

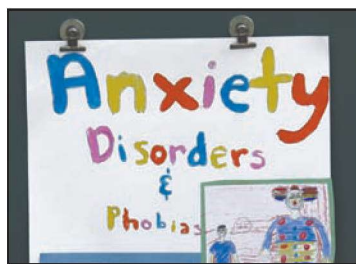


HOME AT LAST

Sgt. Gilad Schalit is the first Israeli soldier taken captive returned alive in 26 years

MIND MATTERS

Students learn about disorders in a program sponsored by the Mental Health Association in SB County



SANTA BARBARA NEWS-PRESS



OUR 156TH YEAR

WEDNESDAY, OCTOBER 19, 2011

75¢

Calif. home loan defaults jump nearly 26 percent

ASSOCIATED PRESS

SAN DIEGO—Banks sent nearly 26 percent more default notices to California homeowners in the third quarter compared with the previous three months, stepping up actions against those with delinquent loans in what may herald a new wave of foreclosures, a real estate information service reported Tuesday.

There were 71,275 first-time notices of default issued in the nation's most populous state in July, August and September, DataQuick reported. By comparison, there were 56,633 default notices issued in the second quarter of the fiscal year—a three-year low.

“Obviously, some lenders and loan servicers have begun to plow through their backlogs of delinquent loans more aggressively,” DataQuick President John Walsh said in a statement.

Most of the mortgages, home equity loans and lines of credit going into default are from 2005 to 2007, La Jolla-based DataQuick said.

Foreclosures weigh down home values and create uncertainty among would-be homebuyers who fret over prospects that prices may further decline as more foreclosures hit the market.

Default notices were filed against California homeowners who, using median figures, owed \$19,198 on a primary mortgage of \$331,333 and were eight months behind on payments, DataQuick said.

The median amount borrowers owed at the time the default notice was filed rose about 17 percent from the previous quarter and 27 percent from a year earlier.

“The gains likely stem from some lenders working faster last quarter to get caught up on their backlogs of long-delinquent loans,” a DataQuick statement said.

On home equity loans and lines of credit in default, borrowers owed a median \$4,576 on a median \$70,055 credit line.

The foreclosure process can take nine months or more to complete.

Foreclosure activity began to slow nationwide last year after allegations that lenders were using abusive practices such as “robo-signing,” or approving foreclosure paperwork without actually reading it.

The number of default notices in the third quarter of 2011 was down 14.4 percent from the third quarter of 2010—before most of the delays began.

Major banks and attorneys general in all 50 states have been working on a settlement of the allegations but California Attorney General Kamala Harris announced last month that she would not agree to a settlement.

Harris said the deal was inadequate in a state where more than 2.2 million residents owe more on their mortgages than their homes are worth.

Poorer neighborhoods had more defaults than richer ones in the third quarter. Areas where the median sale price of a home was below \$200,000 had 11 defaults notices filed per 1,000 homes. That compared with 2.8 filings in areas with median prices above \$800,000.

Statewide, there were 8.1 notices of default filed per 1,000 homes.

The Spirit of '45

Honoring the 'Greatest Generation,' statue of famous V-J Day kiss stops in Santa Barbara

By BEN SMITHWICK
NEWS-PRESS CORRESPONDENT

A life-size statue of Alfred Eisenstaedt's “V-J Day in Times Square” photograph made a stop Tuesday in Santa Barbara. Passersby were able to get an up-close look at the statue outside the Veterans Memorial Building.

Created by sculptor Seward Johnson, the 6-foot statue is passing through the city on its way from San Jose to Phoenix as part of the Spirit of '45 campaign, a national effort to remember and honor the efforts of the “Greatest Generation.”

The statue is modeled directly after Eisenstaedt's famous photograph in which a sailor is kissing a nurse in Times Square in New York City. The photograph was taken after news broke out of Japan's surrender to end World War II.

“It is one of the most iconic images of the war,” said Warren Hegg, founder of the nonprofit organization, Keep the Spirit of '45 Alive.

“It is a symbol of when the country came together.”

Mr. Hegg said the statue reminds people of the “can do” attitude of the generation that inspired a national renewal after the war.

