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The Amicus Curiae

VOLUME XIII, ISSUE EIGHT

TUESDAY, MARCH 25, 2003

WILLIAM & MARY SCHOOL OF LAW

Alumni Serving in New Gulf War

by Brooke Heilborne

Two William & Mary Law School graduates serving in the U.S. Army's Judge Advocate General's Corps recently sent their greeting to the Law School from Kuwait.

Harwood '01 was stationed at Fort Sill, OK, before being deployed to Kuwait in February 2003. Ruhling '00 was stationed at Hunter Army Airfield in Savannah, GA, before his January 2003 deployment to Kuwait. Both are members of the Virginia Bar.

In general, Judge Advocates provide legal counsel to the Army command under which they serve. They assist the command in the administration of military justice and are often called upon to provide legal counsel to soldiers (on issues such as, for example, taxes, wills, family law, and consumer law). They may also assist command with a wide variety of other issues such as, for example, administrative matters, investigations, and personnel issues. In wartime, they may be called upon to provide advice on issues such as the handling of prisoners of war, Rules of Engagement, and Law of War compliance.

Glenn Harwood answers our questions:

1. When and how did you decide to pursue a career in military law? Why?

I started out as an Infantry officer 10 years ago. In 1998, the Army sent me to law school under the Funded Legal Education Program. Law school for free? Why not!

2. What exactly does a JAG officer do in a war zone?

JAG officers advise the command on a variety of issues including: Criminal Law; Administrative Law; Foreign Claims; Rules of Engagement; International Law and the Law of Armed Conflict (Law of War); and

JAG Continued p. 4



Captain Glenn Harwood '01, left, and Captain Bill Ruhling '00, at an American military camp in Kuwait.

Photographer Unknown

Students Debate Draft

Prof. Neal Devins leads discussion on draft's potential political effects

by Marie Siesseger

Professor Neal Devins led a breakfast discussion for students on March 17 in which he posed a novel question: "Should there be a draft?" Devins suggested that because of the lack of incentives in the current political environment for Congress to take action regarding the impending war against Iraq, the draft would create the constituent pressure necessary to provoke Congress into action.

Professor Devins based the discussion on a conference paper he had written recently and prefaced the session by stating that while he had no hard opinions on bringing back the

draft, he did not think that it was a probable solution to the problem of Congress' reluctance to take a leadership role with respect to the war against Iraq.

As a practical matter, the draft simply won't be resurrected in today's political environment, noted Devins.

"The Constitution is made more stable by having the branches disagree with each other," said Devins, emphasizing the importance of checks and balances in the federal government.

According to Devins, the checks and balances aren't working particularly well at the moment because the all-volunteer military effectively eliminates, or at least greatly diffuses, political incentives for Congress to take affirmative action. Although the president does have a strong incentive to expand the powers of the office

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Regent wins Invitational Moot Court Tournament

by Jamie Orye

The William B. Spong, Jr. Invitational Moot Court Tournament is regarded as one of the most highly competitive and well-judged moot court tournaments in the nation.

Co-sponsored by the Virginia Trial Lawyer's Association, this year's tournament drew sixteen teams to Williamsburg over the February 21 weekend. These teams included Fordham, Georgetown, Regent, Brigham Young, and George Washington University. According to at least one judge, the level of talent is such that several appellate clerkships have been given based in large part upon Spong tournament performance.

Friday evening, each team argued the case of Tariq Mahoney, et. al., Petitioners, v. Colonel Nathaniel P. Jessop, et. al., Respondents. The problem, written by Spong Research Justice Ian Conner, '03, centered on the issue of whether Tariq Mahoney, a German national and Guantanamo Bay Naval Station detainee, who allegedly collaborated against the United States with members of the terrorist group Al-Qaeda, has the right to petition a United States court for a writ of habeas corpus.

Drawn from several federal district and appellate court decisions, most visibly *Hamdi v. Rumsfeld*, a case that has been bumping around within the Fourth Circuit, teams were asked to delve into, among many others, such difficult and controversial issues as the status of those detained in Guantanamo Bay and what rights these detainees enjoy, if any.

Historically the tournament problem deals with a constitutional law issue of immense social, political, and legal significance. Last year's problem, written by Melissa Ann Newton, '02, centered on the higher education affirmative action debate embodied in *Grutter v. Bollinger*.

After preliminary rounds completed

on Saturday morning, the field was paired down from sixteen to the best eight, based on a combination of oral argument and brief scores.

Finally, emerging from the intense competition of the two preliminary rounds, the quarterfinals, and the semifinals, were two teams possessing superior appellate advocacy skills – South Texas College of Law and Regent University School of Law.

At 4:30 p.m. in the McGlothlin Courtroom, the two teams squared off, with Regent representing the petitioners and South Texas representing the respondents. The final round saw an all-star cast of judges (and an all-star bailiff – Sean Tepe, '04), with over 130 years of judging experience between them, assembled to determine the winner.

One of the highlights of the Final Round saw Judge Farnan force the respondents to admit that it was their position that were the President of the United States, using U.S. armed forces, to capture 5,000 individuals from outside the U.S. and bring them to Guantanamo Bay and then order them executed, those detainees would have no right to judicial review from any U.S. court.

Following the Final Round, the competition ended and the festivities began. First, the Moot Court Board hosted a cocktail reception for the teams and judges in the law school's new North Wing. The reception was bartended by Mike Williams, Brittney Campbell, and Laura Schempf. After the reception, competitors and judges were shuttled to the Radisson-Fort Magruder Inn and Conference Center for the Awards Banquet.

The Awards Banquet was kicked off with remarks from the law school's own Dean Reveley. After dinner, the presentation of awards began with the Spong Memorial Award, which is presented each year to a person who has steadfastly and loyally supported the William & Mary Moot Court program.

This year saw the award go to Harry L. Carrico, retired Chief Justice of the Supreme Court of Virginia.

The presentation, given by Zeke Ross, recognized Chief Justice Carrico not only for his dedication to the William & Mary Moot Court program, which is exemplified by the fact that he has been a Spong Tournament judge for thirty-one of the Tournament's thirty-two years, but also for his commitment to and advancement of Virginia's judicial system.

Ian Conner presented awards for Best Petitioner and Best Respondent's briefs to the two teams from South Texas College of Law. Professor Christie Warren presented awards for Runner-up Best Oralist and Best Oralist to competitors from Georgetown and Fordham, respectively.

Dean Reveley then presented Second-Place and Championship awards. Screams and cheers were heard from the

Regent University table when Dean Reveley announced that South Texas had won the Second-Place award. This win was Regent's first at the Spong Tournament.

This year, several members of the Moot Court Board were particularly instrumental in the success of the tournament. Ansley Peacock and Ashley Moore spent countless hours planning the tournament's every detail. On Saturday, both put in a sixteen-hour day taking care of every team member, coach, and judge.

Ian Conner not only wrote the tournament problem and answered all the teams' questions about the problem (including the classic: "What do you mean by 'standing?'"), but also supervised the bailiffs and the scoring. Additionally, Sean Tepe, Max Wiegard, Kendra Arnold, Erin Butler, and many other second-year students helped bring the tournament off by serving as bailiffs and performing many other important duties.

Draft effects Congress

Continued from p. 1

through policy-making, the members of Congress care far less about the institutional interests than their individual political interests.

Thus, said Devins, unless voters can be made to care (through the implementation of the draft), Congress will continue to have no incentive to stand up for its institutional powers.

Devins gave five reasons to explain the stark gap between the President's and Congress' incentives with respect to war powers. These include the lack of constituent pressure upon Congress, the fact that fewer members have served in the military, the perception that the executive is better equipped and more effective at dealing with military matters, the better access the President has to the media, and the increased focus of members on local issues and fundraising.

The public willingness to accept loss

of life is another major factor in the political calculus surrounding war, said Devins.

Students offered suggestions as to how to eliminate the incentives problem, including mandatory service, financial rewards for localities whose membership in the volunteer military is high, and creating liaisons between civilians and front-line soldiers.

Several members of the student audience were adamantly opposed to the draft, arguing that it was an unconstitutional deprivation of liberty, and potentially even life. Ultimately, however, the group decided that the possibility of reinstating the draft as a mechanism for creating responsiveness in Congress would be little more than an interesting academic puzzle.

The event was jointly sponsored by the Institute of Bill of Rights Law Student Division and the Military Law Society.

THE AMICUS CURIAE

William & Mary School of Law

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Letters to the Editor may not necessarily reflect the opinion of the newspaper or its staff. All letters to the Editor should be submitted by 5 p.m. on the Thursday prior to publication. *The Amicus* will not print a letter without confirmation of the author's name. We may, however, withhold the name on request. Letters over 500 words may be returned to the writer with a request that the letter be edited for the sake of space.

Public Service Fund Holds Annual Date Auction

The 16th Annual Public Service Fund Date Auction brought over 150 law students to bid for 34 dates

by Marie Siesseger

The characteristic cry of the auctioneer—"Going once, going twice, gone!"—reverberated throughout the University Center last Saturday night as a procession of volunteer dates strutted their stuff across the stage at the 16th Annual Public Service Fund Dinner Date Auction.

With over 150 students and friends in attendance, the 34 dates entertained and amused with acts designed to raise their going rates and show off their . . . assets in the best possible light. Most of the volunteer dates seemed to be of the opinion that where costumes were concerned, less is more, and clad themselves accordingly.

The hard work of organizers Laura Schempf and Brittney Campbell, and their support staff of PSF volunteers, certainly paid off—approximately \$6500 was raised during the three-hour long event.

Hosted by Kathy Sacco and Sarah Rohn, the Date Auction featured a stunning (and at times shocking) array of hidden talent within the Law School community. Ensembles performed dances and skits ranging from a flirty beach-ball bounce by Lauren Schmidt and Sara Aliabadi to the mad-house antics of Rich Hadorn, Geoff Grivener, Sony Barari, Steve Del Percio, Sam Olive, Rick Collins, Theo Lu, and Carl Neff.

