Not Wythe Standing: The News (Vol. 1, Issue 4)
The Law School Celebrates
Publication of the William & Mary Business Law Review

By Contributor Benjamin David Novak, 3L

On Tuesday April 6, 2010, members of the law school community gathered to celebrate the publication of Volume 1, Issue 1 of the William & Mary Business Law Review. Members of the Review were joined by fellow students, faculty, and members of the administration for a reception held in the law school lobby.

The Review's Editor-in-Chief, Benjamin David Novak (3L), opened the event with a few brief remarks. Novak thanked all of the people who helped make the journal a success: the Review's Volume 1 Staff, Faculty Advisor, Advisory Board members, founders, donors, and supporters, among others.

The Review's Advisor, Professor Jayne Barnard, then addressed the audience. Professor Barnard told the story of how the Review got to where it is today. She talked about the 100-page bound proposal created by the Review's five founders: Benjamin David Novak, Stan Jackson (2L), Brit Mohler (2L), Gardner Rordam (2L), and Emily Kirkpatrick (2L). Professor Barnard discussed the pitch that the founding members presented to the law school's administrative committee, and eventually to the full-time faculty of the law school. She discussed the success of Volume 1, and expressed her aspirations for the Review. Professor Barnard concluded her remarks by donating to the law school archives her personal copies of the Review's original proposal and Issue 1.

William & Mary Law School Dean Davison M. Douglas took the stage following Professor Barnard's remarks. Dean Douglas explained that one of the great pleasures of being the Dean is witnessing firsthand the creative energies of the students. He discussed how impressed he was that the Review went from concept to publication in fewer than twelve months. The Dean summarily remarked "this is a proud day for the law school." Dean Douglas led a toast to the Review, cut the first piece of the celebratory cake, and invited attendees to enjoy the refreshments.

Issue 1 of the Review includes two Articles, two Essays, and three Notes. Issue 1 authors include Washington & Lee Professor of Law Lyman Johnson, Wyoming College of Business Professor Robert Sprague, Faulkner University Professor Chad Emerson, and University of Wisconsin Professor of Law Peter Carstensen. Issue 1 includes three Notes written by current William & Mary Law School students: Chris Emden (3L), J. Tyler Butts (3L), and Rachel Jones (3L).
At the reception, each member of the Review received a complimentary copy of Issue 1. Issue 1 was mailed to subscribers in early April. Issue 2 of the Review will be published and delivered to subscribers by the end of April. If you are interested in subscribing to the Review, an order form can be downloaded from the Review’s website at www.wm.edu/url/blr.

Rising 2Ls are invited and encouraged to participate in the William & Mary Business Law Review Membership Selection Competition (“MSC”). The MSC will be held in early July, immediately after the results of the Joint Journal Competition (“JJC”) are announced. Like the JJC, the MSC will test applicants’ writing, editing, and Bluebooking skills. The MSC will do this, however, in a significantly abbreviated manner. While an MSC application may be completed in about one-seventh of the time required to complete a JJC application, each applicant will be given at least seven days to complete his or her application. Students may serve on the Review, as well as another law journal. If you are interested in learning more about serving on the Review, contact Volume 2 Executive Editor Scott Foster (2L) at s.scott.foster@gmail.com.

The Last Will and Testament of a Third Year Slacker

By Contributor Bishop Garrison, 3L

I, an unemployed third year law student, of the State of Extreme Financial Despair, do hereby make, publish and declare this to be my Last Will and Testament.

ARTICLE I

I recognize that my possessions are few and maybe considered priceless: a used microwave, a mint condition 1989 Topps Keith Hernandez (clean-shaven, in fact) baseball card, a ’96 Honda Accord named “The Grey Shadow” and driven approximately 229,862 miles with a sweet tape deck, and the full DVD box-set of the third season of Aqua-Teen Hunger Force. That being said, I bequeath all of these items to Sallie Mae in order to contribute to a portion of my debt thereby reclaiming some control over my soul in the event of my untimely passing. If my math is correct, I have surely reduced my total worthlessness from approximately -$140,000 to somewhere in the neighborhood of -$138,000, give or take a few hundred dollars.

ARTICLE II

I do give and bequeath to the Class of 2012 (though you’re kind of lame for never hanging out and really don’t deserve much) all of my tangible outlines, to include Contracts (didn’t do well, you might not want that one), Con Law (most of which I learned from the old Lenny Brisko/Mike Logan episodes of Law and Order), and Property. Disclosure: the only R.A.P. I know is Run DMC’s 1986 hit “Tricky” from the sick, triple platinum album Raising Hell. Put that on your test as a part of an answer for Vice Dean Kades, kids. He loves Reverend Run!

To the Class of 2011, I leave two important pieces. First, there are two empty keg shells at the LarrimoRe that have been there for something crazy like a year and a half. You could probably still get the cash if you take them back to Bloom; I just kept forgetting. I mean, what’s the deposit on those things? That’s like 70 bucks, easily. Anyway, there’s that, and I also leave you happiness. As you are now all rising 3Ls, that seems to be something you’ve probably lacked...

NOT WYTHE STANDING

The Newspaper of the William & Mary Marshall-Wythe School of Law

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Editorial Policy

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Letters to the Editor and contributed articles likely do not reflect the opinion of the newspaper or the NWS Board. Visit www.NotWytheStanding.com for more!
within the past few months. For most of you, the days have been filled with cite checks, notes, and pulling your hair out from the lack of funded summer job opportunities. I really don’t have anything else to give you. Well, I think I may have a signed photograph of Arsenio Hall and The Dog Pound, but half of you don’t even know who that is, and thus do not deserve such a precious heirloom.