Mr. Hegg's organization was instrumental in championing legislation in support of a national “Spirit of '45” day of remembrance. In 2010, Congress unanimously passed a joint resolution setting aside the second Sunday in August to honor the courage and self-sacrifice of the World War II-era generation.

Describing the war as a “leveler” that brought citizens of all socioeconomic backgrounds together for a common goal, Mr. Hegg said that the economic troubles facing the country today will likely foster a new sense of civic engagement.

He hopes that the statue will remind young people that previous generations were able to overcome challenges by working together in a productive way.

“Once upon a time there was a generation that faced toughness,” Mr. Hegg said. “Unfortunately, nobody teaches this. This is America at its finest hour.”

One person trying to reach out to local youth is former Navy pilot and Vietnam War veteran John Blankenship. Mr. Blankenship travels to schools in the Santa Barbara area to give presentations on World War II battles and other conflicts.

“It's quite a shot,” he told the News-Press, referring to Eisenstaedt's iconic photograph. “When people see it they know exactly that it represents the joy people felt when the war was over.”

Mr. Blankenship, who founded the Pierre Claeys Veterans' Military Museum and Library with his wife, Hazel, hopes to move his collection of



THOMAS KELSEY / NEWS-PRESS PHOTOS

John Blankenship of the Santa Barbara Navy League, left, and Rik Peirson show the statue based on the famed 1945 photograph of the V-J Day kiss outside the Veterans Memorial Building on Cabrillo Boulevard on Tuesday.



The statue is unveiled Tuesday at the Veterans Memorial Building. Holding the banner are, from left, Rik Peirson, Robert Corpus and John Blankenship.

“All of these guys are getting so old,” Mr. Blankenship said. “We are the ones that now have the opportunity to get the word out.”

Rik Peirson, a former Army intelligence officer who lost his father in World War II,

Please see SPIRIT on A6

Lance gag order slammed by lawyers group

By SCOTT STEEPLTON
NEWS-PRESS CITY EDITOR

A statewide group of DUI lawyers filed a friend of the court brief opposing the latest attempt by the Santa Barbara County District Attorney's Office to gag investigative journalist Peter Lance and his attorney in Mr. Lance's misdemeanor DUI case.

The brief, filed Tuesday in Santa Barbara County Superior Court by Palm Springs attorney Michael Kennedy on behalf of the nonprofit California DUI Lawyers Association, states the decision Judge Brian Hill makes regarding the sweeping order proposed ex parte—that is without the defense having a say—by prosecutors in Mr. Lance's case “will likely have significant impact on criminal and constitutional litigation in California.”

The proposed order, filed Oct. 13 by Deputy District Attorney Michael Carrozzo, seeks to bar Mr. Lance and his attorney Darryl Genis “from commenting on this case in any manner during the pendency of trial.” Mr. Carrozzo also seeks to have Messrs. Genis and Lance “remove any comments or information regarding this case that is currently posted on the Internet in any form.”

In addition, the declaration supporting the proposed order seeks to silence defense witnesses, and asks that Mr. Lance and his attorney file any future legal documents under seal.

Left out of the filing submitted to the judge is any mention that the order also apply to the prosecution.

Perhaps written in a state of fury over Mr. Lance's first-hand reports on possible government corruption involved in his case—published by the News-Press—and comments about the case by Mr. Lance, Mr. Genis and defense witnesses here and elsewhere, Mr. Carrozzo nonetheless seeks a scrubbing of the Internet unheard of in its history.

“Wow,” says Mr. Kennedy. “We note the glaring absence of any authority empowering the court to issue

Please see LANCE on A10



STEVE MALONE/NEWS-PRESS

SB City Worker Don MacNevin attaches a new sign to a pole on De la Guerra Plaza, stating the park's operating hours.

New signs spread word of park hours

By SCOTT STEEPLTON
NEWS-PRESS CITY EDITOR

Hours after police officers issued citations to Occupy Santa Barbara participants over sleeping in and entering De la Guerra Plaza too early Tuesday, new signs noting park hours were installed at opposite ends of the plaza. The signs were temporarily posted at the request of the Santa Barbara Police Department to reaffirm the written warnings that have been handed out recently.

