commissions.

What else, Santa Monica? I look forward to continuing the conversation, and to perhaps adding more to this list from time to time.

Todd Flora is a government relations manager and six-year resident of Santa Monica. He is active in Heal the Bay and the Democratic Party. To respond or reach Todd, e-mail him at:

reformadvocate@yahoo.com

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OPINION

Power of unions and resulting grocery strike is unjust

Guest Commentary

By Elan Journo and Brian Simpson

The California grocery strike has entered its fourth month and there is no end in sight. Workers are still picketing stores, the shelves are under-stocked, and profits are dwindling. Talks between the grocery chains and the United Food and Commercial Workers' union have failed to resolve the mutually harmful conflict. Why?

If the union's demands are outrageous, why can't the stores walk away? The stores have hired substitute employees, so evidently some people accept the stores' working conditions. Why can't the stores fire the strikers and end the dispute? The stores can neither back out nor dismiss strikers because they are forced by law to deal with the union. That coercive power of the union is a gross violation of the employers' and workers' rights.

Imagine if laws existed requiring shoppers to buy groceries from one store only, but allowed some room for haggling over price. Would the trade between a shopper and the store be considered voluntary? No.

Everyone would scream that individuals should be free to shop wherever they pleased and not be forced to buy at any one store. When it comes to hiring workers, this is exactly the predicament of employers. By law they must deal only with whatever union is voted for by employees. Just as shoppers have the right to choose the terms of trade, so should an employer.

But the National Labor Relations Act, passed in 1935, negates that right. The law makes it illegal for employers to refuse to negotiate with a union or get rid of striking union workers. It is no surprise that every round of talks between the grocery stores and the UFCW has collapsed. The union can demand anything, however outrageous, and the stores are obliged by law to negotiate in good faith. Though an employer may hire replacement workers, the law requires him to give strikers first preference for any new vacancies.

The law violates the rights of workers, too. Seventy thousand UFCW members who work in grocery stores in Southern California are on strike or locked out, but a significant number of them did not vote in favor of the strike. Dissenters who think that the strike will cause long-term harm to their employers — and could cost them their jobs if the stores go bankrupt — have little say in the matter. If a majority of workers choose to unionize, the employees (including all future hires) must join and pay dues. None of them can accept a labor agreement other than that approved by the union. (Recently, there have been reports of union workers trying to return to their jobs under assumed names, hoping that the union won't notice. The union has filed suit to prevent this practice, which it says the stores have connived in.)

What is at issue in this dispute? Facing intensified competition, the stores wanted to lower costs by having workers share a portion of the expense for their medical benefits. Knowing that it can refuse with near impunity, the union rejected the proposed labor agreement. What is important here is the stores' right to set the terms of employment, which is abrogated. A rational employer expects to pay wages that enable him to earn a profit — not so high that he has to raise prices and lose customers, but not so low that he cannot attract and retain capable workers.

But unions pride themselves in artificially raising wages beyond the market price for such work. When demanding higher wages, unions do not promise employers that union workers will do a better job or be more productive. They don't have to. The union has a coercive power over employers. The California grocery stores will soon have to compete with Wal-Mart, which plans to open grocery stores in the state. They are right to be worried. At unionized stores in California, workers get paid $10 per hour "more" than those at a non-union store. Those artificially high wages have an impact on prices: a cart of groceries is 17 to 39 percent cheaper at non-union stores.

The solution to this strike and all similar disputes is to recognize the rights of traders — be they workers or employers — to reach mutually advantageous agreements "voluntarily." The power of unions to coerce unearned benefits for their workers, while crippling employers, is unjust. Repealing the NLRA should be a first step toward restoring the principle of individual rights as the proper basis for interaction among men.

(Elan Journo is a writer and editor for the Ayn Rand Institute (ARI), in Irvine. Brian P. Simpson, Ph.D. in economics, is an assistant professor at San Diego's National University and a guest writer for ARI. The Institute promotes the philosophy of Ayn Rand, author of Atlas Shrugged and The Fountainhead. Send reactions to reaction@aynrand.org).

Unemployment fallback: Rely upon yourself, start a company



LEGAL VIEWS AND NEWS

By David Pisarra

In California we have maintained an unemployment rate that hovers between 6.4 and 6.9 percent for the past 24 months. Since unemployment insurance benefits are paid out for a 26-week maximum, not including any extensions that Congress authorizes, the question becomes what are all those people who are unemployed doing? Is it an endless cycle of people being laid off and then rehired? Partly, at least for seasonal jobs like those who have worked in the retail environment.

But even that doesn't account for all of the people who are laid off. The big retailers — like Sears — did not hire as many people this season as it did previously. In 2002, Sears hired over 50,000 seasonal workers. This past holiday season, ithired only 30,000. Thus, there were 20,000 less positions to be filled.

Again the question is what do the people who are laid off do to survive in a shrinking job market? They create their own jobs.

Entrepreneurial spirit in America is alive and well, and going strong here in Santa Monica. I work with people who want to start their own companies. Sometimes they do it out of a personal drive, like myself. After a hideously demeaning note from my then boss, I decided that I wanted to be my own boss. I still have the note, it's framed on my desk.

Sometimes people start their own company out of necessity. They have been laid off, and their unemployment insurance is either running out, or not enough to cover their expenses, so they have no choice but to do what Kaiser Cement has as their tag line, "Find a need and fill it."

I love working with entrepreneurs of all stripes. They are highly motivated and inspirational. When someone comes into my office with a dream, we sit down and together work out a plan of development. The process is the same whether we are developing a sole proprietorship for in-home catering, or a multi-million dollar medical diagnostic company.

The key to starting a company, and I have started many, is to have a solid plan. The business plan is where the strategy of the company is laid out. It involves reviewing the company and its proposed business model from several different angles. When we do a business plan, we take the information and the experience of the entrepreneur, and write a blueprint for how the company will be built.