George Booker and Bo Foley performed a choreographed routine involving progressively less clothing to a medley of songs, and Allison Hatchett, Shannon West, and Elsa Nethercott followed suit, losing a layer of clothes before dousing themselves and some of the audience with water in the course of their dance routine. Rob Maylor and Michael Broadus took command of the stage and the microphones and

crooned for their bids. Auction co-host Barrett Thies turned in one of the more memorable appearances of the evening by dropping his trousers and dancing around the stage a la Tom Cruise in Risky Business.

**"Overall I am extremely happy with how the Date Auction went."
- PSF President William Bowen**

In addition to the student dates, a number of packages, including a week at a beach house, Bar review course, Dean Reveley's parking space, and dinners with professors, were offered up for sale in the silent auction.

PSF President William Bowen said, "Overall I am extremely happy with how the Date Auction went. Our total was down from previous years, but it was above our projections."

Bowen also noted his appreciation of the volunteer dates and the professors who donated packages to the auction on behalf of PSF. The proceeds of the Date Auction will go to the Public Service Fund's summer stipend program, which provides financial assistance for students who take unpaid internships in the public interest sector.



First year law students Rob Maylor and Mike Broadus serenading their way to high bid numbers.

Photograph by Adrienne Griffin



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Courtroom 21 trial to focus on terrorism funding

Experimental Trial will use cutting edge technology to test its use in terrorism cases

by Tammi Flythe
& Prof. Fred Lederer

The Courtroom 21 Project has announced that this year's high-technology experimental trial, *United States v. Stanhope*, will be a prosecution of a U.S. citizen who attempts to fund an Al Qaeda terrorist strike in the U.S. using in part the hawala, the ancient, virtually untraceable money transfer system.

Defendant Stanhope is charged under 18 U.S.C. 2339B, Providing Material Support or Resources to Designated Foreign Terrorist Organizations, with converting a valuable

painting to gold for terrorist use. Her boyfriend carries the painting to Dubai where it is sold for gold. Using the hawala system, the gold is transferred through Beirut to a charity in London. The funds are then transferred to the charity's Berlin office which then helps finance a company whose executive uses the funds to hire and support two men who plan to buy and use demolitions in Virginia.

The trial will be heard in the world-renowned Courtroom 21 Project's McGlothlin Courtroom—the world's most technologically advanced trial and appellate courtroom. The Project is an ongoing international demonstration and experimental effort which seeks to determine how technology can best improve all components of the legal system. It was a 1997 recipient of a Foundation for Improvement of Justice Award for its efforts to improve the administration of justice through technology.

United States v. Stanhope is part of the Courtroom 21 Project's ongoing experimental efforts and will feature courtroom technology at the highest level. As currently planned, the trial will incorporate, via videoconferencing, concurrent judicial hearings in Australia and the United Kingdom as three jurisdictions litigate the potential admissibility of a lawyer's testimony concerning his client's confidences.

The project will use evidence presentation, interpretation, and remote testimony. Counsel will also use wireless instant messaging to communicate with the court and their assistants working outside the courtroom, while the court will publish the most comprehensive court record now available contemporaneously to the public via the world-wide-web.

After viewing the evidence electronically, the jury will determine its verdict while using deliberation room technology. The Courtroom 21

Project, the model for the Michigan Cyber Court, will use all of its storied cutting edge technology to test the desirability of its use in the day-to-day search for justice. The Laboratory Trial will be conducted with the assistance of the Federal Judicial Center and the Counter Terrorism Section of the Department of Justice. The Honorable James Spencer, United States District Judge for the Eastern District of Virginia, will preside over the trial.

United States v. Stanhope will be tried Saturday, April 5, 2003 in Williamsburg, Virginia, at the William & Mary Law School's McGlothlin Courtroom, South Henry Street, beginning at 9 a.m. The trial will last one day. Journalists are invited to observe the case.

Space is limited and students interested in attending should reserve seats as early as possible by calling (757) 221-2494.

JAG: Duties vary greatly

Continued from p. 1

Prisoners of War. We also assist the soldiers with personal legal issues that arise during deployment like Family Law, Consumer Law, taxes, etc.

3. What is the most satisfying part of your work? The least?

As with all types of legal work, there is the mundane and exciting. I enjoy the Criminal Law (prosecutor role) aspects the most. The least satisfying are all the meetings and briefings I attend daily or weekly.

4. What is the most interesting legal work you've done while stationed? What do types of cases do you usually handle?

I don't do a lot of interesting legal work yet, but I've become quite an accomplished field barber.

5. Can you tell us about some of the conditions of military life in Kuwait? What are the best and worst aspects?

Life in Kuwait...sandy, scarce showers, lots of MREs (meals ready to eat), getting warmer, dirty clothes, did I mention the sand? I miss my family (wife and three kids, one on the way in June).

6. When in the foreseeable future will you be able to see your family again?

Hopefully I'll get to see my family before my son is born at the end of June. If not, then as soon as possible.

7. What is the most interesting thing you have learned while stationed in Kuwait (e.g., regarding Kuwait's culture, legal system, political structure)? What, if anything, have you learned about the Middle East in general?

Haven't gotten to learn anything about Kuwait. I live a sheltered existence here. What I learned about the Middle East is that I love America!

"What I learned about the Middle East is that I love America!"
-Captain Glenn Harwood, '01

8. What is your favorite memory of law school? Least? Is there anything you want to say to any of your former professors?

I had a great time at W&M! Just tell the profs "Hello." I keep in contact with a good number of them already. Several have sent emails expressing their support.

Also, don't think Billy and I are the only ones over here. I don't know who else is, but there are now and have been many W&M Law grads besides us here and in Afghanistan.

9. What are your career plans after your obligation to the military has been fulfilled? Will you renew your contract, or do you have other plans?

I plan to be in the Army as long as they'll have me.

Thanks to Jaime Welch-Donahue for providing contact information.

Dean Butler: Course catalogue improved

New schedule offers more classes, more professors, more variety

by Gary Abbott

It's time to plan your future again, and Dean Butler promises you plenty of opportunities for next year. More classes, more professors, and more variety.

Although Professors Lee, Dickerson, and Gerhardt will be out on leave or visiting at other law schools next year, Professors Ward, Urbonya, Douglas, and Koch are back after research breaks and visiting.

Professors visiting W&M for some part of next year include: Betsy Malloy and Elizabeth Thornberg, both W&M undergrads with out-of-town JD's; Steve Mulroy, a W&M Law alum; David Frisch, a leading figure in commercial law and a past visiting professor who must have liked the experience; and Linda Rusch and Robert Danforth, professors from Hamline and SMU, respectively.

The depth of next year's faculty allows for additional and new class offerings. Dean Butler made special note of three new classes. Conflicts,

from visiting Professor Thornberg, is a class not offered in years. Visiting Professor Mulroy will hold a civil rights seminar class, different from Professor Urbonya's (so take both). And, for the first time in Dean Butler's memory, a class on the First Amendment, perhaps especially apropos since 9-11 and Homeland Security actions.

Regarding the schedule in general, Dean Butler said that two past goals have nearly been accomplished. First, with the exception of Civ Pro, there are three classes offered for each 1L requirement, a real need as entering class size has slowly grown over the years.

Second, in response to 2L and 3L complaints, the sheer number of classes offered in fall and spring is almost equal. We won't need to pull a 17 credit hour semester to get what we want.

Future offerings depend on what we do as students. A past year's enrollment determines the following year's schedule. Low interest and attendance and the class is gone. One thing Dean Butler expects to continue, though. More seminars in spring semester than fall. That's when slack 3L's are finally getting around to their writing requirement.

The Black Law Student's Association Presents:

Keynote Speaker
Esther H. Vassar

**Commissioner on the Virginia Department of
Alcoholic Beverage Control Board**

**W.C. Jefferson Chapter
Black Law Students Association**

Hill Being Sworn in
as assistant to the
commissioner for
intergroup relations
in 1961 by FNA
commissioner Neal
Marty as Hill's wife,
Berensson, assists



Hill, Edwin Brown and Spottswood
Robinson III, who argued in 1957
for admission of black students
to white schools
in Arlington

Annual Oliver Hill Scholarship Banquet

Banquet Information

- ◆ Sunday, March 30, 2003
- ◆ William & Mary University Main Campus
- ◆ University Center, Tidewater A
- ◆ 3:00 p.m. - 6:00 p.m.
- ◆ \$20 for students
- ◆ \$25 for non-students
- ◆ RSVP by Tuesday, March 25, 2003
- ◆ Contact: Jessica Cook at jtcook@wm.edu

Each year the W.C. Jefferson Chapter of BLSA sponsors a banquet to honor the legacy of Oliver Hill, to recognize the accomplishments of BLSA members and to raise funds for the continued existence of the Oliver Hill Scholarship. This year the chapter will again award a student from the William & Mary School of Law with the Oliver Hill Scholarship. In addition at this year's banquet, BLSA will be honored with the presence of both Ms. Vassar and Mr. Oliver Hill.

Ms. Vassar has volunteered a considerable amount of her time to assuring that people know of the phenomenal accomplishments of Mr. Oliver W. Hill. She was instrumental in the publication of Mr. Hill's autobiography by raising money for its publication, served as coordinator for the Oliver W. Hill Bust Commission and raised money for a bronze bust of Mr. Hill, and created and raised the funds for the Oliver W. Hill Freedom Fighter Award program and reception. She serves as a Board Member on the Oliver W. Hill Foundation, and she is an Honorary Member of the National Committee that is planning the celebration of the 50th anniversary of the Brown v. Board of Education Decision.

