

Career Journal: More Employers Ask Job Seekers For SAT Scores

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DONNA CHAN IS 23 years old and has been out of college since May 2002, when she graduated from Wagner College on New York's Staten Island. So should anyone care how she did way back in high school on her SATs?

Apparently some people do. Since Ms. Chan started looking for an entry-level job in financial services more than a year ago, she has repeatedly stumbled over a common requirement for many of these positions: a combined SAT score of at least 1300 out of a maximum 1600. Ms. Chan's combined score on the math and verbal tests fell "somewhere in the 1200s," even though she earned a 3.9 grade-point average in college while getting a degree in computer science with a minor in math.

"I think it's asking a bit much," gripes Ms. Chan, who is currently working as a part-time paralegal on Staten Island. "That's something high school kids have to worry about. After four years of working hard, I think you've paid your dues, and unless you're applying to Princeton Review or some math-related, analytical job, I don't see the relevance."

The SATs, usually taken by high-school juniors and seniors and once used solely as a criterion for college admission, are now following many people through college and into the workplace as a defining performance measure. A certain cadre of companies that hire large numbers of fresh college graduates have long asked about SAT scores, but many other large employers took up the habit in recent years because of the dismal job market. With thousands of resumes flooding in for even a single open position these days, employers see the scores as one more way to differentiate among applicants.

And most employers who ask about the SAT say they want someone whose scores are well

above the national average. According to the New York-based College Board, the association that administers the SAT, the 1.4 million SAT takers in the class of 2003 earned average scores of 519 on the math portion of the test and 507 on the verbal section, for a total of 1026. The math average is the highest in more than 35 years, meaning that those who are applying for jobs right now on average scored lower.

A number of ads placed by recruiters and staffing firms set clear SAT goals. Consider this recent ad on HotJobs.com for an entry-level, investment-banking position: "Minimum expectations include an overall score of 1350 on the SATs. . . . You will be required to provide official scores and transcripts, so please do not respond if you do not meet the aforementioned requirements."

Alan Sage, a vice president at Configuresoft Inc., a Woodland Park, Colo., systems-management software company, says he routinely asks applicants to submit their SAT scores when they apply for sales jobs. He says he picked up the practice from a former employer of his who wanted applicants to have no less than a combined SAT score of 1400.

Mr. Sage sets his bar somewhat lower, at 1200, but says he nonetheless sees the test as a good indicator of future success. "In my experience, people with high SAT scores tend to do better," he says, adding that his mother recently reminded him that he scored somewhere in the 1200s. "We wouldn't exclude someone from an interview if he or she didn't score high," he adds.

While Mr. Sage says he has always asked to see SAT scores, he admits that he was far more flexible when Configuresoft was first launched in the boom days of 1999. With his sales team experiencing lots of turnover, he says, he had to "beg marginal people" to come work for the company.

Mr. Sage says he also places the SAT requirement in ads to see whether applicants are paying attention to details. When he placed an ad for an account-manager position on an online job board earlier this month, he received hundreds of resumes. But fewer than 10% of respondents bothered to include their scores. Those who did, he adds, scored at least a 1200.

Some are critical of the trend. Seppy Basili, vice president of Kaplan Inc., a test-preparation company, says that over the past six months he has been hearing anecdotally that more companies are asking applicants to submit SAT scores. He feels that in general, SAT scores in these cases are being used for the wrong reasons.

"It's such a maligned instrument," says Mr. Basili. "It's not designed to measure job performance,

and the kind of person who performs well on the SATs is not necessarily the kind of person who will perform well sitting at their desks."

Morgan Denny, a partner in a New York search firm specializing in financial services, says he has several clients who only want to see candidates who reached a certain SAT threshold, even if they have been out of high school for 10 years. Because he realizes that some people are bad test takers, he continues to show clients candidates who don't meet the criteria but have other qualifications, he says.

"The SAT is an annoyance for us and an annoyance for our candidates; we believe there should be a balance," Mr. Denny says. He adds that he'll often collect comments and information from candidates who don't meet the SAT criteria so that his clients will consider the candidate and reconsider their SAT threshold.

Some employers say they have no interest in seeing the SAT scores of applicants. The Jewish Employment and Vocational Service, a nonprofit social-services agency in Philadelphia, is looking for an educational testing consultant to provide test preparation for the SATs, among other tests, mainly to low-income youth. But Kristen Rantanen, the director of communications and public relations for the organization, says that an SAT score "is nothing we would ever ask or require of a candidate."

Kristin Carnahan, a College Board spokeswoman, says the organization has no way to confirm whether more companies are using the SAT because it typically sends scores directly to colleges, not to employers. But she says that it makes more sense for employers to base their decisions on grades, a more recent measure of a person's abilities. "There seem to be so many other measures that would be relevant for employers to use," she adds.

(See related letters: "Letters to the Editor: Employers' Demand for SATs Courts Trouble" -- WSJ Nov. 4, 2003)

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ERIN BROCKOVICH'S WEIRD SCIENCE. Toxic by Eric Umansky

<http://www.tnr.com/doc.mhtml?pt=hYTNEPVI55a12o9nCoarZB%3D%3D>

"This is not a publicity stunt," Erin Brockovich-Ellis informs the crowd gathered at the exclusive Beverly Hills Hotel. "This is not about making another movie." It's March, and the famous environmental crusader is speaking before hundreds of Beverly Hills High School parents and alumni crammed into the hotel's Crystal Ballroom. It's a strange confluence of Hollywood story lines: The heroine of the 2000 film *Erin Brockovich*--whom Julia Roberts won an Oscar portraying--is here to warn that current and former students at the school on which "Beverly Hills 90210" was based are being poisoned by toxic emissions from nearby oil wells.