The blueprint will have a cashflow projection — either a week-by-week or month-by-month projection for how the company will meet its obligations from sales. We create a profit and loss projection based on the cashflow. We look at initial start-up costs, and see how much we need, and where we can cut back. We review the demographics of the area for where a company wants to start operating. As silly as this sounds, it is crucial to find out if there is a need for another company to do what is proposed. We once had one client who wanted to start importing rice to California but she didn't realize that California is a major producer of rice!

The reason why it is necessary to work with someone like a business development attorney is that frequently a new entrepreneur doesn't realize that there are a million little tasks that were once taken care of by other departments that now are their responsibility. There can be copyright issues, trade infringement, no compete clauses, partnership agreements, leases and contract negotiations, all of which can doom a new business before it begins.

It is not always easy to make the transition from corporate employee to being your own boss. The need for an outside perspective is crucial because the desperate, unemployed new entrepreneur will get blinded by the upside, and not see the downside.

I know of one company where the founder was so excited because the company he started is running 18 months ahead of projections on its revenues, but he is not looking at the fact that the company is running 12 months ahead on its expenses, and its cashflow hasn't caught up yet. Growing too fast can kill a company just as much as not growing at all.

The mechanics of starting your own business are pretty simple for most people who are making the transition from corporate employee to consultant/coach, or independent contractor. A separate phone and fax line, some stationery, a business license (maybe), some promotion, and a fictitious business name, et voila, you too can be overworked, stressed out and losing sleep. But getting a company off the ground properly, having a workable business development plan, that is a horse of a different color.

For the next few weeks I'll be focusing on how people start their own companies, what they need to do, what they need to avoid, and some stories from our files on what went right, and what went wrong.

(David Pisarra is a partner in the Santa Monica law firm of Pisarra & Grist).

Opinions expressed are those of the writer and do not necessarily reflect those of the Santa Monica Daily Press staff. Guest editorials from residents are encouraged, as are letters to the editor. Letters will be published on a space-available basis. It is our intention to publish all letters we receive, except those that are libelous or are unsigned. Preference will be given to those that are e-mailed to sack@smdp.com. All letters must include the author's name and telephone number for purposes of verification. Letters also may be mailed to our offices located at 1427 Third Street Promenade, Suite 202, Santa Monica, 90401, or faxed to (310) 576-9913. All letters and guest editorials are subject to editing for space and content.

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Santa Monic
A weekly look at events and programs for Santa Mo

Labor pains: How to tell if you're about to have a baby

Guest Commentary
By Jon S. Matsunaga, M.D.

Question: My doctor sent me home with false labor pains. How will I know when my labor symptoms are real?

Answer: The false labor symptoms you experienced are different from the contractions you'll feel during labor. False labor pains, also called "Braxton Hicks" contractions, are irregular and will subside after time instead of increasing in strength or frequency. In addition, the pains will ease if you rest.

There are numerous possible signs of approaching labor, signaling that your baby is ready to make his or her grand entrance. These symptoms, which increase as you get closer to your due date, do not always occur and do not occur in any particular order. The most common signs of impending labor include:

■ Increased pressure or cramping in your pelvis and rectum.

■ A change in your energy level (either increased energy or a greater sense of fatigue).

■ More frequent and loose bowel movements with cramping.

■ An increase in vaginal discharge.

■ Dropping of the baby lower in the pelvis.

■ Dull pain in your lower back.

■ Contractions that feel like a tightening or hardening of the uterus.

Once you've begun actual labor, your cervix (the tissue which separates the uterus from the vagina) will become progressively more thin and flat, and the force of the uterine contractions will cause your cervix to slowly open, or dilate. During early labor, contractions will occur every five to 20 minutes and will last less than a minute. These contractions will feel comparable to menstrual cramps.

During active labor, your contractions will increase in frequency to three minutes apart and will last about one minute each. These stronger contractions cause the cervix to dilate further. You should be on your way to the hospital when uterine contractions occur every five minutes for one hour.

During the final stage of labor, your cervix will fully dilate to 10 centimeters, with contractions occurring two to three minutes apart. Once the cervix is fully dilated, you will be told to push during the contractions, helping your baby descend through the birth canal until he or she is completely out.

Until the day you begin your actual labor, try to relax as you wait to welcome your baby into the world.

(Jon S. Matsunaga, M.D., is an ob/gyn at Saint John's Health Center and has a private practice in Santa Monica. For more information on Saint John's, please contact the health center at (310) 829-5511 or visit www.stjohns.org).

Culturally-adapted children get the best of both worlds

BY MARGARET ALTMAN
Special to the Daily Press

Question from the parent of a 4-year-old child: I've noticed when I watch my child play in day care that many of the Asian children seem to have better self-control than the other kids. Is this part of their early childhood learning experiences?

Answer: Every culture and each society has unique child-rearing practices. These practices are geared towards teaching children how to adapt and how to survive in their own culture. In this expanding and increasingly interactive world, parents can learn from teaching practices that have strengthened specific skills in youngsters from other cultural environments. Parents want their kids to be able to adapt to many kinds of experiences, and to be comfortable and productive in many situations. In order to do this we can look at how other societies teach their children to face adversity, and deal with their feelings.

In a recent study that compared American and Chinese child rearing practices it was found that there were significant differences between these cultures in the way that emotional experiences are talked about and dealt with.

American society, with its individualistic themes, has encouraged parents to delve into the feelings that their children have about emotional events, and to talk about the causes and explanations for emotional events. American parents put the child in a central role when they talk about emotional situations and focus upon their child's unique feelings.

In the Chinese study population it was found that parents focus more on how the child's feelings fit into the social norms of the group. It is not that they dismiss the youngster's emotions but they do tie them into what is expected from the culture. Chinese parents were found to make strong efforts to shape the child's emotional responses to fit into the family and social group as a whole.

As an example, when a child has become angry with a parent or other adult, the goal is to reestablish the relationship with the adult and teach the child the moral appropriateness of their behavior. In American families, the child's anger would be the focus of discussion and this feeling would have a high priority in terms of discussion.

The study also found that Chinese parents tend to find a resolution for angry interactions that threaten the solidarity of the family and the social group. American parents are more concerned with helping their kids overcome fear and become strong individuals in this individualistic society.