Students found George Wythe Society

by Susan Billheimer

The George Wythe Society and Foundation emerged this semester determined to polish up Marshall-Wythe's posh heritage, rearrange some furniture, and tap into CW's resources.

As one of the Society's Founding Fathers, Ian Rably (1L) puts it, "The law school has such a unique history, both in regards to the influential figures involved in its past, and in its proximity to the former Capitol of the Colonies. It's a shame that that history is not visibly promoted, and that the resources at the nation's largest living museum are not utilized."

"The goal of the George Wythe Society is thus to do both: connect the law school with Colonial Williamsburg and improve the appearance of the school by adorning the building with indications of our august beginnings."

At the opening meeting on March 13, Rably discussed ways for the Society to cultivate awareness of the law

school's history. Some suggestions included replacing generic watercolors with portraits of historical figures, renaming classrooms to remind students and visitors of prominent alumni, and hanging plaques to describe items of historical significance.

In addition, the Society is talking with the Colonial Williamsburg "George Wythe" interpreter and actors involved with the Court Building to have them share their perspectives on colonial legal traditions with law students. It plans to hold events in the Colonial Williamsburg Capitol and Court Building and start a moot court in the style prescribed by George Wythe.

Dean Reveley is the faculty sponsor.

For all those interested, the George Wythe Society and Foundation will be meeting again on Thursday, March 27 in Room 119 at 3pm. For more information, contact Bruce Davis at bsdavi@wm.edu.

"The law school has such a unique history... It's a shame that that history is not visibly promoted..."
- Society Founder Ian Rably



Michael Thompson learning about alternative legal careers.

Photograph by Lauren Fassler

Career Conversations

Office of Career Planning & Placement hosts forum on alternative career paths

by Marie Siesseger

Beer and pizza? Those sound more like essential ingredients for a Friday night with a movie and friends than the OCPP-recommended accoutrements for finding a fulfilling legal career. But recommended they were.

In fact, the advertising gurus at the Office of Career Planning and Placement put forth a concerted campaign to entice students to the "Alternative Career Conversations" program on Friday, March 14th. Their efforts paid off nicely, as approximately 160 students from William & Mary, Regent University, and the University of Richmond participated in the program.

Representatives of industries and occupations ranging from Sports Management to Legal Journalism to Association Management manned tables and fielded questions from students interested in the possibility of applying their legal education in a less traditional marketplace.

Steven Burnette, a Human Resources lawyer with Trader Publishing Company and alumnus of William & Mary,

told students about his decision to forego the traditional law firm experience altogether and move directly into the industry that had captured his attention during law school.

William & Mary School of Business professor Ned Waxman spoke about the path that led him to teaching and told students about the rewards of a career in academia.

Another William & Mary Law School alumnus who is currently working in Investment Banking, Jon Mahan, emphasized the usefulness of a legal education and the universality of the analytical skills taught in law school.

The alternative careers forum was part of an ongoing effort by OCPP to introduce students to potential career paths.

Dean Robert Kaplan noted, "Some students come to law school not wanting to practice law and with a general sense that a J.D. can open a lot of doors, but they don't often know about the specific options available to law graduates. This program offered a snapshot of the broad range of career choices open to lawyers."

According to Kaplan, feedback from students and employer representatives was very positive.

Other OCPP-sponsored activities include the Lunch with Lawyers series, which most recently featured criminal law attorneys.

LeClair Ryan

1L Reception

Thursday, April 3, 2003

6:00 until 8:00pm

The Green Leaf Café
765 Scotland Street

RSVP to Andrea McClellan at
amcclellan@leclairryan.com
804.783.7513

Business Casual Dress

IBRL hosts debate on DeSoto's theory of property rights and economic development

by Ted Lotchin

"Capitalism stands alone as the only feasible way to rationally organize a modern economy. At this moment in history, no responsible nation has a choice. As a result, with varying degrees of enthusiasm, Third World and former communist nations have balanced their budgets, cut subsidies, welcomed foreign investment, and dropped their tariff barriers. Their efforts have been repaid with bitter disappointment. From Russia to Venezuela, the past half-decade has been a time of economic suffering, tumbling incomes, anxiety, and resentment; of starving, rioting, and looting." With this stark description, economist Hernando de Soto introduces the struggles and successes of capitalism around the globe.

In his groundbreaking book, *The Mystery of Capital*, De Soto argues that the inadequacy of property law in Third World and former communist countries has led to an inability to produce sufficient capital. Without the ability to record ownership and to centralize this information for easy access, these countries are locked into inefficient uses of both public and private property.

De Soto's extensive work with developing economies has brought him a variety of professional accolades: President of the Institute for Liberty and Democracy, one of Time magazine's five leading Latin American innovators

of the century, and one of Forbes magazine's 15 innovators "who will reinvent your future," among others.

However, De Soto's reputation has not placed his theories beyond the reach of academic discussion and criticism. The Institute of Bill of Rights Law (I.B.R.L.) joined the debate on Friday, February 28th, 2003 with Property Rights and Economic Development, a program of alternative and complementary perspectives on De Soto's work. Moderated by Professor Eric Kades, the I.B.R.L. brought together a multi-disciplinary panel of experts from across the country for a series of presentations and discussions.

In the first presentation of the day, Dr. Jenny Lanjouw outlined a cost-benefit analysis for land titling programs in developing countries. Dr. Lanjouw, a Senior Fellow in Economic Studies at the Brookings Institution, outlined the results of her surveys in urban Ecuador. Based on a random sample of households in Guayaquil and Quito, Dr. Lanjouw's surveys focused on the process costs of providing land titles to urban squatters.

In contrast to De Soto's results, Dr. Lanjouw found that the importance of formal property rights declined in communities with established informal mechanisms of protecting property. For example, titling urban squatters provided less of a benefit to communities with more adult males and to communities

with private "bosses" responsible for doling out informal property rights. Predictably, titling programs made more of an impact in younger communities without established "bosses". In short, while titling programs provide a number of measurable benefits to their target communities, Dr. Lanjouw also found significant costs that must be taken into consideration.

In contrast, Joyce Palomar presented an analysis of the recent reforms aimed at achieving land tenure security in China. A Presidential Professor of Law at the University of Oklahoma College of Law, Prof. Palomar's work focused on whether an effective property rights system is the only reform needed in developing economies.

While Prof. Palomar recognized the benefits that land security holds for developing economies, she argued that property rights alone would not create stability. Any legal reform must be supported by concurrent improvements in enforcement, legislation, title registry systems, and private indemnity contracting. Without these changes, the potential benefits for economic development cannot be realized.

In a departure from the earlier panel, Erica Field presented research from her dissertation on property rights and the labor supply in urban Peru. Ms. Field, a doctoral candidate in Development and Labor Economics at Princeton University, focused on the improvements in labor markets produced by a land titling program for urban squatters.

She found that prior to implementation of the land titling program, known as C.O.F.O.P.R.I., households without title to their property spent significant amounts

of time protecting their property from competing claimants and navigating the complexities of the formal titling system. Following C.O.F.O.P.R.I.'s implementation, which affected almost 2.6 million individuals, households that received formal title to their property increased the time spent in the formal labor supply by over 16 hours per week. In addition, children in households that received a formal property title were 28% less likely to be engaged in the labor force than children in households that did not receive a formal property title.

In the final presentation, Dr. Ruth Meinzen-Dick discussed legal pluralism as it relates to property rights and policy. Dr. Meinzen-Dick, a Senior Research Fellow at the International Food Policy Research Institute, argued that recognizing the coexistence and interaction of multiple legal orders, such as international law, state law, and religious law, holds the key to developing effective policy on property rights in emerging economies.

While Dr. Meinzen-Dick's research produced mixed results on the benefits of land tenure security on market economies, she reported that the differential impact of each legal system has produced a confusing array of overlapping property rights, claimants, and mechanisms for settling disputes that must be addressed in order to achieve De Soto's vision.

While De Soto's work has received both praise and criticism, the variety of viewpoints presented at the I.B.R.L.'s conference on Property Rights and Economic Development demonstrate that his hypotheses remain at the forefront of international debate.

Jackson: Law school considering lunch plan

by Adrienne Griffin

Dean Jackson would like to give students an update on the possibility of dining services here at the law school. Aramark, the company that runs the food service on the undergraduate campus, approached the law school with the idea and conducted a meeting here earlier this semester.

The lunch offerings could be purchased with cash, W&M debit card or through a meal plan. The idea seemed to have the general support of both students and faculty.

Several questions remain, however, including hesitation about allowing a large vending area to take over seating space in the lounge and the importance of retaining coffee service in the mornings. There is also concern about

not ruining the ongoing relationship the school has had with Manhattan Bagel. Finally, it is also possible that the school's limited population would not be able to support the service, or that in order to make a profit for Aramark, the food would have to be very high priced. Dean Jackson says that the Aramark representative took the concerns and comments of the law school back to the company and that no decisions have been made.

Dean Jackson has nothing further to report on the recent incident in the library, but would like to remind all students not to prop the outside or library doors after hours. Also, please do not let anyone into the building who is not known to you or who claims to have lost his or her ID card.

The Corner Pocket presents Jon Wade Quintet

JAZZ every thursday night 7-9 pm

featuring ■■■■ bill brown on trumpet
mike jacobs on saxophone
jordan ponzi on bass
ryan corbitt on keyboards
jon wade on drums



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Career Services upcoming events

Spring is not too late to find employment!

by Shannon Hadeed

This week's number one pick:

Don't forget to the deadline for PSF and non-PSF funding for summer internships is this week! Public Service funding is a great way to get your volunteer summer internships either paid for or supplemented. The application process is fairly straight forward and can be accessed online or at the OCS office. Don't pick it up at the last minute though, there are essays to write!

Judicial Clerkships

Don't forget that this process is much easier than it looks and is a great experience to have at the beginning of your law career. William and Mary students are very attractive candidates for judicial clerkships, the national average for law schools is an 11% participation compared to William and Mary at 20%. If you missed the meeting, ask anyone in the Career Services office how to apply.