As just about anybody who has set foot in a multiplex knows, in the mid-'90s Brockovich and her boss, lawyer Ed Masry, helped uncover groundwater contamination in the central California town of Hinkley and as a result won a massive settlement from Pacific Gas and Electric (PG&E). (As the film's promo line put it, "She brought a small town to its feet and a huge company to its knees.") In the decade since the Hinkley case, Masry and Brockovich-Ellis (she changed her name after remarrying four years ago) have led several more class-action suits against alleged corporate polluters, with mixed results. Tonight, their crusade has brought them to Beverly Hills.



Erin Brockovich-Ellis claims that chemical leaks are giving kids in Beverly Hills cancer, but the evidence suggests she's wrong.

Dressed in a dark business suit with a low-cut white top underneath, Brockovich-Ellis explains that she was approached a few months earlier at one of her book signings by a young woman, Lori Moss, who had been diagnosed with Hodgkin's disease and thyroid cancer. Brockovich-Ellis's interest was piqued: After all, Moss was only 28 years old and said she had already had two types of cancer. Where did you grow up? Brockovich-Ellis asked. Beverly Hills, said Moss. Were there industrial sites around? Moss explained that oil wells abutted the campus of her high school, known colloquially as "Beverly."

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So Brockovich-Ellis came to Beverly to test the air. And what she found was shocking. "I was just sitting in the bleachers," she tells the gathered parents, "and we got benzene readings that were at very alarming levels--at least five times higher than on the 405 [Freeway]." (Benzene, a natural component of crude oil, is a human carcinogen and is commonly found at low levels in urban areas because it is an automobile emission.) And it's not only the wells still operating next to Beverly that pose a threat, she explains: The school's football field sits "right over abandoned wells" that were never properly capped. "And now they're leaking," Brockovich-Ellis reports. "I would not want my children playing on that field. It's very heavily contaminated."

As many in the crowd gasp, Brockovich-Ellis describes the results of this toxic exposure: More than 150 students and alumni have contracted cancer (a number that will jump to 300 soon after the meeting). Hodgkin's disease--which Brockovich-Ellis says is associated with benzene--is occurring at 16 times normal levels, thyroid cancer at 14 times normal levels. The average age of a Beverly student or alumnus diagnosed with cancer is just 33. Dr. James Dahlgren, a medical consultant working with Brockovich-Ellis, briefly takes the podium and cautions, "These all could be an aberration," before adding, "but you have a whole cluster of rare and unusual cancers. That's why it's probably more than a statistical blip."

Then Masry, Brockovich-Ellis's boss and partner-inactivism (played by Albert Finney in the movie), steps up to the podium and drops another bombshell: Not only are the wells causing cancer, the city has known about the risks all along. Working through a PowerPoint presentation, Masry, a small man in his early seventies looking somewhat disheveled in a suit a size too big, pulls up a copy of a document known as an environmental checklist form. Previous owners of the wells submitted the form in 1984, when their lease to operate the rigs was up for renewal. Masry reads aloud one of the questions, "Will the proposal result in the creation of any health hazard or potential health hazard?" The question offered three possible boxes to check: Yes, No, or Maybe. The check was on Maybe. "Maybe?" Masry bellows. "These guys suspected there might be a problem. And yet they *never* did any testing." As Beverly parents turn to one another in disbelief, Masry reads aloud from another city document: "The [oil-well] project will result in substantial economic benefits by the school district and city." The school district and city, Masry explains, are making hundreds of thousands of dollars annually from the wells.

One middle-aged father stands up and tries to challenge Masry. "Mister Masry," he begins, "I have spoken with [local health officials], and they say you have not shared your data." Amid murmurs from the crowd, Masry shouts, "Shut up! Quiet! I have made appointments to do split samples. I can't dance anymore than I already am." The parents cheer. Then another father speaks, his voice rising above the crowd. "I will take it upon myself to shut those wells down!" he shouts, amid chants of "Shut the pumps! Shut the pumps!"

Masry and Brockovich-Ellis's claims are very dramatic. In all likelihood, they are also wrong. A few months after the presentation at the Beverly Hills Hotel, BrockovichEllis will explain to *People* and *The Economist*, "I have 300 cancers staring me in the face and an oil-production facility underneath the school. It doesn't take a rocket scientist to figure out that the two fit together." It may not require a rocket scientist, but it certainly requires some compelling scientific evidence. And the preponderance of evidence suggests that the Beverly oil wells are not having any discernable impact on the health of

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Beverly students. Nor is Beverly an isolated case. Many of Brockovich-Ellis and Masry's other toxic-contamination lawsuits have been supported by questionable scientific evidence at best, dating all the way back to the case that made them famous.

Southern California isn't just a mecca for automobiles; it's also full of oil. The first deposits were discovered and tapped at the turn of the twentieth century. Since then, more than 50 oil fields have been found and more than one billion barrels of oil extracted. Few towns have benefited from the boom more--or probably needed it less--than Beverly Hills. In the early 1900s, prospectors discovered that the wealthy enclave lay directly above a giant deposit, estimated at more than 100 million barrels. On the grounds of what is now Beverly, the first wells were drilled in 1906, predating the school by 20 years. The wells on the site operated on and off for years. Some, including those under what is now the school's football field, were abandoned and capped. In the early '80s, with production declining, the owners drilled 17 new wells, which continue to pump today.