When we look at these different child rearing practices with an open mind, we can see that it doesn't have to be an "either or" situation in terms of what parents teach their children in the realm of emotions. The following are several tips for parents who want to enrich their young children's emotional and social lives.

■ Develop a balanced style. Begin to encourage your child to express feelings at appropriate times during the day. Many families have high intensity, emotional debriefings during meal times and this should be a time of peace, harmony and comfort for everyone. Save the venting sessions for a special time when the focus is on reviewing the day's experiences.

■ Teach sensitivity to others. Encourage your children to pay attention to what other people are feeling by teaching them to notice face expressions, voice tones and body language. Give your child a richer emotional experience by expanding his emotional sensitivity to other people besides himself.

■ Develop positive rules for strong feelings. Teach your child that when he is afraid or sad that this is the time to seek adult help and not forge on alone. It is also helpful to explain to children that anger is a "normal" feeling but that it is disruptive to family harmony. Practice resolving angry situations within the family as quickly as possible and strongly discourage any physical or verbal lashing out.

(Margaret Altman L.C.S.W. is the author of "Developing Your Child's Emotional Intelligence" and is in private practice with Dr. A. Korchmarev in Sherman Oaks. E-mail her at margiealtman@yahoo.com

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by child development experts
Margaret Altman, Dr. Reyes and A. Bitton
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CALENDAR:

SPECIAL EVENTS

THE INCREDIBLE ACROBATS of CHINA: THE NEW SHANGHAI CIRCUS - TONIGHT! FEB. 3 – 8 p.m. at Pepperdine Center for the Arts.
Featuring breathtaking feats of strength, endurance, flexibility, contortion and magic. $35 adults, $20 ages 17 and under.
24255 Pacific Coast Highway, Malibu, 213-506-4522, www.pepperdine.edu.

FAMILY CONNECTIONS PRESENTS the 5th ANNUAL LOVE INN - "MORE HUGGIN' and LESS TUGGIN'" Monday, Febuary 9th , 10:00 a.m. Presented by the SMMUSD Infant and Family Support Program. Includes a Valentine's Day Continental Breakfast and talk by Steve Cuffari, MCA. Family Connections is a free weekly series of discussions related to early childhood development and growth. Children are welcome. Joslyn Park Craft Room, 633 Kensington Road, 452-6132.

PARENTING EDUCATION and FAMILY ENRICHMENT – Feb. 18 – March 24
Register now for this free class brought to you by the SMMUSD's Infant & Family Support Program in partnership with St. John's Health Center. Marilyn McGrath, M.S., currently the Director of the Early Childhood Institute at SMC will lead this 6-week class based on principles of child development with a focus on active listening, problem solving, developmentally appropriate expectations and discipline techniques. The class is free, but a $20 refundable registration fee is required (refunded at class completion). Wednesdays, 6:30 – 8:30 p.m., Child Development Services, 2802 4th St. Call 452-6132 for more info and registration.

WHALE WATCHING - Don't miss the Pacific gray whale's annual migration between Baja and Alaska. Take a whale-watching excursion with the Cabrillo Marine Aquarium and the American Cetacean Society. Boats depart from three locations: Redondo Beach, Long Beach and San Pedro. $10 - $18, Dec. 26 – March 30, 3720 Stephen White Drive, San Pedro, 310-548-8397, www.cabrilloaq.org or www.acs-la.org. Tours are also available with Catalina Cruises in San Pedro – 310-410-1062.

TUESDAY

Movies for Moms sponsored by:

LOEWS CINEPLEX REEL MOMS

"Lost in Translation" showing February 3
11:00 a.m., Loews Broadway, 1441 3rd St. Promenade – for Moms and babies newborn – 1 year old. Doors open early for socializing and getting comfortable.
Director Sofia Coppola's second feature concerns a middle-aged, washed-up movie star (Bill Murray) who travels to Tokyo to film a whiskey commercial. There, he meets another American, the young, bored wife (Scarlett Johansson) of a working photographer. Together, during an unpredicatable weekend, they share adventures on the town and search for meaning in their lives. Also stars Giovanni Ribsi. Coppola and Murray both won Golden Globes for their efforts in writing and acting respectively, and the film also won Best Picture. The film is nominated for four Academy Awards, including Best Picture. Rated "R" for some sexual content.
Coming February 10th – "The Big Bounce"

Storytelling

Main Library
Toddler Storytime at Reed Park; 10:00 & 10:30 a.m. Stories for two year olds with adult.
Fairview Branch Library – 2101 Ocean Park Blvd – 310-450-0443.
Cuentos Para Pequenos – 10:00 a.m., Jan. 6 – Feb 10; six-week series in Spanish for 24 – 36 month olds with adult.
Lap Time – 11:00 a.m., Jan. 6 – Feb. 10; six-week series for babies 0-24 months, co-sponsored by the SMMUSD Infant and Family Support Program.
Twilight Story Time -7pm – an ongoing program for 3-5 year olds.
Montana Avenue Branch Library – 1704 Montana Ave – 310-829-7081.
Family Story Time – 7:00 p.m., all ages.
Ocean Park Branch Library – 2601 Main St. – 310-392-3804.
Toddler Storytime - 10:00 & 10:30 a.m, Jan. 6 – Feb 10. Music, rhymes and stories for 24 – 36 month olds with adult. Registration is required.
Tiny Tuesday Storytime at Storyopolis
Themes change weekly; for ages infant to 3. 11:00 a.m. 116 North Robertson, Plaza A, LA. 310-358-2500, www.storyopolis.com
Barnes and Noble at the Grove
Storytime for ages 2 – 6. 10:00 a.m. 189 Grove Drive, LA, 323-525-0270

Yoga & Exercise

Yoga Baby (Venice) – 310-306-9381 – Mommy & Me (ages 0-5 years) – 10 – 11 a.m.; Pre-natal yoga – 7- 8:15 p.m.
Yoga Works – 2215 Montana Ave, 310-393-5150; Pre/postnatal – 12:15 – 1:40 p.m., $15. Mommy and Me – 1:45 – 3:00 p.m.
Mommy Care – 11870 Santa Monica Blvd, at the Dance Factory, West LA, 310-394-6711. Pregnancy Exercise – 9:15 – 10:15 a.m.; Post Partum Exercise – 10:15 – 11:15 a.m. (babies welcome, includes baby massage and workout at the end)

Breastfeeding Group

The Pump Station - 310-826-5774, no pre-reg required, first class free, $10 fee thereafter. Moms/babies 0-4 months, 1:00 – 2:30 p.m.