Spring Job Fair

March 28th there will be a spring job fair for small law firms from Virginia, D.C., and Maryland. There

are 22 law firms participating, 13 are doing on campus interviewing and 9 more collected resumes. If you aren't already signed up, you missed your chance for this year, but make sure to keep it in mind for next year's job search. Spring is not too late to get a job!

YOU CAN'T MISS THESE TWO PROGRAMS

How to succeed in your summer internship (April 8th)

"This is the most important program we put on all year. It is so important to have a good summer experience. There are so many things that you need to know and it's easy to make a big mistake" Dean Lewis. The program will include ways you can prepare for your summer internship, how to handle multiple assignments, the culture, partners, social events and much more.

How to get a jump on the fall job search (April 8th)

"You can't wait until fall to start the job search, you just can't." Dean Lewis. The program will cover things you need to do over the summer including participation in job fairs that happen before school starts. Third year students will talk about the techniques they used to get great jobs and how they may apply to you.

What You Missed

What can you do with a Law Degree?

With high student participation and a large variety of participating employers from alternate legal careers, this event was a rounding success. The employers were energized by the enthusiasm of the stu-

dents and their insightful questions. If you missed it this year though, the next time around won't be until the academic school year of 2004-2005. However, you can still contact OCS to find out about the employers who participated and other sources for alternate career paths for lawyers.

Tips and Suggestions for the Job Search:

1. April is a time when jobs pop up, the government finds more funding, law firms discover they have more work, etc. So don't give up searching!
2. The job bank is updated and added to daily, so don't forget to look.
3. Go visit the people in the Office of Career Services. They are a free resource dedicated to helping you find a job. (Really, it's their job to help you find one, so go put them to work.)

Phi Delta Phi Supreme Court trip successful

by Susan Billheimer

Phi Delta Phi's annual trip to the US Supreme Court met with no small degree of adversity, but pulled through nicely.

First, Justice Antonin Scalia backed out due to after-effects from rotator-cuff surgery. Then a snowstorm blew into town, so that the vanload of hardy souls willing to get up at the crack of dawn were forced to struggle through poor weather conditions and sluggish traffic. Thanks to some steady navigating by Stacy Haney (1L), we managed to find our way up to the Supreme Court.

Once there, however, things ran smooth as silk.

The first set of arguments, *Roell v. Withrow*, dealt with whether a post-trial consent to proceed before a federal magistrate judge cures any failure

to consent pre-trial. The arguments were pretty technical. Our ears pricked up for *Dow Chemical Co. v. Stephenson*, which challenged the 1984 class action settlement between Agent Orange manufacturers and Vietnam veterans exposed while in service.

Justices O'Connor and Breyer fired off questions tirelessly, giving us a glimpse of what to do, and what not to do, in oral arguments. In a nutshell, arrogance is bad, intimate knowledge of a case coupled with incredible poise and deference to the Court is good.

Nicely inspired by the arguments, we finished our day with a nice tour of the building and returned home to Williamsburg.

For more information about this, or other Phi Delta Phi events, please contact Jessica Taverna at jgtave@wm.edu.

IBRL Presentation on white collar crime

by Adrienne Griffin

The Institute of Bill of Rights Law and Professor Paul Marcus presented the program "Prosecuting White Collar Crime" on Friday, March 21st at the Law School. The program featured three main presenters, who spoke about papers they have written in the area.

John Douglass, from the University of Richmond Law School, began the day with "Ethical Obligations of Prosecutors." William and Mary's own Mechele Dickerson spoke about "Searches in Bankruptcy Proceedings," in which she argues that the public interest does not justify searches of the bankrupt's home, especially since there is nothing in the Bankruptcy code that prescribes such searches or gives notice that they could occur.

Debera F. Conlon, an Assistant U.S. Trustee for the Eastern District of Virginia, pointed out that those who have declared bankruptcy have a lower ex-

pectation of privacy since they are required to catalog all of their possessions in minute detail. She ultimately agreed with Professor Dickerson, however, in concluding that there are other methods to discover hidden assets that should eliminate the need for home searches.

Finally, Thomas G. Snow, an attorney with the Justice Department, explained the importance of learning how to use mechanisms such as extradition treaties and mutual legal assistance treaties (MLATS) in the ever-expanding world of "International White Collar Crime."

Such mechanisms are indispensable to the prosecution of cases involving narcotics, money laundering, terrorism statutes and victims who have been wronged via the Internet or telephone by people outside the United States.

These three papers will be published in an upcoming edition of the William and Mary Bill of Rights Journal.

THE AMICUS

An Open Letter...

Dear Dean Jackson *et al*,

I've been meaning to say this for a while, but it just hasn't come up in the conversation.

THE NEW WING (North



by Gary Abbott

Wing, whatever) IS GREAT! This is my first semester having class in it and it feels like a whole new school. New, light, bright, airy, spacious, just about everything for which a wannabe could ask. The curved hallways, in fact, are a brilliant idea. Terrorists, assassins, and gone-postal IL's can't get a good line-of-sight aim on the rest of us.

There's just this onnnnnne little problem I wanted to mention. Nothing really bad. Just a minor inconvenience really. It's just kind of distracting and tends to keep some of us from devoting our full, undivided attention to the extremely valuable information being imparted to us by our professor's. Just a little thing you may not have noticed.

...well, not counting the iron maiden, Salem witch trials interrogation style seats we have. I've figured out the beneficial aspect of them I think y'all intended. Besides 12-oz arm lifts, isometric exercises are the only workout some of us get as students. I'm seeing a fair number of Olympic runner caliber developing thighs in class. So thanks.

...and that the clocks in most rooms are only visible to the professor. But I've got a wristwatch and have learned to surreptitiously check it when the professor is writing on the board (what do you call those non-chalk shiny white "blackboard" things for which the pens are always dry?) or engaged in a public intellectual exercise with a student in a direction away from me. Although it is a practical skill that probably should be addressed in Legal Skills, I think it will be valuable if I ever actually get into real-life court time. So thanks.

...and those bleepin' low-flow, high intensity faucet aerators (at least in the men's room. I haven't made an after hours reconnaissance of the other facilities.) that are determined to splatter my clothes, the walls, and anybody walking in unannounced if the stream is interrupted by so much as a toothpick. But I've stopped recycling my

toothpicks now and I'm certain that is a more hygienic, hence healthier, practice. So thanks.

But, really, the only problem worth mentioning is one that you can correct with minimal, in-house effort. It has to do with the thermostat settings in EVERY room in the North Wing. They stay at a constant 68 deg. F. It's too late this school year to make a difference, but rather than being moot or improvident, my suggestion is aimed at future cold weather experiences.

While memories of ancient history often become fuzzy even when you were there, I believe it was '72 or '73, during the first oil company hyped "energy crisis," that then-President Ford, originator of the Whip-Inflation-Now "WIN" button economic stimulus plan (another imminently successful Republican fix-the-economy idea), put out an executive order for thermostats to be set at 68 and interstate speed

limits to be reduced to 55 mph. It COULD have been in '77 or '78 when then-much-more-in-touch-with-the-people-President Carter put on a sweater for his fireside chat with the public, turned off the Christmas lights, and asked for similar sacrifices during another "energy crisis." But I remember a heated(?) discussion amongst a dozen of us yardbirds on third shift in a freezing-assed trailer sitting next to the James River and the under-construction Eisenhower aircraft carrier (DEFENSE weapon, dammit. The designation of Carrier Vessel Attack Nuclear had already been changed to CVN.) where we decided it was NOT unpatriotic to jack up the thermostat when it was this bleepin' cold. That would put it in the early '70's.

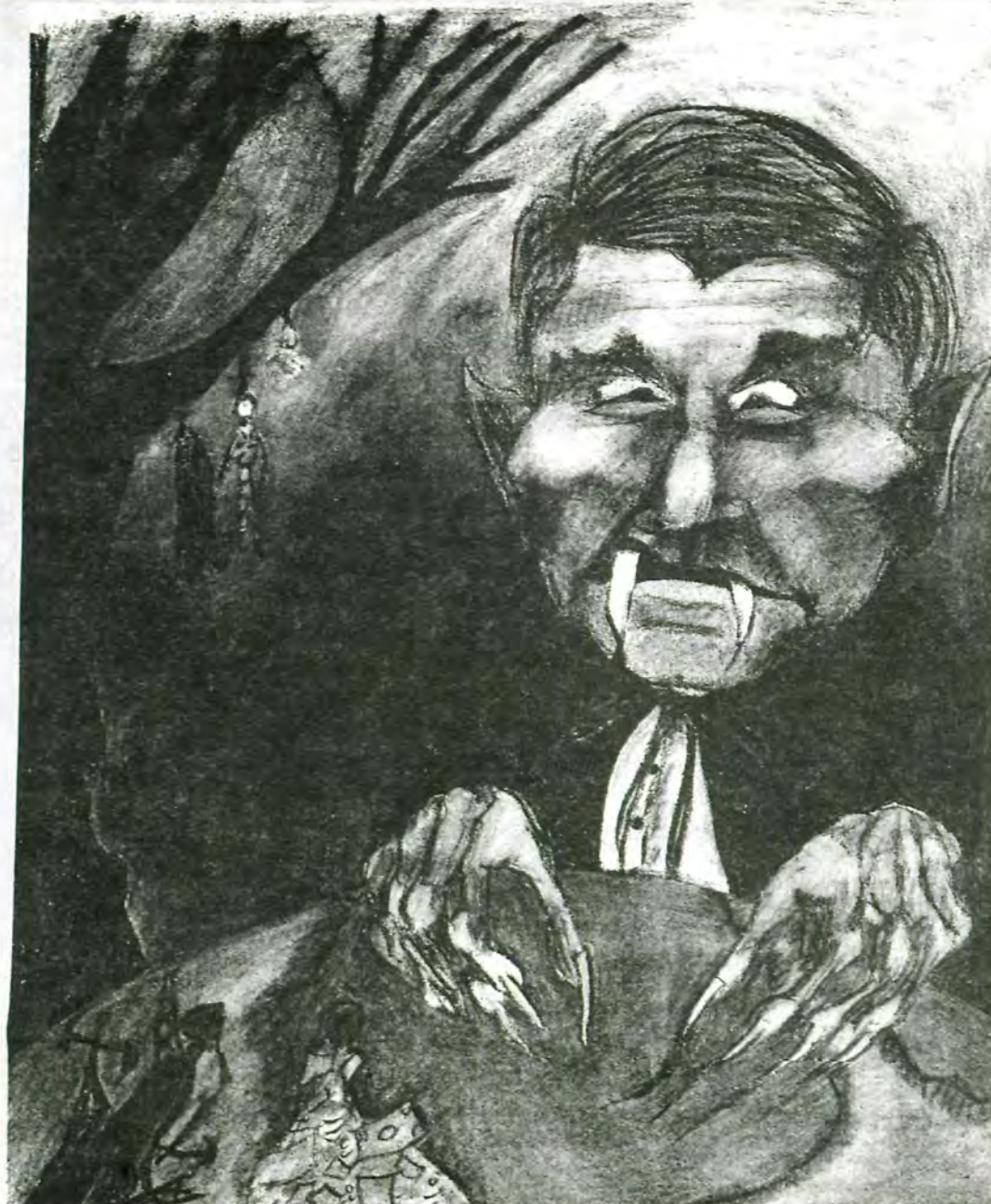
In the intervening 30 years, and about 15 since Sammy Hagar explained why we can't drive 55, inter-