The March meeting at the Beverly Hills Hotel wasn't the first time Beverly parents heard that the long-standing wells might be harming their kids. A month earlier, L.A.'s CBS affiliate, KCBS, broke the story during sweeps week. The report--headlined "**TOXIC SCHOOL?**"--relied heavily on Masry and Brockovich-Ellis's allegations. "If your child goes to Beverly Hills High School, you should pay specific attention to this story," it began, "because there is growing evidence that going to school, sitting in classrooms, and especially exercising on the play fields could have your child breathing toxic fumes." (The producer of the segment, Claudia Bill-de la Pena, serves on the city council of Thousand Oaks along with Masry. And, as was first reported in *The Beverly Hills Courier*--the town's free weekly, which has distinguished itself with aggressive reporting on the case--Masry and his wife have both **donated money** to Bill-de la Pena's bids for office.)

In the weeks following the KCBS report and the March meeting, Beverly Hills was in near pandemonium. Just a month after the meeting, Masry filed 216 claims with the city, each one from a student or alumnus who alleged the wells had poisoned them. In addition to Masry's claims against the city, he filed suit in June against the wells' owner, a regional oil company named Venoco; two other oil companies that were connected to the wells by subsidiaries; and Sempra Energy, which owns an office-building heating-and-cooling unit on the same block. (Masry has not publicized specific allegations against Sempra.) By early November, the number of claims would swell to 664, mostly from alumni, including 370 claiming cancer and 182 claimants demanding medical monitoring and punitive damages based on "fear" or "risk" of "developing cancer." The other claims run the gamut, from "ear-ringing" and "frequent tingling sensation," to "urinary problems," "headaches," and "insomnia."

As Masry and Brockovich-Ellis spent the spring and summer signing up clients--and some parents threatened a school boycott, which never materialized--a host of city and state agencies began conducting environmental tests at Beverly. At first, in February, they seemed to find something: The wells had occasionally been venting natural gas into the air. For years, the local gas company had bought natural gas from the wells, and, when the gas company decided to implement stricter enforcement of its BTU rating for natural gas during the summer of last year, the company found that gas from the wells at Beverly did not meet the new requirements and stopped buying the gas. Since Venoco couldn't pump oil

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without also releasing natural gas, it simply vented the gas, which can contain traces of benzene and other contaminants. Venoco says it believed it had approval to vent--and at least one state official involved in the Beverly case agreed. Regulators also found that a device meant to control the purity of the natural gas coming from the wells, called an amine unit, had improperly functioning filters and had been modified without a proper permit. As a result of the improper filters, the amine unit discharged a small amount of benzene. Though the findings caused concern, neither issue seemed to increase health risk. While natural gas can contain small amounts of contaminants, "it isn't particularly harmful," says Sam Atwood, a spokesman for Southern California's Air Quality Management District (SCAQMD), the region's air-quality agency. "It's basically methane"--the same stuff human beings emit when they break wind. As for the amine unit, the amount of benzene it gave off turned out to be so minute as to be undetectable in the air around Beverly. And, once the filters were replaced weeks after the test, the unit emitted no benzene. Whatever the case, regulators asked Venoco to shut the wells down, which it did in February. (Despite a petition signed by about 2,000 parents, the wells opened again in late October, after Venoco agreed to install continuous air-monitoring equipment and paid a \$10,000 settlement that admitted no wrongdoing.)

While the SCAQMD dealt with the apparent violation, health officials looked more closely at Masry and Brockovich-Ellis's specific allegations: Regulators tested the air for benzene and other pollutants while the wells were venting gas, toxicologists took ground samples, epidemiologists looked at cancer rates, and state inspectors examined both the active and the abandoned wells at Beverly.

Everything came up clean. The air wasn't particularly polluted (at least by L.A. standards). Cancer rates in the neighborhood were along the same lines as other white, wealthy neighborhoods in Los Angeles. The ground wasn't contaminated with toxins. The old wells weren't leaking, and the new ones were well-maintained.

Beginning in February and continuing throughout the spring, the SCAQMD, considered the country's toughest anti-pollution agency, tested the air around Beverly six times--at multiple spots during each test. The average reading for benzene--the only chemical alleged to be leaking from the wells that is classified as a human carcinogen--was about one part per billion, typical for Southern California. (State regulators define the limit at which no significant health effects can be expected over a lifetime of constant exposure to benzene at 20 parts per billion.) The SCAQMD sent a **letter** to parents in April stating that the agency had found "no readings of benzene, hexane, and air toxic levels that are considered abnormal." Consultants hired by the school district also tested the air and came up with similar results. (An environmental consultant hired by a parent said the SCAQMD and city-sponsored reports didn't conclusively find that there were no health risks. And, as part of its agreement to reopen, Venoco agreed to make an overall assessment of the health risks.)

Masry argued to me that the SCAQMD efforts were "grossly negligent." The tests, he claims, were only conducted for a few minutes and only when the wells were turned off. "They weren't worried about injury to kids or to schoolteachers; they were just worried about getting the money." It's true that the SCAQMD, a regional government agency, receives a few hundred to a few thousand dollars per year from the wells for standard permit fees. But, contrary to Masry's other assertions, as the SCAQMD explained in a

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detailed letter to parents, it tested the air for eight-hour increments and did so while the wells were operating.

While the SCAQMD has been open with its data and testing methodology, Masry and Brockovich-Ellis have not. When city officials repeatedly asked Masry to share his overall test results, Masry repeatedly refused. In the first week of June, the Beverly Hills City Council forced the issue, serving Masry a legislative subpoena (the municipal equivalent of a congressional subpoena). The subpoena required Masry to turn in his data three weeks later. Masry balked and continued withholding his test results, saying that they were part of attorney work product--that is, analyses a lawyer might use to build his case. Judge Valerie Baker, of the Los Angeles Superior Court, didn't buy Masry's argument and on July 16 ordered Masry to produce the data or face fines. Finally, on July 22, nearly two months after the initial subpoena, Masry gave his test findings to Beverly Hills.