WEDNESDAY

Storytelling

Fairview Branch Library – 2101 Ocean Park Blvd – 310-450-0443.
Preschool Story Time – 10:30 a.m., Jan. 7 – Feb. 11; six-week series for 3-5 year olds with adult.
Montana Avenue Branch Library – 1704 Montana Ave – 310-829-7081.
Lap Time - 10:00 & 10:30 a.m., Jan. 7 – Feb. 11. Six-week series for children up to 24 months of age with adult.
Toddler Story Time – 11:15 a.m., Jan 7 – Feb 11. Six-week series for 2 year olds with adult.
Ocean Park Branch Library – 2601 Main St. – 310-392-3804.
Preschool Twilight Story Time – 7:00 – 7:30 p.m. An ongoing story time for parents and their children ages 3 – 5.
Barnes and Noble, Westside Pavilion – 2 pm – ages 2-5 – 310-475-4144
Border's, Westwood – 11am – 310-475-3444.

Yoga & Exercise

Yoga Baby (Venice) – 310-306-9381 – Mommy & Me (ages 0-5 years) – 10 – 11 a.m.; (infants only) – 1 – 2 p.m.. Pre-natal yoga – 11:15 a.m. – 12 :30 p.m.
Yoga Works - 2215 Montana Ave, 310-393-5150 Pre/Postnatal – 12:15 – 1:45pm, $15
Ocean Oasis Day Spa - 1333 Ocean Avenue, 458-8190. Pre/Post Natal Yoga/Gentle Flow – 5:30 – 6:45 p.m. Private sessions available; call Kate Thomas, RN – 408-1717

Breastfeeding Group

The Pump Station - 310-826-5774, no pre-reg required, first class free, $10 fee thereafter. Moms/babies 0-4 months, 1:00 – 2:30 p.m.

THURSDAY

Storytelling

Main Library
Toddler Storytime at Reed Park; 10:00 a.m. Stories for two year olds with adult.
Preschool Story Time at Reed Park; 10:30 a.m. Stories for 3-5 year olds with adult.
Fairview Branch Library – 2101 Ocean Park Blvd – 310-450-0443.
Toddler Story Time – 10:30 a.m., Jan. 8 – Feb. 19 (no program Feb. 12); six-week series for 24-36 month olds with adult.
Montana Avenue Branch Library – 1704 Montana Ave – 310-829-7081.
Toddler Story Time – 10:15 a.m., Jan 8 – Feb 12. Six-week series for 2 year olds.
Preschool Story Time – 11:15 a.m. Stories for 3-5 year olds with adult.
Ocean Park Branch Library – 2601 Main St. – 310-392-3804.
Lap Time – 9:20 & 10:20 a.m., Jan. 8 – Feb. 19, six-week series for babies 0-24 months, co-sponsored by the SMMUSD Infant and Family Support Program.

Yoga & Exercise

Yoga Baby (Venice) – 310-306-9381 – Mommy & Me (ages 0-5 years) – 10 – 11 a.m.; Pre-natal yoga – 7- 8:15 p.m.
Yoga Works – 2215 Montana Ave, 310-393-5150; Pre/postnatal – 12:15 – 1:40 p.m., $15. Mommy and Me – 1:45 – 3:00 p.m.
Mommy Care – 11870 Santa Monica Blvd, at the Dance Factory, West LA, 310-394-6711. Pregnancy Exercise – 9:15 – 10:15 a.m.; Post Partum Exercise – 10:15 – 11:15 a.m. (babies welcome, includes baby massage and workout at the end)

Breastfeeding Group

The Pump Station - 310-826-5774, no pre-reg required, first class free, $10 fee thereafter. Moms/babies 4-8 months, 1:00 – 2:30 p.m.

Other

Nature Walk (Children's Nature Institute) – Sullivan Canyon (LA) –10:00am
Reservations required - 310-998-1151 or www.childrensnatureinstitute.org

FRIDAY

Night Sky Show at SMC's Digistar II Planetarium – Feb. 6 and 20th, 7 p.m. Followed by the presentation "Report from Mars." Follow the exploits of the robot explorers Spirit, Opportunity and Beagle II as they explore the Red Planet. 7 p.m. show - $5 adults, $4 ages 12 and under; both shows $9 adults, $7 ages 12 and under. John Drescher Planetarium on SMC main campus, 1900 Santa Monica Blvd., 434-3000.

Yoga & Exercise

Yoga Works – 2215 Montana Ave, 310-393-5150; Pre/postnatal – 12:15 – 1:45 p.m., $15.
Yoga Baby (Venice) – 310-306-9381 – Mommy & Me (ages 0-5 years) – 10 – 11 a.m.; (infants only) – 1 – 2 p.m.. Pre-natal yoga – 11:15 a.m. – 12 :30 p.m.
Ocean Oasis Day Spa - 1333 Ocean Avenue, 458-8190. Pre/Post Natal Yoga/Gentle Flow – 10:30 – 11:45 a.m.; Yoga for Fitness – noon – 1 p.m. Private sessions available; call Kate Thomas, RN – 408-1717

SATURDAY

Check out the new Walt Disney Concert Hall! - February 7 - The Music Center's Pillow Theatre presents Butterfly Kleenex and other Stories. These monthly programs introduce children to the magic of performing arts, including poetry, song and story. Each performance followed by a workshop. Ages 3 to 6. 10:30 and 11:45 a.m. 111 S. Grand Ave. LA, 213-972-8000, www.music-center.org
Saturday Mornings at the Opera – 10:00 a.m., February 7
This program introduces children to an opera experience including an interactive art-making workshop. Bring pillows and sit close to the performers from the LA Opera. Feb. 7th program , "The Magic Dream," is an original production inspired by Mozart's "The Magic Flute." Ages 4 –10, $12, Dorothy Chandler Pavilion, 135 N. Grand Ave, downtown LA, 213-972-8001.