state speed limits have risen to 70 mph and we have SUV's (thanks to past-President Clinton, the best Republican the Democrats ever got into office). I offer two different PC solutions to the NW thermostat situation.

- 1) Speed limits are up "15." Thermostats can go to "83" and fit 21st century guidelines. Or
- 2) Speed limits are up 27.3%. Thermostats can go to 86 deg. F and still save a smidgen.

Either fix would be tremendously appreciated by students and professors alike (or at least by me). If you simply can't see your way clear to making the change, would you at least consider swapping the classes with library storage space in the winter? You'd get a double benefit because books are preserved longer in frigid conditions.

Sincerely, (presumably still future 3L) Gary Abbott



Cartoon by Kate Jackson

My experience as a bone marrow donor

Reading this may help save someone's life.

With the annual Bone Marrow Drive approaching, I would like to share my experience with you in the hope that you will take a few minutes out of your day to register with the National Bone Marrow Registry. Last year, I was contemplating whether to finally sign up, which I had intended to do for quite a few years. Luckily, I signed up. As fate would have it, within months of joining the Registry, I was selected as a match for someone in need and spent a good portion of my Winter Break going through the donation process. The rewards of the experience far outweighed any inconveniences.

Before telling you about my experience, it's important for you to understand the stakes involved. Growing up in Tampa, my little sister was diagnosed with cancer (at age 4) and spent roughly three years in and around hospitals - having surgeries, enduring intensive chemotherapy sessions, and generally trying to survive when so many kids around her were dying.

Spending a good part of my early teenage years at All Children's Hospital, I had the privilege of meeting a great bunch of kids that had trouble mustering the energy to walk. The lucky ones survived.



by Ward P. Griffin

Many of them did not. And it seemed that each time we visited the hospital, we would learn of another tragedy.

The simple fact is that many cancers are treatable if caught in time. Leukemia - and other diseases like it - are a different story. In order to have a chance, doctors must find a suitable donor match among the many individuals on the Bone Marrow Registry. That's where you come in. YOU can help save a life.

Getting onto the Registry is EASY. At the scheduled times during the upcoming Bone Marrow Drive, simply approach the booth set up at the Law School, fill out the questionnaire, and give a small amount of blood. The entire process takes maybe 30 minutes. You will receive an identification card and some additional information. That's it. You may never get the call. If you're lucky, however, you will be notified - whether in a few months or a few years - that you are a match for someone in need.

Here's how it works. First, the National Marrow Donor Program (NMDP) must find a suitable hospital for the donation to take place. No hospitals in the Hampton Roads/Richmond area have the capabilities, so the NMDP will attempt to schedule your donation to coincide with a trip to visit your family or, perhaps, will fly you to a hospital of your choice. Once that has been arranged, you must have a physical, which includes blood tests, chest X-rays, and an EKG. Such testing may be done at MCV in

Richmond.

Once everything checks out, you will proceed directly into the donation process. Over the 4-5 days leading up to the extraction, you will be required to receive shots of a medication that stimulates your bones to produce additional bone marrow. You will experience one mild side effect: after the first couple days of injections, your bones will begin to ache a bit (though that easily can be cured with Advil). That aching fully subsides within one day of completing the donation.

There are two different ways to donate. The newest - and least intrusive - means of donating involve extracting peripheral stem cells, which is how I donated. This is an incredibly easy - and relatively painless - procedure. For approximately 6-8 hours (over a span of 1-2 days), you will be hooked up to a machine that withdraws blood from one arm, extracts the stem cells, then returns the remaining blood to your body through your other arm. It's very similar to giving plasma and no more painful than giving blood. This is an outpatient procedure, so you will not be required to stay overnight in the hospital.

You may be familiar with the old way of extracting marrow, which involves extracting bone marrow directly from your bones, typically in the lower back/pelvic area. Due to the use of anesthesia, donors undergoing this procedure are required to stay in the hospital (no more than 2 days, if memory serves). Please do not be frightened off by that statement! Though that possibility may seem frightening, it is important to note that doctors increasingly are requesting stem cells rather than marrow (the center at which I donated stated that approximately 90% of the requests they receive ask for peripheral stem cells). The likelihood that you would be required to undergo this procedure is slim.

That's it. Besides some follow-up blood tests to make sure that your body has returned to normal, the process is completed. The mild inconvenience that you endure allows another human being to have a fighting chance at survival. In my situation, the recipient was a 52-year-old woman suffering from myelodysplasia, a precursor to

leukemia. I don't know who she is, but I can only assume her importance to those in her life. For all I know, she's a wife, a sister, a daughter, a mother. At last check, the procedure went well and she is recovering, though it is too soon to know her long-term prognosis.

And that might be the greatest "fringe benefit" for the donor. As a donor, you will receive periodic updates on the status of the recipient. You will have an opportunity to follow the recovery of the recipient after the donation. After one year has passed, if both parties consent, the NMDP will release contact information to the donor and recipient, allowing for the two individuals to communicate with each other (and possibly meet in person).

But even if such contact never takes place, you will know that you gave that person a fighting chance at surviving. And that's what it's all about.

Here are a list of upcoming Bone Marrow Drive Events:

April 3rd: Bone Marrow Drive Sponsored Bar Review at La Casita Restaurant. Please come enjoy great food and drink specials. Proceeds to go to the Drive.

April 7th: The 4th Annual Kaplan March Madness Free Throw Event. This is a wonderful event in memory of Ali Kaplan. It is sure to be fun for everyone and all proceeds benefit the bone marrow drive. Free Pizza and beverages provided. So come test your free throw shooting skills on the Law School Patio.

April 8th: If you have questions about why it is important to be placed on the Bone Marrow registry or about what the procedures entail, please attend the Bone Marrow Drive Info Session in Room 119 from 12:50 pm till 1:30pm.

April 9th: Drive Day! Please put yourself on the National Bone Marrow Registry. Sign ups will be in the Law School Lobby from 11am till 6pm.

If you would like to volunteer to help with the Drive or have any questions, please email Jeff Thurner at jsthur@wm.edu

The Twelfth Annual Alan Bukzin Memorial

Bone Marrow Drive

Wednesday, April 9th, 2003

Each year, more than 30,000 people in the United States are diagnosed with fatal blood diseases. Many can be cured with a bone marrow transplant. Help save a life by putting yourself into the national registry.

The Bone Marrow Drive will be held in the Law School Lobby on April 9, 2003.

If you have questions about what it means to be put on the Registry or you would like to help with the Drive - please contact

Jeff Thurner (2L)
jsthur@wm.edu

Angel @ Law

Angel @
Law

by Shannon
Hadeed

Dear
God,

I have
decided on
behalf of my
fellow class-
mates and



by Shannon Hadeed

friends to expose the slave labor that is being propagated on law campuses nationwide: Law Journals.

It is all a self-serving device for law schools, lawyers, and faculty members. What is the purpose of law reviews? Well, it gives professors an opportunity to publish which in turn gives law schools a justification for hiring them, it also acts as publicity for the law schools and professors.

For lawyers it's a source of ideas, debates, and information about loopholes and other shady sections of the law for them to use to their advantage in their own work. Without this service lawyers would have to do all the research themselves. There would be no starting points on new law or different interpretations of old law, they would have to find all the information and ideas themselves. This would take time. Time is money. And money is where the slave labor comes into play.

Where do you have a highly educated work force with a bit of legal familiarity? Law School! So... now the question remains how do you tap into this labor force without having to pay high wages befitting the education level? You make it an honor to do drudgery work that you couldn't pay anyone with that education to do, you

make it a resume builder, a status symbol, a *privilege*.

If that wasn't enough, the participants actually have to pay the journal for the thrill of doing its dirty work. Work that lawyers wouldn't do. Work that professors wouldn't do. Work that the writers themselves don't even do. Endless blue booking and cite checking. And then the culmination, the ever looming and evil note.

Note writing is like playing lotto, one in every 7 million suckers wins. That means that it's a pretend prize. Law Journal's tell you it's not just about cite checks and footnotes; you have an opportunity to be published. What they don't tell you is that it's a scam. You won't be published.