Nearly all of Masry's data showed normal levels of benzene. The highest benzene readings in Masry's tests are from an instantaneous "grab sample" showing benzene at 18 parts per billion--still two parts per billion less than the state's threshold. Masry's data states that another test conducted simultaneously that sampled the air for eight hours shows no measurable amount of benzene. The head of research at the lab Masry used to compile his data told the *Courier*, "When you're doing sampling, you don't want to base health-risk decisions on a single sample result; that would be irresponsible."

Next: The failure to demonstrate elevated levels of benzene in the air isn't the only weakness in Masry and Brockovich-Ellis's case.

The failure to demonstrate elevated levels of benzene in the air isn't the only weakness in Masry and Brockovich-Ellis's case. It also appears unlikely that benzene causes the types of cancer that they allege are rampant at Beverly. "At high dosages, benzene can cause certain kinds of leukemia," says Dr. Thomas Mack, chief of the epidemiology division at the University of Southern California's medical school. "But there is no significant evidence it causes Hodgkin's disease or non-Hodgkin's lymphoma." (Masry says he has experts and studies that document a link between benzene and those cancers. But, when I asked to speak to the experts or for citations to the studies, he said, "Why would I do that? We'll wait until we depose experts and see who is right and who is wrong.")



It's not even clear that there are increased rates of Hodgkin's disease or non-Hodgkin's lymphoma around Beverly. In April, Masry told the Associated Press that the school's cancer rate is 20 to 30 times the national average. "I've never seen cancers this high," Masry told me. "I've never even heard of them this high." At a preliminary hearing for the case in July, a Beverly Hills city attorney asked Masry's firm, **Masry & Vitioe**, to produce evidence backing up their publicly stated numbers. A lawyer for the firm,

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Rick Ottaiano, asserted that he didn't have to hand over the information, again invoking attorney work product. But Judge Baker rejected that argument, and Ottaiano acknowledged that his firm had no data on the rate of cancer at Beverly, stating, "There has been no commissioned epidemiological study or population study."

Ottaiano seems misinformed. While Masry & Vititoe apparently did not conduct any scientific study of cancer rates around Beverly, the cancer registry program at the University of Southern California did. The program (which epidemiology chief Mack participates in) tracks all cancers in L.A. County and looks for trends, breaking down cases by race, age, gender, socioeconomic status, neighborhood, etc. After the KCBS report, the registry looked at the number of cancers in the neighborhood surrounding Beverly. In the spring, it released its **report**, stating, "The observed numbers of Hodgkin's lymphoma [aka Hodgkin's disease], non-Hodgkin's lymphoma, and thyroid cancer among white residents were within the expected range." (The researchers explained that they couldn't calculate cancers among non-whites in that part of Beverly Hills because "there were too few cases.")

It's true that the study did not calculate the rate of cancer at the high school itself. Mack explains that, while cancer rates broken down by census tracts are readily available, calculating the rate of various cancers among alumni would be a far more involved, expensive undertaking. "You'd first need to decide what your denominator is," says Mack. "Everybody who attended Beverly for at least a month, for at least a year? How about summer school? And then you need to track down the people and then their medical files." In Mack's estimation, there's no reason to do any of that. Since the benzene around Beverly is at normal levels, he says, "there's simply no evidence that it is a cause of concern."

As for what may seem to a layman like a large number of Hodgkin's and other cancers among Beverly students and young alumni, Mack says the numbers aren't atypical. Hodgkin's disease and non-Hodgkin's lymphoma often afflict young adults and, for reasons that aren't clear, are more prevalent in wealthy areas. (The leading theory is that children with many siblings have a better chance of early exposure to certain viruses that make them more resistant to lymphomas--and wealthier parents tend to have fewer children.)

Epidemiologists, including Mack, acknowledge that they can't say definitely that something in the air isn't causing a rise in cancer rates. If benzene from Beverly's wells had caused two or three cases of cancer--resulting in the rate of cancer in the neighborhood increasing only slightly-- epidemiologists probably wouldn't notice it, since the neighborhood's overall cancer rate might still be within the range considered normal. (Epidemiologists typically don't think anything less than one-and-a-half times the expected rate is significant.)

Still, Mack says there's no reason for concern about Beverly students. "We're always dealing with levels of probability; we can't avoid that," he says. "But taking a neighborhood that has a few cancers and then trying to figure out where they came from usually isn't helpful. Instead, you look at the known risks. In this case, is there any evidence that benzene at the levels found by Beverly causes cancer? No. You're just as likely to get cancer from your car stereo."

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Finally, there is the supposed smoking gun that Masry waved about at the Beverly Hills Hotel: the environmental checklist in which the wells' owner at the time, the Beverly Hills Oil Company, had checked a box saying "Maybe" the wells would cause adverse health effects. What Masry and Brockovich-Ellis didn't mention was that the checklist was only a follow-up form. The original environmental-impact report, prepared by an environmental consulting firm for Beverly Hills, detailed the wells' potential effects on the air and how to mitigate them. It concluded that the wells, which like other wells in urban areas would be electrically powered to avoid polluting, would "emit minimal pollution." The only area that merited concern--and thus the "Maybe" on the check form--was diesel fumes from construction trucks at the site.

Masry's contention that the wells were never tested for problems is also misleading. The SCAQMD requires Venoco to test the wells for leaks on a quarterly basis and promptly report any problems or face fines and closure. Before this year, Venoco's Beverly Hills site had never been cited for a violation. Indeed, Venoco had won an award from state regulators for running a particularly clean operation.