Storytelling

Barnes and Noble, 3rd St. Promenade – Kid's Story Time – 10am – 310-260-9110
Barnes and Noble, Westside Pavilion – 10:30am – ages 2-5 – 310-475-4144.
Children's Book World – 10580 1/2 Pico Blvd, LA - 10:30 a.m., 310-559-BOOK.
Kathleen Zundell and her puppet friends tell stories for ages 4 – 8, free.

Yoga & Exercise

Yoga Baby (Venice) – 310-306-9381; Prenatal yoga – 9:15 – 10:45 a.m., $13
Mommy Care – 11870 Santa Monica Blvd. at the Dance Factory, West LA, 394-6711; Pregnancy Exercise – 8:30 – 9:30 a.m.; Post Partum Exercise – 8:30 – 9:30 a.m. (babies welcome, includes baby massage and workout at the end)
Ocean Oasis Day Spa - 1333 Ocean Avenue, 458-8190. Pre/Post Natal Yoga/Gentle Flow – 10:30 – 11:45 a.m.; Yoga for Fitness – noon – 1 p.m. Private sessions available; call Kate Thomas, RN – 408-1717

Other

Puppetolio – 1:00 and 3:00pm, 310-656-0483, 1255 2nd St., ages 3 & up, reservations suggested
Magicopolis – 2 and 8 p.m., 1418 4th St., Admission is $20 for evening, $15 for matinee. Call 310-451-2241 for info.

SUNDAY

Main Street Farmer's Market – 9:30 a.m. – 1:00 p.m., corner of Main St. and Ocean Park Blvd. Pony rides, live music, lots of vendors and great family socializing.
Puppetolio – 1:00 and 3:00pm, 310-656-0483, 1255 2nd St., ages 3 & up, reservations suggested
Magicopolis – 2 p.m., 1418 4th St., Admission is $15. Call 310-451-2241 for info.

MONDAY

Storytelling

Main Library – Lap Time at Joslyn Park, 9:30 a.m., Jan. 5 – June 4 (No meeting Feb. 16th.) Ages 0-24 months with adult in conjunction with the Infant and Family Support program of SMMUSD. Followed immediately by "Family Connections" - a series of discussions related to early childhood development and growth. Children welcome, free.
FAMILY CONNECTIONS PRESENTS the 5th ANNUAL LOVE INN - "MORE HUGGIN' and LESS TUGGIN'", Febuary 9th , 10:00 a.m. See Special Events section for more details.
Ocean Park Branch Library – 2601 Main Street, 310-392-3804.
"Spanish for Little Ones", 11:15 a.m., Jan. 5 – Feb. 23. Rhymes, songs and very simple stories in Spanish for ages 2-5 with adult.
Barnes and Noble, 3rd St. Promenade – Toddler Story Time – 10am – 310-260-9110

Breastfeeding Group

The Pump Station – 310-826-5774, no pre-reg required, first class free, $10 fee thereafter. Moms/babies 0-4 months, 1:00 – 2:30 p.m.

Yoga & Exercise

Yoga Works - 2215 Montana Ave, 310-393-5150 Pre/Postnatal – 12:15 – 1:45pm, $15
Yoga Garden - Restorative yoga for pre/postnatal – 6:30 p.m., 310-450-0133. www.yogagardenstudios.com
Yoga Baby (Venice) – 310-306-9381 – Mommy & Me (ages 0-5 years) – 10 – 11 a.m.; (infants only) – 1 – 2 p.m.. Pre-natal yoga – 11:15 a.m. – 12 :30 p.m.
Ocean Oasis Day Spa - 1333 Ocean Avenue, 458-8190. Pre/Post Natal Yoga/Gentle Flow – 10:30 – 11:45 a.m.; Yoga for Fitness – noon – 1 p.m. Private sessions available; call Kate Thomas, RN – 408-1717

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STATE

Attorneys fight to overturn file sharing ruling

BY ALEX VEIGA
AP Business Writer

LOS ANGELES — Attorneys for recording companies, music publishers and film studios will attempt to convince a three-judge panel of the 9th Circuit Court of Appeal this week to overturn a landmark ruling that cleared two companies of liability for the online swapping of songs and movies by people who used their software.

The April ruling by U.S. District Court Judge Stephen Wilson in Los Angeles was a major blow to the entertainment companies, who have sought to shut down Grokster Ltd. and StreamCast Networks Inc. through litigation, much as they did with Napster, the pioneer online trading service.

Today, attorneys for both sides will square off before the panel of judges, which allotted each side a half-hour — 10 minutes more for each side than usual — to make their case.

A successful appeal would clear the way for the entertainment companies to pursue legal action against Grokster, which distributes file-sharing software by that name, and StreamCast, the firm behind the Morpheus software.

The outcome of the appeal will also affect the entertainment companies' case against Sharman Networks Ltd., makers of the Kazaa program, which averages more users than any other file-sharing software. Sharman is a co-defendant in the lawsuits against Grokster and StreamCast, but the company was added to the case after it was already in progress and was not included in Wilson's summary judgment ruling.

The court's decision will also likely help shape the future of the entertainment industry's anti-piracy strategy. The recording industry already has sued hundreds of people since the lower court's decision shielded the file-sharing firms.

"This is a case that has importance that goes way beyond a particular file-sharing program," said Michael H. Page, lead counsel for Grokster.

The entertainment companies contend the sharing or distribution of songs and movies among individual computer owners who use file-sharing programs has cost them millions in sales and threatens the future of their businesses. They want the court to shut down the services or force them to reconfigure their software to prevent the free exchange of copyrighted content.