Even if you are published nobody will read it unless they need that particular loophole to win a case. And then what did you accomplish? Nothing. You helped a lawyer that you don't know and don't care about win a case or do less work. Either way you look at it, other people are benefiting from the sweat off your brow, your loss of eyesight, your early onset of carpal tunnel syndrome, premature aging, constant headaches, ulcers, finger calluses, and most importantly, your time. And you did for free.

Let's say that again. FREE. No money. None, zero, zilch. And you wanted to!

You asked for it! I know lord, the law students are just innocent babes, they had no idea that they were being shuffled into a law school sweatshop never to escape the library to see the light of day. That is why I feel people should know the truth. I have decided to make various t-shirts that say "End Student Slave Labor. Stop Law Re-

views" and "Make Love Not Law Review" and "No Mental Taxation Without Financial Representation."

Just think; It could be a whole new revolution just like the tuna companies and dolphins when they changed their cans to advertise that they use dolphin safe nets. Only our law school will say, "We have student friendly law reviews, all of our students are fully paid employees."

Since I am on the topic of revolution, I wanted to point out something that I think most students forget. Lord, we outnumber them! Even with all of the staff and faculty combined we could still take over the school! All we have to lose are our chains!

Just think - they don't even have bayonets or any kind of weapon to prevent a coup. What, you think grades are a weapon? Why do you think we would want to start a revolution? To abolish the archaic and cruel system of grades! To stop torture of our fellow comrades in law school! To put an end to the academic bourgeoisie and make a new academic nation from the ashes of the old.

We can make it the Student's Republic of William and Mary. It will be about the students for a change. We will have our own cafeteria. There will be a 24 hour Starbucks in the law-library and every two students will have their own librarian and legal secretaries (I would make it one to one but then we wouldn't be able to maintain control through our numbers.) The students will each get their own offices and the professors and deans will get carols. Maybe, if they are lucky we will let them have phone access.

The faculty and staff will be parking in the parking lot fondly referred to as "Egypt." They will be the ones trudging with heavy bags through the rain snow and sleet. When they need to get jobs or tenure they will need student recommendations. And they will also receive grades from their students (based on a curve of course) that will be used to judge them in their review for tenure and job offers at other schools. We will tell them things like "We would love to give you all A's if you deserve it. But in past years we have had to fail a few professors." The faculty will have to seek us out to get a sneak peak of how they are doing. They will be the ones chasing after us when class ends.

Let the revolution begin! Free yourselves! We will overcome!

I pray the Lord my soul to keep and straight A's so that I might sleep. Please Lord, forgive me for my sins. Especially coveting other people's grades (OPG). And all that negative stuff I thought about the professor who gave me a bad grade last semester and called on me in class all the time. I take it all back, that professor probably has never tortured animals or eaten small children.

However, I am sure that at least one was a devil worshiper (how else could you explain that he always seemed to call on the people who hadn't read that day), but I will leave his fate up to you. Save me lord from all this insanity, I am beginning to think of drastic measures. Like removing all of the chairs from the building and burning them on the front lawn, or putting sod in the hallways and classrooms and inviting in a herd of cows.

Your repentant muckraker,
AL

House of Haiku: Lessons for the legal aesthete

1) The end of the semester is upon us, and like the 13th mile of some nefarious road race we find ourselves on autopilot for the most part.



by Jeff Spann

Caffeine consciousness
fettered, straining against
my insomnia.

2) There is a biblical passage that reads "Not one sparrow can fall to the ground without your Father knowing it." But the sparrow still falls. The loss of the Columbia struck all of us, many of us deeply, especially those who believe the space program is the best hope for humanity.

A fallen sparrow,
crying hearts, fluttered pulses
the Columbia.

3) As United Airlines proceeds through its chapter 11 process, there is a whispered murmur on the back pages of news weeklies questioning the fairness of allowing such a monument to business failure emerge from beneath its pile of debt. Far from rehabilitation, these critics argue against the sensibility of allowing such an unreformed criminal a pardon. Is this tantamount to freeing the assassin and returning to him his firearm?

Chapter 11,
forget the debt, smile anew,
mistakes forgiven.

4) In these baffling financial times, where the whole of Wall Street cowers in anticipation of the fall of the other shoe, the reactionaries and revolutionaries gather steam to their cause. Never is limited liability more important, and never should it be better safeguarded, than in a downturn.

Corporate Winter
prepared to pierce the veil,
shareholders must pay.

What We Should Know About Rape and the Federal Rules of Evidence

Most jurists, politicians, and certain evidence professors would have us believe that the new federal rules of evidence dealing with rape are irrational responses to feminist lobbying. Perhaps this subterfuge is intended to distract us from this country's pernicious and persistent tradition of blaming and distrusting women bringing rape charges.



by Colin Miller

Admittedly, critics are correct in asserting that some feminists argue against modern rape laws that accommodate victims; however, these individuals agree that "something" must be done and merely substantively attack new rape laws. What these feminists share with other feminists is the belief that Americans must be educated to dispel deep-seated misconceptions about rape and rape victims. Critics have diverted our attention to what is wrong with these new laws. We need to refocus to see what is still wrong with the current legal and social understandings of rape.

Historically, rape victims faced an amalgam of difficult and humiliating barriers to overcome before seeing rapists brought to justice. Under the "forcible compulsion" requirement, a sexual act was not considered rape unless the victim resisted to the utmost. A woman not immediately reporting a rape was presumed to be lying, and, in some cases, disallowed from bringing charges. A husband could never "rape" his wife. Juries hearing rape cases received instructions telling them to doubt the truthfulness of the woman and her claim.

Perhaps the most pervasive form of misogyny exercised in rape cases was defense counsel attempting to prove rape victims were dishonest and "loose" through evidence of prior sexual acts. *People v. Abbot*, a New York decision, demonstrates the disturbing and flawed dichotomy chauvinist jurists created for women. According to the court, there is

the woman "who has already submitted herself to lewd embraces of another, and the coy and modest female, severely chaste and instinctively shuddering at the thought of impurity." The woman who had sex with several men could not be trusted because "promiscuity purports dishonesty," and she was seen as secretly desiring the sexual aggression. News spread of the character assault women would face in court upon bringing rape charges, making women extremely reluctant to bring charges.

These laws remained until the 1970s when feminists began mobilizing campaigns against these misogynistic laws. In an odd pairing, they joined with the conservative "law and order" government led by President Nixon. This new coalition convinced many states to adopt a variety of reforms to their rape laws: recognizing marital rape, eliminating the "forcible compulsion" and corroboration requirements, and redefining rape to recognize degrees of assault.

"Rape Shield" laws were the most controversial amendments to rules of evidence in the 1970s. Under the federal rape shield rule, evidence of an alleged victim's past sexual behavior and sexual predisposition is generally inadmissible.

Proponents articulated both short and long-term goals. Ideally, the laws would immediately increase rape reporting by decreasing the humiliation victims suffer when interrogated harshly about their sexual histories. In the long run, the laws could also educate citizens about healthy female sexuality and dismantle stereotypes regarding the role of women in American society. The laws and this education were necessary because of extensive evidence that juries disproportionately blame and distrust sexually active women, resulting in high acquittal rates.

Groups opposing the laws first argued that the laws violate the defendant's right to confrontation under the Sixth Amendment. Second, under some circumstances (i.e. prior false allegations and participation in S&M), prior sexual history can be relevant. Finally,

claims of a "chauvinist jury" are outdated and unfounded. The main argument here is that the studies relied upon by the government indicating juror prejudice in rape cases was conducted between 1954 and 1958, a period during which female jury service was extremely low.

What this criticism fails to address is that "blaming the woman" is not unique to men. Many women blame women for their behavior because of fear and misinformation. Critics like to claim that juries have progressed and are no longer chauvinist, yet in the same breath ask for exceptions to the rape shield laws in cases where victims have expressed an interest in or engaged in S&M. What is this argument if not saying that the rape victim secretly wanted the violence inflicted upon her by her rapist?

In 1994, William Kennedy Smith was acquitted of raping Patty Bowman based on the defense that she had consented to sex. Three women independently came forward to testify that they had previously been raped or sexually assaulted by Kennedy, but the judge excluded their testimony. The basis for the exclusion was the long-standing propensity rule. The purpose behind this rule is that jurors may be too willing to convict a recidivist for past crimes (once a rapist, always a rapist) when, in fact, the past may not predict the future to the extent juries presume it does.

Based largely on the negative publicity from the Kennedy case and incidents involving released child molesters sexually assaulted children, the Senate felt pressure to enact laws treating convicted rapists more harshly. One manifestation of this was sexual predator laws, requiring released sex offenders to register with state law enforcement agencies and/or the community in which they settle. The other was the Violent Crime Control and Enforcement Act of 1994, resulting in Federal Rules of Evidence 413-415. Under Rule 413, in a sexual assault case, the state can introduce evidence that the defendant sexually assaulted

other victims for its bearing on any matter to which it is relevant.

Proponents presented three main justifications for the new rules: First, statistics showed a sharp increase in the number of sexual assaults. Second, sexual assault is a uniquely private crime, resulting in trials with few corroborating witnesses. Finally, those who sexually assault are a small, socially and mentally deviant population with high recidivism rates.

These new rules prompted immediate and widespread criticism. The foundation of much of the criticism has been that rapists are not much different than other criminals. While some studies have shown that rapists often repeat their crimes, others have shown that rapist recidivism rates are actually quite low. At the same time, this may be explainable to some degree because of persistent underreporting of rape and studies showing that rapists in jail have usually raped two or three times before getting caught.

Others dispute the purported deviance of rapists. They argue that modern studies show that the average rapist is psychologically normal, most women know their rapists, and only a small portion of rapes involve violence extrinsic to the rape itself. According to this argument, a significant part of the feminist agenda has been educating society about the prevalence of acquaintance rape while the new rules reinforce the stereotype of the "crazed rapist."