The lack of evidence that the Beverly wells pose a health risk doesn't surprise Dr. Cyrus Rangan, director of toxics epidemiology at L.A. County's Department of Health Services. "There are lots of oil wells around Los Angeles," he says. "And there's no evidence that there's elevated cancer rates around any of them. Why this one?" He adds, "I look at three big things in my job. Is there an occurrence of disease out of proportion to what we would expect? What is something that might cause that? And is there a connection between the two? Masry and Brockovich's assertions don't satisfy any of those conditions."

If there's no compelling evidence that benzene levels at Beverly are dangerously high, nor that cancer rates among current and former students are elevated, nor that the former would cause the latter even if both were true, then why are hundreds of Beverly parents and alumni suing?

In part, it's because of Brockovich-Ellis's reputation: People have seen the movie, and they trust her. And much of the movie is accurate. Brockovich-Ellis successfully demanded a job from Masry after he failed to win her a settlement in a car-crash claim. In 1992, Masry was hired by a resident of Hinkley after the local power company, PG&E, acknowledged contaminating some of the town's groundwater with chromium-6, a human carcinogen. As Brockovich-Ellis worked on the case for Masry, she began, in her estimation, to find evidence that PG&E's contamination of the groundwater was causing people in town to get sick. Brockovich-Ellis collected clients, and Masry sued. The case went to mediation, and, in 1996, PG&E settled for \$333 million, one of the biggest environmental settlements ever made. "We screwed up," said a PG&E spokesman at the time.

But there are elements of the story that are still subject to dispute. For instance, Brockovich-Ellis alleged that the local water board had tried to keep files about the contamination undercover, a point that the movie emphasizes. Hisam Baqai, supervising engineer for the local water board, insists it isn't true. "I don't know how she came up with secret stuff from the files," he says. "All our files were public."

There's also a somewhat larger point the movie mischaracterizes: Although there was contamination in Hinkley, there's virtually no evidence that it made residents sick. Various studies have found that

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chromium-6 is only carcinogenic when inhaled, not when ingested, as Hinkley residents would have done when they drank the contaminated water. As a 1998 Environmental Protection Agency (EPA) report put it, "No data were located in the available literature that suggested that chromium-6 is carcinogenic by the oral route." (The reason, say researchers, is that stomach acid turns the toxins into chromium-3, a harmless substance that can be found in food.) Moreover, a joint federal-state study conducted in 2000 concluded that, while some chromium-6 did indeed make it into some residents' wells, it affected a small number of houses, about 15. (The study's authors note that their findings aren't conclusive since they didn't test until years after the contamination began and that, theoretically, there may have been significant airborne contamination years earlier.) "It was very localized," says Dr. John Morgan, the epidemiologist who oversees the registry charged with tracking cancers in Hinkley. "And the concentration of chromium-6 in the most contaminated wells was in the order of one-quarter-millionth to one-five-millionth the level that was linked with nasopharyngeal carcinoma," the only type of cancer that he says has been linked to the chemical. "Jumping to cancer from that is a quantum leap in logic."

There is also no evidence that there even was a cancer cluster in Hinkley. In 1995, Morgan looked for exactly that and didn't find it. His ensuing report described the "absence of a cancer excess" and concluded "that the number of new cancer cases observed in the census tract encompassing Hinkley does not differ significantly from the number expected." According to Morgan, neither Brockovich-Ellis nor Masry ever asked the registry to look for a cluster. "It's bizarre," he says, "to claim a cancer excess and then never ask to investigate a cancer excess. Of course, it's only bizarre if you're trying to get to the truth. If you're trying to win a lawsuit, then perhaps better to say there may be an increase than to know there's not."

Since Hinkley, Masry and Brockovich-Ellis have pushed similar claims elsewhere, with what appears to be diminishing success. Their most notable victory took place in the Northern California town of Crockett. In summer 1994, Crockett residents were exposed to a potentially toxic cloud for about two weeks, the result of a leak from a nearby Unocal refinery. The leak--of a chemical cocktail called Catacarb--went on for so long because the oil company delayed notifying officials while the refinery kept operating. By the time Unocal copped to the leak, so much Catacarb was around Crockett that the company had to send crews around town washing off cars and windows. Unocal eventually agreed to pay \$3 million in criminal and civil fines and, in April 1997, settled a class-action suit, in which Masry & Vititoe was one of many firms suing, reportedly for \$80 million.

Masry and Brockovich-Ellis were less successful in a lawsuit on behalf of residents of Avila Beach, a town along California's central coast, near San Luis Obispo. There has been an oil-storage facility near the town since the early 1900s, and, in the late '80s, authorities found that pipes running below Avila--also owned by Unocal--had leaked. Health officials didn't find evidence that the spill had come to the surface, but in late 1996 residents nonetheless banded together and, represented by--among others--a self-described small-town lawyer named Jim Duenow, sued Unocal. As Duenow prepared his case, Brockovich-Ellis came to town. Duenow remembers her as being persuasive. "She is a fine-looking lady," he says. "I would have signed anything she handed me." Brockovich-Ellis soon began signing up clients of her own and testing the beach. Before long, she announced that the spill had come to the surface and that it was making people sick. A report early the next year from Masry's law firm, as reported in the *San*

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Luis Obispo New Times, concluded, "Adults and children who frequent the beach engaging in typical beach activities, such as playing in the sand, burying themselves in the sand and sunning themselves would appear to be at great risk."

Duenow, whose case depended primarily on the effect the leaks had on homeowners' property values, says he also researched the possibility that they might cause health problems. "It just wasn't there," he says now. "None of our clients had health damages related to the contamination. ... There just weren't maintainable health claims."