They claim the companies are liable for what is known as secondary copyright infringement. In the case of Grokster and StreamCast, that would mean the file-sharing firms knowingly assisted the users of their software to make illegal copies of copyright files. The entertainment companies also claim Grokster and StreamCast had the ability to control the illegal use of their programs and derived a direct financial benefit from it.

Wilson rejected the entertainment companies' claims, concluding there was no evidence the file-sharing firms could supervise and control the use of their services. He backed up his decision by citing a 1984 Supreme Court ruling that decided Sony was not liable for copyright infringement because of the public's use of its Betamax videocassette recorders to make illegal copies of movies.

Wilson also acknowledged Grokster and StreamCast might have intentionally structured their businesses to avoid secondary liability for copyright infringement, while benefiting financially, but said that was a matter for Congress, not the courts.

Page said he would emphasize the Sony decision during his arguments today.

"Sony is the correct rule and it's the Supreme Court's rule and under Sony we win," Page said. "It's a ruling that for 20 years, innovators and technology vendors have relied on to know what they can and can't do. ... You have to look at the capability of this technology to have non-infringing uses."

Attorney Russell J. Frackman, who will be arguing in favor of the entertainment companies' appeal, said the Sony decision is not a defense, and points out that the Supreme Court found at least 75 percent of the uses for Sony's videocassette recorder did not violate copyright.

"The defendants did not, in my view, submit any real concrete evidence of non-infringing uses, and to the extent they tried to argue them, it is trivial," said Frackman, who also went before the 9th Circuit in the entertainment industry's case against Napster. "Among other things, Sony wasn't setting up a worldwide distribution network."

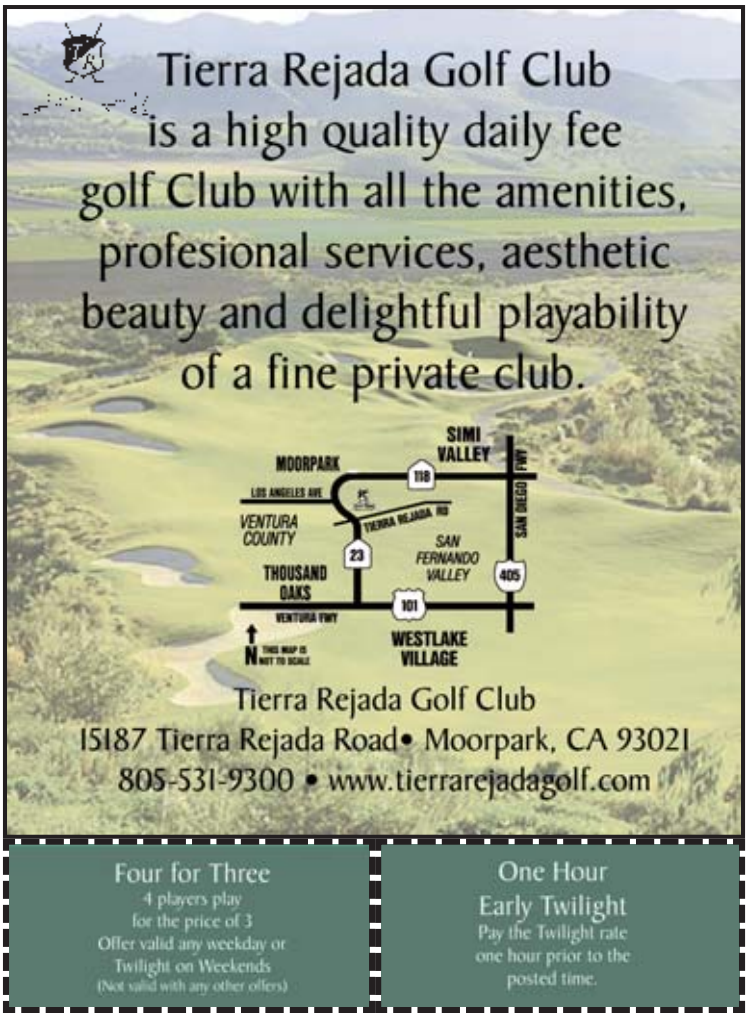
Frackman will also argue that Wilson's ruling went against the 9th Circuit's previous decisions in the Napster case.

In the case against Napster, the courts found the company had an obligation to police its service because it had a centralized server and the means to delete an index of copyright files. The 9th Circuit upheld the ultimate shutdown of Napster in 2001 when it didn't filter out copyright content from its system.

Grokster and StreamCast assert their technology has legitimate business and academic uses, such as exchanging academic files and promotional software, and claim they can't control what files users swap with their software and shouldn't be held responsible.

"There is no real legal distinction between what the defendants do here and what Napster did," Frackman said. "What they've tried to do is run away and hide from liability, at the end of the day, I don't think they'll be able to do that."

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DID YOU KNOW?: The youngest letters in the English language are "j," "v" and "w."

Sen. John Edwards feels his back against the wall

BY TOM RAUM
Associated Press Writer

CHARLESTON, S.C. — Democratic presidential contender John Edwards, in a must-win battle for South Carolina, criticized chief rival John Kerry on Monday for accepting contributions from lobbyists and supporting trade pacts that he contends have cost U.S. jobs.

Edwards, who had gained support in Iowa and New Hampshire for running a positive campaign, told reporters, "I don't take contributions from lobbyists, and he obviously does."

Edwards accepted one donation in 2002 directly from a lobbying firm and collected more than $80,000 from people who aren't formally registered as lobbyists but nonetheless work for some of Washington's powerhouse firms. He also has accepted more than $150,000 worth of flights aboard the corporate jets of special interests.

Adding to his criticism of Kerry's ties with lobbyists, Edwards told reporters after a speech at the College of Charleston that Kerry had voted for the North American Free Trade Agreement and other trade pacts that had helped cost Americans their jobs. Edwards was not in the Senate when NAFTA passed, but he has said he would have voted against it.