At 11 a.m., a two-man crew from the Parks and Recreation Department put up two signs stating the park is closed 10 p.m. to sunrise. One sign went up at the southeast corner of the park, near the News-Press building, while the other was placed at the northwest corner.

“I faced it inside of the park so that people that were inside of the park were aware that the park closes,” Don MacNevin told the News-Press after placing the first sign.

While people entering the plaza through Storke

Please see SIGNS on A7

NBA Hall of Famer Bill Walton raises his arms after finishing Tuesday's ride.



MATT WIER/NEWS-PRESS

TALL IN THE SADDLE

Pro and college basketball hall-of-famer Bill Walton was one of a group of about 130 athletes who made a 119-mile ride on Tuesday that wound up in Santa Barbara. The trek was part of a week-long fundraiser for the Challenged Athlete Foundation, a group dedicated to giving grants to injured athletes for equipment and prosthetics to help them maintain an active lifestyle.

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Early fog, giving way to sun
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COMPLETE FORECAST B8

MARKETS

Dow Jones 11,577.05 (+180.5)
Nasdaq 2,657.43 (+42.51)
GAS PRICES BUSINESS BX

Nebraska Press v. Stuart states some adverse affect on potential jurors is not enough to limit speech

LANCE
Continued from Page A1

such a sweeping command of censorship and of clean-up of things already in cyberspace, nor could any such thing ever properly issue ex parte (without the defense having a say) anyway."

"What jurisdiction does the court have over defense witnesses and over other interested persons regarding their First Amendment rights?" Mr. Kennedy continues.
Noting that Mr. Carrozzo left lead prosecutor on the case, Sanford Horowitz, off the list of people he seeks to gag, Mr. Kennedy writes: "Bizarrely, the one person the court

has arguable jurisdiction over, the attorney of record, is not a named victim of that proposed order."
When the proposed motion was first reported last week by the News-Press, a superior said the intent of the order was to simply prevent Mr. Lance and his attorney from commenting about the case in the future.

But that's not what the order states.
Nor does it propose how anyone would go about removing from the Internet the original posts, reposts and altered posts that have resulted from the case.
Mr. Kennedy's filing notes the difficulty of this proposition when he writes, "It would not take testimony

from the late Steven Jobs or from Bill Gates to convincingly establish that to reel back in things cast into the vast and limitless ocean of cyberspace would be an impossibility."
The law, Mr. Kennedy adds by way of citing the Civil Code, "never requires impossibilities."
In a moment of snarkiness, Mr. Kennedy says, "I guess we did overstate one matter: the People did supply what they suggest is an authority, the only authority they supplied, and we suspect they pasted and stuck it from something else, because it certainly does not assist them here; that is Sheppard v. Maxwell."

Department shredding evidence that Mr. Lance sought in his defense, amounts to gross governmental misconduct the defense says should be ground for dismissal.
If, on First Amendment grounds, the courts can't prevent kids from getting their hands on violent video games or the public from viewing depictions of animal cruelty, "there would be a heavy burden to carry for government to propose that prior restraint on the communication to the public of governmental corruption could be ordered."

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 - Platinum
 - Silver
 - Gold Coins
 - Silver Coins
 - Gold Ingots
 - White Gold Jewelry
 - Platinum Jewelry
 - Dented Jewelry
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 - Emerald Jewelry
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 - Gold Crowns
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The famous case, in which Sam Sheppard's conviction of murdering his wife Marilyn was reversed by the Supreme Court because prejudicial publicity at trial, says Mr. Kennedy, is cited by prosecutors ostensibly because they see it empowering the court to issue a gag order to protect the defendant's due process.
This case notes due process requires the accused receive a fair trial by an impartial jury free of outside influences - and the courts "must take strong measures to ensure that the balance is never weighed against the accused."
And while the court in the Sheppard case had a duty to protect the defendant from the circus-like atmosphere of the trial, "There is no suggestion there that, absent the defendant's complaint, the court has the power or duty to do anything, nor is there any suggestion whatsoever that any court has the power to command the undoing of that which is already broadcast."
And undoing what is already broadcast is, in essence, what prosecutors in the Lance case are seeking to do.
But from a constitutional standpoint, says Mr. Kennedy, due process is a procedural limitation on government's power against and over individuals.
He posits that the prosecution's proposed order is simply an effort by government to muzzle a man who dares to speak out about a cop, in this case arresting Officer Kasi Beutel of the Santa Barbara Police Department, engaged in questionable and perhaps illegal activity. Not only does Mr. Lance contend the officer witnessed a forged signature purported to be his on a form waiving his right to provide a blood sample at the time of his arrest New Year's Day, but he uncovered evidence that she tried to have a reverend backdate her marriage certificate - a move that would have run the reverend afoul of the law.
Officer Beutel also is known to have gone into the field with pre-filled DUI forms; a move the defense contends show she was out to frame motorists for DUI.
These examples and others, including the Santa Barbara Police