As in Beverly Hills, county and independent toxicologists weren't able to replicate Brockovich-Ellis's findings. "We sampled air, sand, groundwater," says Alvin Greenberg, a toxicologist who oversaw a report for the county investigating the claims. "We never found evidence that subsurface contamination had come up." And, as in Beverly Hills, Masry and Brockovich-Ellis avoided sharing their data. "She accused me at a community meeting of not properly reviewing her data," recalls Greenberg. "I apologized and said I would examine it if she sent it to me. I never heard from her again."

Asked today about the disparity between the county's findings and his own allegations, Masry charges, "The county was concerned about getting sued so they didn't find toxins. ... We find that all the time with governmental agencies. They're just trying to cover their ass." (Brockovich-Ellis declined repeated requests for comment.)

With their health claims falling apart, Masry retreated and reportedly settled with Unocal in 1999 for a relatively small sum for their roughly 60 clients: \$3 million. The modest settlement angered residents who had been led to believe that Unocal had poisoned them. Masry and BrockovichEllis "came in and dramatized what was going on and got everyone hooked," one former client told the *SLO New Times*. "Nobody was happy with these lawyers, nobody."

Another environmental-contamination claim Masry's firm was involved in between Hinkley and Beverly never even made it to the lawsuit stage. In early 1998, the firm charged that Fontana, an industrial town about 60 miles east of Los Angeles, was contaminated with mercury. Fontana borders an acid pit created in the 1950s by companies that dumped millions of gallons of waste--it has long been an EPA Superfund site. Masry's experts, after hearing media reports about a parent in town who thought that toxins might have been responsible for the death of her daughter, showed up and said they suspected mercury had leaked from the pit and spread into town. The result, one resident told the local paper, was "pandemonium and panic."

"People started putting their houses up for sale," recalls Fontana Mayor Mark Nuaimi, who at the time was on the city council. Nuaimi and other city officials asked Masry to share his findings, so that, if there was a problem, they could address it. Masry, again, resisted. "They came up with excuses when we asked for their evidence," says Nuaimi. "When we asked to be escorted to a site, they refused to go there."

DATE OF PLACEMENT	Posted Online 11/13/2003 Publishes 11/24/03
CIRCLUTION	Online
PLACEMENT	Cover Story
CLIENT NAME	Venoco

When city health officials, accompanied by residents, took samples, they found no trace of mercury. Masry "made allegations that were never substantiated and accused agencies of cover-up," says Nuaimi, who notes that Masry eventually left without filing suit. "They feed off the hysteria and fear of the people, at least that's what we found in our situation. It really is a story of crying wolf." (Masry says he doesn't recall his firm's involvement in Fontana.)

The Beverly Hills case is still in the beginning stages, with lawyers just beginning to joust. Depositions haven't even been taken yet, and it will likely be another year or two before the case makes it to trial. But it may not come to that. According to legal scholars, 98 percent of tort cases get settled. And, while it's certainly helpful to have the facts on your side, you can get a large settlement without them. "There can be all sorts of reasons for settling: Insurance issues, p.r. issues, et cetera," says Margaret Berger, a professor at Brooklyn Law School. "Dying children do not make a popular picture."

Indeed, the Beverly case has already taken a toll on the defendants: In August, a Texas oil company, Holly Corporation, effectively pulled out of its \$450 million deal to merge with Frontier Oil, one of the companies named in the Beverly suit. Citing the lawsuit as the reason, the company tried to change the terms of the deal, demanding all cash instead of Frontier stock. Frontier refused and has sued for breach of contract.

If the case has already proved a loser for the oil companies involved, it has already proved a p.r. windfall for Masry and Brockovich-Ellis. And why not? It's the perfect combination of stories: kids with cancer, "Beverly Hills 90210," and a real-life, Hollywood-endorsed hero. Sure enough, the suit has been covered by media from New Zealand to Sweden, including CNN, "Good Morning America," and "Today." Most of the coverage, unsurprisingly, is deferential toward Masry and Brockovich-Ellis.

Such attention is particularly helpful to BrockovichEllis, who is currently trying to cement her status as a celebrity folk hero. Since January, she has been hosting a new TV show on the Lifetime Channel entitled "Final Justice." (It's described on the program's [website](#) as "True stories of ordinary women who fought back against the system and won. ... Hosted by the underdog heroine herself.") Brockovich-Ellis can also be found on the back of Organic Valley milk cartons as a spokesperson for the environmental group Children's Health Environmental Coalition, which offers an "[Erin Brockovich Action Kit](#)" encouraging people to join the coalition and support its mission "to protect children from toxic substances." And she has been trying her hand at acting, performing in a recent Los Angeles-area production of "The Vagina Monologues."

There is even a chance that *Erin Brockovich II* may be coming to the box office. Brockovich-Ellis, of course, told the reporters assembled at the Beverly Hills Hotel, "This is not about making another movie." But, in September, "Celebrity Justice," an "Entertainment Tonight"-esque, publicity-driven show, reported, "Well-placed sources tell 'C.J.' the sequel is a go, ... with Masry, Brockovich, and director Steven Soderbergh on board to parlay this latest adventure into *Erin Brockovich Two*." Brockovich-Ellis declined to comment.

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Erin Brockovich: The Sequel

A plucky editor takes on a bogus trial-lawyer claim of poisoning--and wins.

Friday, March 19, 2004 12:01 a.m. EST

Remember Erin Brockovich? In the Julia Roberts screen version, hers was the true-life tale of a single mom in short skirts who took on a giant utilities company that was poisoning the residents of a small California desert town--and won.