"Senator Kerry and I have very different positions on the issue of trade," said Edwards, who has been critical of Kerry as a Washington insider and four-term senator. "If we want real change in Washington, we need someone who hasn't been there for 15-20 years."

Edwards and Kerry were in a statistical tie in a poll in South Carolina, which Edwards has said he must win. In the other six states with delegate elections Tuesday, Kerry was leading Edwards and other Democratic rivals as they lined up support for the biggest test yet of the 2004 campaign.

Kerry ignored his opponents in a speech Monday at the University of New Mexico in favor of criticizing President Bush and touting his health care proposals.

"I predict today, like father, like son, one term only. Bush is going to be done," Kerry said.

Howard Dean, who was running behind Kerry in polls in each of the seven states, was looking beyond the Tuesday elections for success. A total of 269 pledged delegates were at stake in Arizona, Delaware, Missouri, New Mexico, North Dakota, Oklahoma and South Carolina.

On Sunday, Dean continued to criticize Kerry for his financial ties with special interests, saying those links cast doubt on the Massachusetts senator's claim to be the champion of the battle against those interests.

"He misrepresented himself, grossly misrepresented himself, as a candidate who would take on special interests in Washington," the former Vermont governor said .

"My record responds to that," Kerry told reporters Sunday during a stop in Fargo, N.D. "I have fought powerful special interests every step of the way."

Kerry won the backing of two major unions on Monday. The National Treasury Employees Union, which represents about 150,000 workers in 29 government agencies, said it was endorsing Kerry because of his steadfast support for federal employees.

The Sheet Metal Workers International Association, which represents about 150,000 skilled craftspersons in the unionized sheet metal industry, also formally endorsed the Massachusetts senator. The union's general president, Michael Sullivan, said SMWIA volunteers plan to work phone banks, distribute literature and canvas door-to-door for Kerry across the country.

Added to his other organized labor endorsements, Kerry now has the support of unions representing more than 1.3 million workers. On Sunday, he won the backing of the United Farm Workers union, which could give Kerry crucial support among Hispanics, a key constituency in New Mexico and Arizona.

Washington state holds caucuses Saturday, and Kerry planned to head there and await returns Tuesday night, shifting his focus to the next test.

Retired Gen. Wesley Clark focused on Oklahoma, where polls show he has the best shot at pulling off a badly needed win Tuesday night.

Connecticut Sen. Joe Lieberman touted the endorsements of newspapers in Seattle and South Carolina. "What this says is I have national support," he said.

Kerry spent Sunday in North Dakota, fulfilling his pledge to campaign in all seven states holding tests on Tuesday. Together they represent more than 12 percent of the 2,162 delegates needed to claim the Democratic nomination.

WORLD BRIEFLY

Kurds vow to weather storm

By The Associated Press

IRBIL, Iraq — The twin suicide bombings targeting Iraq's two main U.S-allied Kurdish parties, which killed at least 56 people, will only serve to unite them and strengthen their resolve for self rule within a federal Iraq, their leaders said.

The near simultaneous attacks Sunday killed many of the top leaders of the two parties, who were gathered to greet hundreds of ordinary Kurds on the first day of the four-day Eid-al-Adha, or the Feast of Sacrifice, holiday.

The U.S. command said 56 people were killed and about 200 injured at the two party offices, eight miles apart in the heartland of Iraq's minority Kurds who have been the most supportive of the U.S. invasion and occupation.

But Kurdish parliament speaker Rowsch Shaways told The Associated Press on Monday that more than 60 had died.

Also Sunday, a rocket attack on a U.S. supplies base in Balad north of the capital Baghdad killed one American soldier and injured 12, including two seriously. Another soldier was killed Sunday and two others hurt when their Humvee overturned near the town of Haditha.

The deaths raised to 524 the number of U.S. service members who have died since the Iraq conflict began in March.

Pakistani admits to nuke aiding

By The Associated Press

ISLAMABAD, Pakistan — The founder of Pakistan's nuclear program has acknowledged in a written statement that he sent sensitive technology to Iran, Libya and North Korea to aid their atomic programs, a Pakistani government official said Monday.

Abdul Qadeer Khan — long regarded as a national hero in Pakistan — made the confession in a statement submitted "a couple of days ago" to investigators probing allegations of nuclear proliferation by Pakistan, the official told The Associated Press on condition on anonymity.

The transfers were made during the late 1980s and in the early and mid 1990s, and were motivated by "personal greed and ambition," the official said.

The official said the transfers were not authorized by the government.

A meeting of the National Command Authority that controls Pakistan's nuclear program was briefed on the statement at a meeting on Saturday, when Khan was sacked from his position as a scientific adviser to the prime minister.

Two senior military officials briefed a number of Pakistani journalists late Sunday about Khan's confession. Khan had previously been reported as denying any wrongdoing.

Prison standoff ends in climb down

By The Associated Press

BUCKEYE, Ariz. — Two inmates with a history of violent crime climbed down from a prison guard tower and surrendered after releasing their last captive, peacefully ending the longest U.S. prison hostage standoff in decades.

"In the end, waiting it out paid off," Corrections Department Director Dora Schriro said Sunday following the conclusion of the 15-day drama that left the medium- to high-security Arizona State Prison Complex-Lewis in lockdown.

The final hostage — a female corrections officer who was captured with a male colleague during an apparent botched escape attempt Jan. 18 — was receiving medical care.

Corrections officials declined to immediately say what led to the surrender, but in one concession, one inmate was allowed Thursday to give an interview to a Phoenix radio station, which broadcast the interview after the standoff ended.

"It was initially an escape attempt. We were on our way out. This was a stopping point to get some arms, firearms, to get out of here. Unfortunately, the plan went bad," one of the inmates, Ricky Wassenaar, told KTAR-AM radio. The male corrections officer was released Jan. 24.

Prison officials on Sunday identified the hostage-takers as Wassenaar, 40, and Steven Coy, 39.