A final argument supporting the rule often raised after adoption has been that it is necessary to enhance the victim's credibility. For no other crime have juries been systematically encouraged to entertain the idea that the victim is making up the allegation. We rarely hear people say that burglary victims wanted their houses robbed and that they should not have displayed enticing items in their windows.

Clearly, there are arguments for and against the recent rules of evidence dealing with rape. While arguing against these rules is understandable, ignoring the issues is pernicious.

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by Colin Miller

Admittedly, critics are correct in asserting that some feminists argue against modern rape laws that accommodate victims; however, these individuals agree that "something" must be done and merely substantively attack new rape laws. What these feminists share with other feminists is the belief that Americans must be educated to dispel deep-seated misconceptions about rape and rape victims. Critics have diverted our attention to what is wrong with these new laws. We need to refocus to see what is still wrong with the current legal and social understandings of rape.

Historically, rape victims faced an amalgam of difficult and humiliating barriers to overcome before seeing rapists brought to justice. Under the "forcible compulsion" requirement, a sexual act was not considered rape unless the victim resisted to the utmost. A woman not immediately reporting a rape was presumed to be lying, and, in some cases, disallowed from bringing charges. A husband could never "rape" his wife. Juries hearing rape cases received instructions telling them to doubt the truthfulness of the woman and her claim.

Perhaps the most pervasive form of misogyny exercised in rape cases was defense counsel attempting to prove rape victims were dishonest and "loose" through evidence of prior sexual acts. *People v. Abbot*, a New York decision, demonstrates the disturbing and flawed dichotomy chauvinist jurists created for women. According to the court, there is

the woman "who has already submitted herself to lewd embraces of another, and the coy and modest female, severely chaste and instinctively shuddering at the thought of impurity." The woman who had sex with several men could not be trusted because "promiscuity purports dishonesty," and she was seen as secretly desiring the sexual aggression. News spread of the character assault women would face in court upon bringing rape charges, making women extremely reluctant to bring charges.

These laws remained until the 1970s when feminists began mobilizing campaigns against these misogynistic laws. In an odd pairing, they joined with the conservative "law and order" government led by President Nixon. This new coalition convinced many states to adopt a variety of reforms to their rape laws: recognizing marital rape, eliminating the "forcible compulsion" and corroboration requirements, and redefining rape to recognize degrees of assault.

"Rape Shield" laws were the most controversial amendments to rules of evidence in the 1970s. Under the federal rape shield rule, evidence of an alleged victim's past sexual behavior and sexual predisposition is generally inadmissible.

Proponents articulated both short and long-term goals. Ideally, the laws would immediately increase rape reporting by decreasing the humiliation victims suffer when interrogated harshly about their sexual histories. In the long run, the laws could also educate citizens about healthy female sexuality and dismantle stereotypes regarding the role of women in American society. The laws and this education were necessary because of extensive evidence that juries disproportionately blame and distrust sexually active women, resulting in high acquittal rates.

Groups opposing the laws first argued that the laws violate the defendant's right to confrontation under the Sixth Amendment. Second, under some circumstances (i.e. prior false allegations and participation in S&M), prior sexual history can be relevant. Finally,

claims of a "chauvinist jury" are outdated and unfounded. The main argument here is that the studies relied upon by the government indicating juror prejudice in rape cases was conducted between 1954 and 1958, a period during which female jury service was extremely low.

What this criticism fails to address is that "blaming the woman" is not unique to men. Many women blame women for their behavior because of fear and misinformation. Critics like to claim that juries have progressed and are no longer chauvinist, yet in the same breath ask for exceptions to the rape shield laws in cases where victims have expressed an interest in or engaged in S&M. What is this argument if not saying that the rape victim secretly wanted the violence inflicted upon her by her rapist?

In 1994, William Kennedy Smith was acquitted of raping Patty Bowman based on the defense that she had consented to sex. Three women independently came forward to testify that they had previously been raped or sexually assaulted by Kennedy, but the judge excluded their testimony. The basis for the exclusion was the long-standing propensity rule. The purpose behind this rule is that jurors may be too willing to convict a recidivist for past crimes (once a rapist, always a rapist) when, in fact, the past may not predict the future to the extent juries presume it does.

Based largely on the negative publicity from the Kennedy case and incidents involving released child molesters sexually assaulted children, the Senate felt pressure to enact laws treating convicted rapists more harshly. One manifestation of this was sexual predator laws, requiring released sex offenders to register with state law enforcement agencies and/or the community in which they settle. The other was the Violent Crime Control and Enforcement Act of 1994, resulting in Federal Rules of Evidence 413-415. Under Rule 413, in a sexual assault case, the state can introduce evidence that the defendant sexually assaulted

other victims for its bearing on any matter to which it is relevant.

Proponents presented three main justifications for the new rules: First, statistics showed a sharp increase in the number of sexual assaults. Second, sexual assault is a uniquely private crime, resulting in trials with few corroborating witnesses. Finally, those who sexually assault are a small, socially and mentally deviant population with high recidivism rates.

These new rules prompted immediate and widespread criticism. The foundation of much of the criticism has been that rapists are not much different than other criminals. While some studies have shown that rapists often repeat their crimes, others have shown that rapist recidivism rates are actually quite low. At the same time, this may be explainable to some degree because of persistent underreporting of rape and studies showing that rapists in jail have usually raped two or three times before getting caught.

Others dispute the purported deviance of rapists. They argue that modern studies show that the average rapist is psychologically normal, most women know their rapists, and only a small portion of rapes involve violence extrinsic to the rape itself. According to this argument, a significant part of the feminist agenda has been educating society about the prevalence of acquaintance rape while the new rules reinforce the stereotype of the "crazed rapist."

A final argument supporting the rule often raised after adoption has been that it is necessary to enhance the victim's credibility. For no other crime have juries been systematically encouraged to entertain the idea that the victim is making up the allegation. We rarely hear people say that burglary victims wanted their houses robbed and that they should not have displayed enticing items in their windows.

Clearly, there are arguments for and against the recent rules of evidence dealing with rape. While arguing against these rules is understandable, ignoring the issues is pernicious.

The Quiet School

Michael Caine has played a variety of roles over his storied career. From the comic foil to Steve Martin (*Dirty Rotten Scoundrels*) to the benevolent teacher (*The Cider House Rules*), Caine has always infused his roles with a quiet reserve and inner strength.



by Peter Flanigan

What makes *The Quiet American* tolerable is the utter lack of compassion that one feels for Caine's character. Caine plays Thomas Fowler, a British journalist who is residing in Saigon during the last vestiges of French colonialism. He has a wife in London who he doesn't care about and has a job that he could care less about.

One day, he meets Alden Pyle, Brendan Fraiser, a medical worker (or is he?) who is interested in Fowler. However, Pyle is more interested in Fowler's mistress, Phuong. Incredibly, Pyle falls in love with Phuong after two meetings with her. Spurred by Phuong's sister, who wants her married off to a rich young American, Pyle continues to badger Fowler to let him marry Phuong. Fowler seems rather amused by this but firmly stands up for his relationship with Phuong.

The one fear that Fowler has is losing his life in Vietnam. When the "home office" wants Fowler to come home, he begs them to allow him to complete his story (which he hasn't thought of yet). Fowler goes to the North to seek out a general who is bent on fighting the communists and the French.

Fowler meets up with Pyle, is saved

by Pyle and then proceeds to go about trying to destroy Pyle's life for the rest of the movie. Sure there are twists and turns but ultimately this story is an unrealistic love triangle with any momentum being killed by the inadequate pacing of Phillip Noyce (*Sliver*, *Patriot Games*).

Fraiser continues his big goofy guy persona (so "aptly" demonstrated in *Monkey Bone*, *Bedazzled* and *Blast from the Past*?) do the detriment of the movie. Caine does a very good turn in being completely despicable yet his acting cannot save the story from itself. Toss in the wooden performance of Phuong and the inexplicitly motivated performance of (assistant) and the movie become disappointing.

The movie is disappointing because of the lack of movies dealing with the pre-war Vietnam. The geographical background of the love triangle is rich and impressive and leaves the viewer asking for more about the historical and aesthetic components of the movie rather than the plot. While nominated for several awards, the best way to see this movie is by watching the actors on the red carpet at the Oscars.

Part *Animal House*, part *PCU* (with Jeremy Piven this time as the Dean) part *Back To School*, *Old School* takes the best and the worst from all of these movies and somehow makes them its own. For those unfamiliar with the formula, there is a newly established frat on campus. They throw great parties, are popular with the ladies and are in trouble with a crusty old dean. The frat gets in trouble and in the end, has to do some ridiculous stunt to either get back at the dean or to save the frat.

Old School takes this tried and true formula and adds moments of sadness and corporate high jinks (thus adding

"Febreeze" to an otherwise rotting carcass of a plot). The sadness comes from the fact that all three males are experiencing difficulties in their personal lives. Will Ferrell gets thrown out of his house and divorced for a simple (yet hilarious) streak stunt up the middle of campus. Luke Wilson's character hates his job (as a real estate lawyer no less) and finds out that his girlfriend likes Internet inspired orgies. Vince Vaughn (in his best role since *Swingers*) replays Bill Murray's character in *Rushmore* as an aging suburban dad with a detached wild streak.

Without spending too much time on the details, all three men converge together and start an age neutral fraternity (the oldest member being "Blue" who is 89 and dies after a KY Jelly wrestling contest). The Dean (who was locked in a dumpster by the lads earlier in life) vows to throw them off campus. There is also a "love story" thrown in that feels tacked on and empty.

The fraternity boys and their pledges do crazy stunts, throw the best parties (including one with Snoop Dogg) and continue to run afoul with the administration. In the end, they have to pass all of the requirements of a fraternity (athletics, academics etc.), which inspires some hilarious Vince Vaughn scenes. Don't worry folks, everything works out in the end (although the Dean being killed by a Porsche seems a bit much).