But how about this for an even juicier sequel: Norma Zager, a plucky California editor, takes on the all-powerful plaintiffs' attorneys--and wins. But in this real-life story it is Ms. Brockovich who is on the side of the rich and powerful while Ms. Zager fights for truth and the local community. Don't take our word for it: The latest Columbia Journalism Review reports how Ms. Zager's reporting exposed as one big toxic scam Ms. Brockovich's claims that oil companies were causing cancer in a local high school.

In so doing Ms. Zager, a former stand-up comedian, scooped all her big-name media competitors. Not bad for the editor of the Beverly Hills Courier, a free weekly boasting just two full-time editorial employees. Better still if her story leads to a little more self-reflection on the part of a press corps that too often exempts trial lawyers from the same kind of scrutiny it routinely doles out to politicians and businessmen.

After all, we now know that the case that originally made Ms. Brockovich into a star was a typical tort-bar stretch. Even the Environmental Protection Agency won't say that chromium 6, which Ms. Brockovich and the Masry law firm claimed gave the residents of Hinkley, Calif., an encyclopedia of diseases, is carcinogenic in drinking water. Nevertheless, most people continue to rely on the Tinseltown version.

So when Ms. Brockovich charged that an on-campus oil field was spewing carcinogens at Beverly Hills High, reporters flocked in. Ms. Brockovich claimed that she had recorded "alarming" benzene readings and had 300 cases of staff, students and alumni with cancer. Ms. Zager was nearly alone in reporting that the Brockovich benzene readings were bogus, that the law firm lacked evidence of a cancer cluster and that they had found only 94 cases of cancer, not 300. She reported, too, that a local TV producer who had hyped the story had received money during her run for a city council seat from the head of Ms. Brockovich's law firm.

Fascinated by this Woodward-and-Bernstein-like triumph, we phoned Ms. Zager to ask her secret. Modestly she attributed it to a healthy journalistic skepticism. If she had an "edge," it was only this: Living in the area, she "knew the people" and didn't believe they would close their eyes to the poisoning of their own community.

Ms. Zager tells us that she's been getting e-mails from across the country about her pieces, and proudly recalls one that said: "You are the true Brockovich." As for the movie, she saw it, and she loved it. "Isn't it fun when the little guy takes on the big guy?" she says laughing. "Well, guess what? Now she's the big guy and I'm taking her on. And I'll go cleavage to cleavage with her any day of the week."

Are you interested, Julia Roberts?



**Julia Roberts as
Erin Brockovich**





Muckraker 90210

A Most Unlikely Reporter Nails Erin Brockovich

BY [ERIC UMANSKY](#)

Erin Brockovich-Ellis, the environmental crusader whose story graced movie screens a few years ago, launched her latest campaign last spring. Along with Edward Masry, the lawyer she still works for, Brockovich-Ellis (who changed her name after remarrying) made a stunning allegation: Oil wells on the campus of Beverly Hills High School were spewing a carcinogen — benzene — and causing cancer among students, staff, and alumni.

After meeting a young graduate who has had two types of cancer, and hearing about the wells on campus, Brockovich-Ellis headed out to test the air around the school in November 2002. “I was just sitting in the bleachers,” she told parents gathered for a meeting last March at the Beverly Hills Hotel, “and we got benzene readings that were at very alarming levels — at least five times higher than on the 405,” a freeway. The result of this contamination, she continued, was Hodgkin’s disease at sixteen times the expected levels among alumni.

Brockovich-Ellis didn’t offer the school district or city officials her test results, nor did she invite officials to the meeting. Instead, she went to the media. In February 2003, a month before the meeting with parents, she gave an exclusive interview on the test results to CBS’s Los Angeles affiliate, KCBS. Titled “Toxic School?” the segment began, “If your child goes to Beverly Hills High School, you should pay specific attention to this story, because there is growing evidence that going to school, sitting in classrooms, and especially exercising on the play fields could have your child breathing toxic fumes.” Brockovich-Ellis told KCBS that after she first detected high benzene levels, six subsequent tests produced the same results.

The case had the perfect mix of ingredients — wealth, celebrities, and the whiff of scandal. (Beverly, as the school is known, has graduates ranging from the actor Nicolas Cage to Monica Lewinsky, and has been earning royalties from the oil wells for decades.) A mini media frenzy ensued, with coverage from Good Morning America to The New York Times to newspapers in New Zealand. “Beverly Hills is not all Botox, faux-Spanish mansions and imported sports cars,” wrote the august Economist magazine. “It also has cancer clusters, and these have become Erin Brockovich’s latest crusade.”

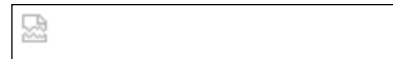
Journalists noted that there were two sides of the story: Brockovich-Ellis said there was a problem, while the city and the wells’ owner, a company named Venoco, said there wasn’t. The New York Times’s coverage was typical, offering dueling quotes while leaning toward Brockovich-Ellis’s position: a celebrity school’s students say oil wells are making them sick, announced a June 17 story.

But was there, in fact, a problem?

One reporter — a former stand-up comedian working for one of the lowest-profile publications in Los Angeles — decided to find out. In the process she helped uncover what appears to be a Hollywood heroine’s campaign of deception.

Norma Zager, editor-in-chief of the Beverly Hills Courier, a free weekly, doesn’t fit the image of a muckraker. Zager, who is fifty-seven, often wears a suede cowboy jacket with tassels, is (endlessly) cheery, and looks, well, like the contented Jewish mother that she is. (She has two grown children.) “I’m usually the biggest pussycat reporter around,” says Zager. “I get my feelings hurt if somebody calls up to complain about one of my stories.”