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The Dinette Set by Julie Larson



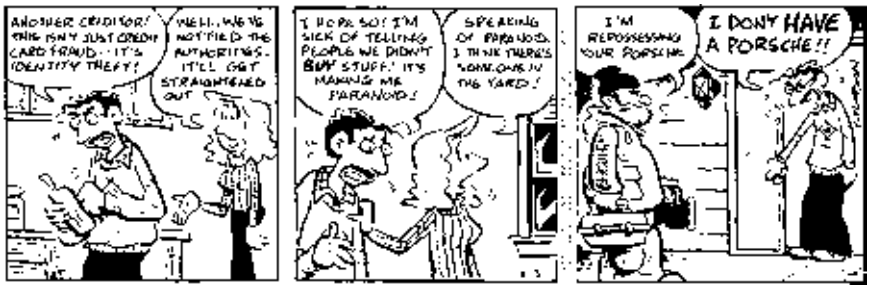
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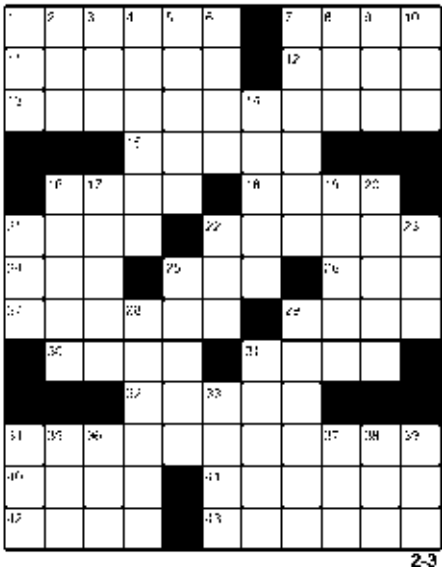
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Jack Nicholson admits acting his age was just acting

By The Associated Press

■ **LONDON** — Jack Nicholson said Monday he can see some of himself in his role in the romantic comedy "Something's Gotta Give" — an older man with a penchant for younger women.

The 66-year-old actor was in London to promote the movie, which also stars Diane Keaton and Keanu Reeves.

In the film, which opens Friday in Britain, Nicholson plays an aging record executive who only dates younger women until he falls for Keaton, the mother of his latest young infatuation.

Nicholson — who has dated a string of younger beauties, including 33-year-old "Men In Black II" star Lara Flynn Boyle — said director Nancy Meyers had written the script with him in mind.

"I talked to her about it in advance while she was working on it. I guess it's got some good pieces of what my life has been like," he said at a news conference.

Asked whether he'd start dating older women, the actor said: "It's never been a matter of years for me. I don't really go by age that much."

"Annie Hall" star Keaton, 58, won a Golden Globe for best comedy actress and has been nominated for a best-actress Oscar for her part in the film.

■ **CAMARILLO, Calif.** — Tom Laughlin, best known for helping bring martial arts into American pop culture with his 1970s "Billy Jack" films, is now throwing his punches in the political arena.

The 72-year-old actor, who lives in Camarillo, is one of 13 candidates running against President Bush in the Republican primary.

Laughlin, who first ran for president as a Democrat in 1992, said he's campaigning to draw attention to a two-party system he deemed "so corrupt it can't function anymore."

He described himself as a "messenger" candidate and said he wasn't disappointed by the New Hampshire primary, in which he earned 154 votes to Bush's nearly 34,000.

"I've never run for president with any kind of thought of winning except to make a statement that we need change desperately," Laughlin told The Associated Press on Sunday.

The issues he's most concerned about: Bush's claims that Iraq possessed weapons of mass destruction and Congress' recent approval of a Medicare bill that prohibits the purchase of cheaper health care drugs from Canada.

Political themes have long been of interest to Laughlin, whose low-budget martial arts films pitted Billy Jack, a part Indian outlaw and Vietnam veteran, against racist, corrupt politicians and greedy businessmen.

"Billy Jack was always about the little guy going against the power brokers who are out to exploit and ruin," Laughlin said. "And that's why I'm running."

■ **LONDON** — The docudrama "Touching the Void," which tells the true story of a harrowing mountaineering expedition, was named best film at the 31st annual Evening Standard British Film Awards.

Director Kevin Macdonald's film beat romantic comedy "Love Actually" for the award Sunday and has been nominated for a BAFTA Outstanding British Film award.

"Touching the Void" recounts Joe Simpson and Simon Yates' successful 1985 ascent of the 21,000-foot Siula Grande in the Peruvian Andes, and their perilous descent.

Paul Bettany took the best actor award for his performances in the seafaring epic "Master and Commander: The Far Side of the World" and the drama "The Heart of Me."

Emma Thompson won best actress for "Love Actually," while her co-star, Bill Nighy, was named winner of The Peter Sellers Award for Comedy.

Director Michael Winterbottom received the inaugural Alexander Walker Special Award, named after the Evening Standard newspaper's veteran film critic, who died last year.

■ **PHILADELPHIA** — Four months after a $50 million gift to the Philadelphia Orchestra, The Annenberg Foundation is giving $15 million to the endowment of the Academy of Music, the Broad Street landmark the orchestra owns.

Leonore Annenberg, president of the foundation, is the widow of the late billionaire publisher and diplomat Walter H. Annenberg, and has had a long association with the orchestra. The $15 million, in payments of $5 million a year over three years, will be placed in the Academy's endowment to generate income for improvements to the 147-year-old landmark.

"What this really does is to make sure that the building is preserved," said Harold A. Sorgenti, the Academy's outgoing president.

"I think she is picking up the lead from Walter, who had a very strong interest in everything that happens at the Academy of Music," said Luther W. Brady, the incoming president, who said he was already planning for the 150th anniversary celebration of the building in three years.

The Annenberg gift will quadruple the size of the Academy's endowment to $20 million, which will generate about $1 million a year in interest and other income.

The latest Annenberg gift brings to at least $89 million the amount the two philanthropists have given to the orchestra and the Academy in the last few decades. Lenore Annenberg has been on the orchestra's West Philadelphia Volunteer Committee since 1953, and was on its board of directors from 1968-80 and 1981-86.

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