Clearly, Vaughn is the standout of the movie. *Return to Paradise*, *Psycho* and *Made* were all okay performances but Vaughn really sells the goods in this flick. Ferrell (always a scene stealer) is underused in this movie and Wilson just plays the "straight man." Overall, one does not go to such movies for the acting

performances but if you like Vaughn, go see this movie.

The bitterness about relationships and life in general seems to pervade this movie, which takes the edge off the humor. While funny, one wonders why three middle-aged guys would try to get their lives back together via the Greek system. Ivan Reitman (*Ghostbusters*, *Stripes*, *Animal House*, need I say more) was an executive producer but his light touch is missing from the script and the shot direction. Think of this movie as the *PCU* for the baby boomer generation.

Pete's Picks



DVD Pick of the Week: *Auto Focus*

For those who like twisted tales of sex mixed in with their favorite "Nick at Night" stars this is the movie for you. Part disturbing, part fascinating; this is not a date movie.

TV Pick of the Week: *The War Against Iraq*: (showing on all networks) Will Geraldo pick up arms and hunt Hussein? Will Murray Povich have a special "My Iraqi baby has two fathers"? Hopefully it will not interrupt *Passions*.

Kimball Theatre Schedule: *The Assassination of Matteotti* (4/29 start) 9:40pm; *Roger Dodger* (4/31 start) 7:00, 9:15 pm.

Believe It or Not, I'm Not Home

Although I no longer dabble in the soothsaying business, I would have predicted in February that most William and Mary law students were going to spend their



by Tim Castor

spring "vacation" (Pee Wee Herman's vocal cords would have been permanently damaged had "break" ever been the secret word of the day) either lying on a non-seagull infested beach or working on a jasmine-scented outline for

class X.

While both of these pursuits are arguably appropriate ways in which to spend one's time away from school, I chose to invest my time in a somewhat different endeavor. Rather than perfecting my bikini tan or condensing my outline from 147.8 to 147.6 pages, I sat down in my favorite Lay-Z-Boy and did some good old-fashioned armchair pondering. The purpose of this reflection was to think of a topnotch answering machine message to compliment my Westinghouse rotary (Cell phone this!).

You might be thinking, "What kind of a goober spends his week away from school crafting a phone message?" The

reply to this query is simple: The kind of goober who wants to get mad props for his wicked cool answering machine message (Duh).

Although it may seem that one's answering machine message is of little importance in the grand scheme of things, it is actually more significant than one's career, interpersonal relationships, and color-coordinated hand towels that are complete with hand-stitched initials. By merely listening to one's answering machine message, you can glean a sense of what truly lies underneath all of the makeup, industrial strength cologne, and fifty-five pound wildebeest jumpsuit (They have these in Virginia right?).

For instance, let us consider the hackneyed, run-of-the-mill answering machine message: "Hi, you've reached 555-HULK. I'm not here right now but if you leave your name and number, I will get back to you as soon as possible. Have an incredible day." By listening to this message, you can conclude that this person spends way too much time fighting the local riffraff and buying new t-shirts at JC Penny.

Rather than engaging in these pursuits, this person should be spending more time at home, playing Boggle with Captain America, Wonder Woman, and a certain Bush (no Mr. Gore, I am not

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Marshall-Wythe at a Glance...



Above: Corey Debnam and Matt Snyder chill during Bar Review at the Cornerstone Bar and Grill. Below: Things get out of hand at 3L day.



Dean Kaplan considering an alternative career with Papa John's.

Photographs by Lauren Fassler

Creating the Perfect Answering Machine Message for the Would-Be Law Student

Continued from p. 14

talking about former Toronto Blue Jay infielder Homer Bush). As you can see, by selecting a particular answering machine message, one is making a rather profound statement about him or herself. Thus, one must use care when recording his or her answering machine message.

Creating a quality answering machine message is especially challenging for a law student. On the one hand, the person wants the message to reflect his or her wacky, fly-by-the-seat-of-your-

seventy-five-dollar-Banana-Republic-khaki-pants mentality. Yet, there is the competing desire to construct a dull, monotonous message to appease potential robot callers (e.g., law firms).

This problem proved quite burdensome for me, as it took me nearly an entire week to produce a message that would satisfy both of these competing needs. In the end, however, I feel that I have created a message that is more brilliant than a system in which the 18-49 age bracket arranges all marriages in the United States (I say we entrust all life-altering decisions to Bob the unemployed wife-beater, Joe the eighteen year-old frat boy, et al.).

My answering machine message rests on the assumption that I will be able to employ an individual to sit by my phone during times when I am not at home. This person, let's call him Mr. Belvedere, would answer any incoming

calls and would immediately determine whether the caller was a robot (law firm, telemarketer, Number 5 of *Short Circuit* fame, etc.) or human (parent, girlfriend, Winnie the Pooh (don't rob me of my dream), etc.).

If the caller is a robot, Mr. Belvedere will play the following pre-recorded message to the caller: "Hello. You have reached the residence of Timothy W. Castor. I am unavailable at present, but if you leave your name and number, I will return your telephone call as soon as possible. Thank you and have a pleasant day. BEEP."

If, on the other hand, the caller is a human, Mr. Belvedere will play a different pre-recorded message, spoken by James Brown, the Godfather of Soul: "You've reached 555-COOL, home of the superb Timmy C. I'm out playing some bridge or purchasing a Stouffer's Lean Cuisine prepackaged meal, but if

you leave me a kick-ass message, I'll give you a ring as soon as I finish my next bubble bath. Later on. GLONK."

Despite the fact that many of you are drooling over the possibility of copying my answering machine message for your own use (Where's Mr. Thirsty and your favorite dentist when you need them?), I am sure there are others who are simply not fans of Mr. Belvedere, James Brown, or GLONKs.

To the former group of individuals, I urge you to use your creativity to produce your own special answering machine message (possibly employing Geoffrey from the *Fresh Prince of Bel-Air* and Kid Rock, the Godfather of Noise and Four-Cent Haircuts). To the skeptics, I think it would be best for you to resume playing your trendy little cell phone games (I can only hope that Mom will let me trade in my Playstation 2 for a phone with a 4-bit bowling game).

Calendar Of Events

EVENT	DATE	TIME	LOCATION / POINT OF CONTACT
Law Review Notes Selection Meeting	Tue, March 25	03:00 PM	Room 262 Jennifer Komoroski
CASTC Meeting	Tue, March 25	05:00 PM	Room 120 Debbie Dail, CASA
Rising 2L Registration Information Session	Wed, March 26	03:00 PM	Room 120 Liz Jackson
Honor Council Meeting	Thu, March 27	03:00 PM	Room 124 Robert Foley
Law Review Notes Selection Meeting	Thu, March 27	03:00 PM	Room 262 Jennifer Komoroski
Commonwealth Law School Consortium	Fri, March 28		All Available Rooms except 127 Rob Kaplan
ELPR Symposium	Fri, Mar 28 thru Sat, Mar 29	08:00 AM	Room 127 & Courtroom Laurie Spolidoro
BAR/BRI Evidence Multistate Testing Workshop	Fri, March 28	11:30 AM	Room 119 Patty Roberts
Workshop presented by Paul Verkul	Fri, March 28	12:30 PM	The Faculty Room Lynda Butler or Neal Devins
ELPR Symposium Cocktail Gathering	Fri, March 28	04:30 PM	Law School Patio Heather Hodgman
PDP Initiation	Sun, March 30	06:00 PM	Courtroom Jessica Taverna
Rising 3L Registration	Mon, March 31		
Benjamin Rush Symposium	Mon, March 31	01:00 PM	Room 127 Don Tortorice
Rising 2L Registration	Tue, April 1		
Benjamin Rush Symposium	Tue, Apr 1 thru Fri, Apr 4		Room 133 Don Tortorice
BLSA General Meeting	Tue, April 1	07:00 PM	Room 141 Fenita Moore
Admitted Students Weekend	Fri, Apr 4 thru Sat, Apr 5		Faye Shealy
BAR/BRI Real Property In-Class Essay Workshop	Fri, April 4	11:30 AM	Room 124 Patty Roberts
Professor Carl Moody, Economics Department - Colloquium	Fri, April 4	12:30 PM	The Faculty Room Richard Hynes
Sports & Entertainment Law Symposium	Sat, April 5	08:00 AM	Room 119 Tron Kohlhagen
Free Throw Competition - Fundraiser for the Ali Kaplan Bone Marrow Drive	Mon, April 7	11:00 AM	Law School Patio Betta Labannish
Bone Marrow Drive Information Session	Tue, April 8	12:50 PM	Room 119 Jeff Thurnher
Bone Marrow Drive	Wed, April 9	09:00 AM	Room 269 Jeff Thurnher
Air Force JAG Information Session	Thu, April 10	10:00 AM	Room 141 Carolyn Chambers
Faculty Meeting	Thu, April 10	03:00 PM	Room 127 Cassi Fritzius
Reunion Weekend 2003	Fri, Apr 11 thru Sat, Apr 12		Sally Kellam
BAR/BRI Corporations, Corporations In-Class Essay Workshop	Fri, April 11	11:30 AM	Room 124 Patty Roberts
Professor John Lee Colloquium - "Taxation of Transaction Costs"	Fri, April 11	12:00 PM	The Faculty Room Richard Hynes
VITA - tax help for students	Fri, April 11	12:00 PM	Room 135 Stacy Haney
Classes End	Fri, April 18		
Crucial Elements Party	Fri, April 18		Grad Plex William Lamberth
Professor Eric Kades Colloquium	Fri, April 18	12:30 PM	The Faculty Room Rich Hynes
Reading period	Sat, Apr 19 thru Mon, Apr 21		