Department shredding evidence that Mr. Lance sought in his defense, amounts to gross governmental misconduct the defense says should be ground for dismissal.
If, on First Amendment grounds, the courts can't prevent kids from getting their hands on violent video games or the public from viewing depictions of animal cruelty, "there would be a heavy burden to carry for government to propose that prior restraint on the communication to the public of governmental corruption could be ordered."
"How a community's police conduct themselves in their relationship with the polity is axiomatically political speech," says Mr. Kennedy.
And in the end, whether the speech is about the police, the defendant or anyone else involved, case law comes down hard on limiting that speech, true or false, in advance of trial no matter how it affects the defendant.
As Nebraska Press v. Stuart states, some adverse affect on potential jurors is not enough to limit speech. "It is not clear that further publicity, unchecked, would so distort the views of potential jurors that 12 could not be found who would, under proper instructions, fulfill their sworn duty to render a just verdict exclusively on the evidence presented in open court."
Summing up his brief to deny the prosecution motion, Mr. Kennedy states, "There is no authority for the requested protective order, no authority that any protective order can be issued ex parte, and it accordingly should not be granted, lest a host of constitutional problems would be loosed upon the land."
Judge Hill will take up the matter Oct. 25.
In a related matter, Superior Court Judge Clifford Anderson last week issued a gag order in the DUI case of Parker O'Sullivan, who was arrested by Officer Beutel on March 3 in a hit-and-run incident. While also represented by Mr. Genis and prosecuted by Mr. Horowitz, Mr. O'Sullivan's proceedings haven't attracted any of the media attention Mr. Lance's case has seen.
Mr. Horowitz last week brought a motion for a protective order to the judge, who in response barred the defendant and attorneys from making comments about the case. The matter was back in front of Judge Anderson Tuesday. On Friday, the judge will consider a motion from Mr. Genis to reconsider the gag order if the case isn't settled.
Judge Anderson said there are potentially related issues in both cases, and the key concern should be having a fair trial in which the jury hasn't been influenced by outside sources. Mr. Genis argued no need for such an order has been shown.

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PROGRAM GUIDE
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12:00-5:59 AM & 1:00-1:59 PM
BBC World Service
Global news, analysis, interviews and commentary also at 7:00 PM & 11:00 PM.

6:00-9:59 AM
Baron Ron Herron
with news, weather, sports and traffic reports every 10 minutes from the people-movers at Santa Barbara Airbus and the California Highway Patrol.

10:00-10:59 AM & 8:00-8:59 PM
Lanny Ebenstein
the Voices of Santa Barbara host talks with local newsmakers.

11:00-11:59 AM & 9:00-9:59 PM
Commerce Radio
Santa Barbara Region Chamber of Commerce hosts talk with area business leaders about local economic issues.

12:00-12:59 PM & 2:00-2:59 PM
AM1290 NewsHour
breaking world, national and local news from the BBC, CNN and newspress.com. t shape our world from art to technology.

3:00-4:59 PM
The Andy Caldwell Show
Watchdog, business and traditional values advocate interviews leaders and scholars about local, state and national issues.

5:00-5:59 PM
Pamala Oslie
the professional psychic and author takes calls, shares advice and talks with guests.

6:00-6:59 PM
David Jay
with news, weather, sports, traffic reports every ten minutes, and, Steve Crozier's daily financial market reports.