Zager, who briefly worked as a reporter in Detroit after college, spent about fourteen years doing stand-up comedy routines in Los Angeles and Las Vegas before deciding in 1999 to return to journalism. She found work as a reporter for the Courier, and about a year ago was promoted to the top spot. (It wasn’t a huge jump; the Courier has two full-time editorial employees.) The paper typically covers A-list charity balls and small-town happenings. bh park rangers share experiences, it announced recently. Zager’s duties range from editing and reporting, to writing a column on celebrity homes.



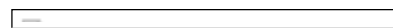
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The Courier's newsroom isn't impressive. The day I visit the low-slung, nondescript building, Zager is simultaneously writing a story, digging out court files for me to peruse on the Brockovich-Ellis case, and chatting on the phone with what seems to be a suitor who invites her to a party hosted by Lee Iacocca (she declines).

Soon after KCBS's report about toxins at Beverly, Masry and Brockovich-Ellis called their March meeting for parents and other potential claimants. Zager attended and quickly grew skeptical. Government regulators had tested the air around Beverly and found no significant amounts of benzene. When parents asked about the discrepancy, Zager recalls, "Masry and Brockovich started blustering and telling people to shut up. So I said to myself, 'Okay, we've got a scam on our hands. Now what do I do?'"

Zager says she decided to learn everything she could about oil wells, benzene, and cancer clusters. Meanwhile, independent and government experts looked into the case. Toxicologists, epidemiologists, and oil regulators all dismissed Brockovich-Ellis's and Masry's assertions as quackery: the wells weren't leaking, the air was relatively clean, and rates of Hodgkin's disease around the school were normal. Indeed, despite reporters' "balanced" coverage, no independent scientist backed up the allegations as credible. (Regulators did cite Venoco for two potential violations — an antipollution unit had insufficient filters and the wells had, on occasion, vented natural gas, a process for which the company insists it had permission. Neither potential violation significantly affected benzene levels and both were settled in October.) In any case, several studies have shown no link between oil wells and Hodgkin's. Los Angeles has thousands of wells and none has been linked to any cancer. "Is there any evidence that benzene at the levels found at Beverly causes cancer? No," says Thomas Mack, chief of the epidemiology division at the University of Southern California's medical school. "You're just as likely to get cancer from your car stereo."

A few news outlets did emphasize that officials didn't buy the claims. USA Today, for instance, headlined: lawyers: beverly hills high school's a hazard; although officials doubt campus' oil wells pose cancer risk, parents are close to panic. But Zager's digging went beyond that and uncovered something more surprising: Brockovich-Ellis's own data didn't support her contentions. Despite requests from parents and school district officials, Brockovich-Ellis and Masry refused to release their data until the city subpoenaed them and a judge ordered them to comply — a fact only Zager noted in her stories.

When the data sets were finally handed over, they showed that despite Brockovich-Ellis's claim that she repeatedly found alarming levels of benzene, nearly all the readings were normal. As Zager reported — again, nearly alone among reporters covering the story — the highest benzene reading was still below state regulations and was contradicted by another sample Brockovich-Ellis took at the same time that showed no measurable benzene. Michael Tuday, head of research at the lab Masry used to compile the data, was quoted in the Courier as saying, "When you're doing sampling, you don't want to base health-risk decisions on a single sample result; that would be irresponsible." (Zager says that after she got that quote, Masry told Tuday to stop taking calls from her.)

As the Masry and Brockovich-Ellis evidence crumbled, their cancer-cluster claims continued to be cited in the press. "When I have three hundred cancers staring me in the face and an oil-production facility underneath the school, it doesn't take a rocket scientist to figure out that the two fit together," Brockovich-Ellis told People magazine in May 2003. Masry told The Associated Press that the school's cancer rate was twenty to thirty times the national average.

Once again, the two refused to document their claims until a judge ordered them to comply. Zager sat in on the court hearings and heard a lawyer for Masry's firm admit that, in fact, his side did not do an epidemiological study and has no data on rates at all. Zager's headline the next week: masry's attorney admits in court no study done by them to establish cancer rates at bhhs.

Zager acknowledges that her writing isn't always the most graceful or easy to follow. She also has an obvious advantage over other reporters in that her paper is focused on Beverly Hills. But her reporting has gone beyond just being there.

Curious about how Brockovich-Ellis arrived at her cancer numbers, Zager got copies of the injury claim forms Masry and Brockovich-Ellis filed with the city. She found that at the same time the two were publicly referring to 300 cases of cancer, they had filed only 216 damage claims, of which only ninety-four were actually for cancer. The other injuries consisted of everything from insomnia to "tingling sensations."

Remember the KCBS report that first raised concerns about toxins in the air? It relied almost exclusively

on the Brockovich-Ellis and Masry allegations. As Zager first reported, the producer for that story, Claudia Bill-de la Pena, serves on the Thousand Oaks city council with Masry. Along with his wife, Masry donated money to Bill-de la Pena's election campaign. "If you are looking at a connection between the City Council and my producing, it is not the right route to go from a journalistic standpoint," Bill-de la Pena told the Courier.

"Norma works really hard, and she's honest," says USC's Mack, who is less impressed with other journalists' efforts on the Beverly story. "Reporters tend to rely on balance because they're unsure of themselves or not knowledgeable enough to put something in context. So they make it a 'he said, she said' rather than going to a third or fourth source to resolve or try to understand the apparent conflicting information."

"There's nothing murky about what I print," says Zager. "There's no innuendo. I just print facts. I print the test results." That habit has landed Zager "number one on Brockovich's and Masry's enemies list," she says with glee. "I met some new lawyers for Masry one day and decided to introduce myself. So I went up to them and said, 'Hi, I'm Norma Zager. Better known as the Devil.'"

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