To both classes, I also bestow unto you the right and privilege to begin a campaign to have a drink named in my honor at Paul’s. My wasted youth and hardened liver beseech you to ensure that my legacy of unnecessary intoxication is upheld and praised as a testament of a man that was “down to party” when no one else was willing, able, or deemed it necessary to do so.

ARTICLE III

Lastly, though my time within these hallowed halls was not always filled with the mirth of unbridled passion or a feverish desire to learn, there were moments of joy upon which I will look back fondly. Hence, to this esteemed beacon of higher learning I leave a smile, a laugh, and many warm thanks for the friends made and memories shared here at the true birthplace of American Jurisprudence, the Marshall-Wythe School of Law.

Signed,
The Third Year Slacker

How To Train Your Older Generation Facebook User

By Contributor Elyse Simmerman, 3L

*For purposes of this article, a “grown-up” is someone who acts their age and is generally not in law school.

When I graduated from college four years ago, I decided that I would get rid of Facebook and AIM. “I’m going to be a grown-up now,” and that included removing things from my life that screamed “I’M STILL IN COLLEGE.” I wanted to feel mature, above all of that nonsense. Look at me at the age of 22: I have a college degree, I will now use a telephone, and I will now talk to people in person, rather than hit them up online. It shouldn’t actually have been that hard. After all, we didn’t get Facebook in college until my junior year (yes, for those of you born after 1986, Facebook is a relatively new phenomenon; we didn’t always have the ability to know things about people and background check them before we met them).

In the four years since college, the technology world has changed. First of all, AIM has now merged into and really been taken over by Gchat. Which really isn’t a step up, except for the fact that my user name is now my first and last names as opposed to “Pixi56,” which seemed cute when I was 11 and got AOL, but now seems a bit like the name of someone Jesse James or Tiger Woods would sleep with. But more importantly, adults over the age of 30, who are not in college, or maybe never even were, are now taking over Facebook (no, Mom, I don’t want to know that you and Grandma got drunk on margaritas last night, took pictures, and updated your Facebook status to tell me that). The thing is, with everyone from ages 11 to 81 now “connected,” there’s no reason to get rid of my Facebook profile or to stop Gchatting, even though I’ll soon be in the big, scary real world.

What has been interesting is learning how “grown-ups” use Facebook in a manner that is completely different from how the rest of us use it. For instance, my mom, aunts, grandma, and from the looks of it, Mrs. Albert, Mrs. Stewart, and Judy Demeola, like a lot of statuses. Or if they don’t like a status, they feel the need to comment on it and tell you why. Another method to the

The Editor's Brief

By The Editor in Chief Stan Jackson, 2L

Here it is, the final regular issue of NWS for 2009-2010. It has been quite a ride getting here, but I believe it has been worth the effort. I hope you all have enjoyed reading our four issues as much as we have enjoyed assembling them for you!

To all the Staff members and to all our Contributors – I extend a huge “Thank You!” – this has been one big collaborative effort and we needed everyone. We intend to scale things up next year, so please contact us if you are interested in helping out in any way, particularly as a Contributor: icanwritetoo@notwythestanding.com. You have the entire summer to concoct a few great stories!

NWS also has two new Editorial Board positions that we wish to fill! Please contact us at howtohelp@notwythestanding.com regarding these positions:

The Business Manager will handle advertising, billing, expense reimbursements, and related issues. No specific experience is necessary.

The Photo Editor will ensure that we have photos for each issue, and will handle collecting them and converting them to proper format. No specific experience is necessary.
elders’ “use of Facebook” madness is to constantly update their status, not with witty comments or experiences, but with flat out feelings. “Bad Day, work is terrible, I wish I had a better time,” or “I had a wonderful day today with my bff’s, kids, and nieces and nephews.” I haven’t told my mom how to “tag” someone in a note yet because I fear for how often she’ll find a way to involve me.

A personal favorite of hers, though, is the wall-to-wall or comment stream that relates to politics. I’ve seen my mom have 50-comment streams about healthcare. I apologize profusely to anyone who has ever liked or commented on my status, only to then be subjected to my relatives’ later comments and debate about said status. I usually just delete them because it gets to be too much. In fact, in early 2009, when I finally granted permission for my mom to get on Facebook, I set her up with a list of rules as well some do’s and don’ts. She hasn’t really followed them, which is why both of my brothers have deleted her as a friend - that, and the fact that she would otherwise know what they are doing at all times.

So maybe my vow to get rid of Facebook, just like in 2006, won’t work this time around either. After all, I need some way to keep up with the antics of the Class of 2011 and the epic weekends starring a bottle of whiskey or plenty of cheap beer, certain rising 3Ls, and their sometimes unorthodox ideas of fun. However, I am taking the oath now to remain my Facebook age, and not commit the faux pas of the “grown up Facebooker.” Hopefully by the time I am my mom’s age, there will be another social networking site that will protect me from my own mistakes. Oops, gotta go. Judy Demeola

Meet the Faculty: Dean Eric Kades

By Contributor Dan Reeves, 1L

Every week we spend hours and hours in class, listening to our professors talk. These people who hold our attention for seventy-five minutes at a time seem to know an awful lot, and when we listen to them, we can often learn a lot about what they are teaching. But what do we know about the professors themselves? In many cases, the answer is, not very much. Anyone who takes the time to look over the faculty bios on the law school website will find there a list of the degrees earned, the papers written, and the awards received by the law school faculty. All of this information certainly reveals our professors to be very impressive people. For example, it seems to be a general rule that the lowest ranked law school attended by any William & Mary law professor is William & Mary.

However, after reviewing those faculty bios, a reader still does not have any better an idea of how and why professors hold the beliefs and opinions they hold, what they do for fun, or what they really think about being a lawyer. It is therefore the purpose of this column to highlight the other aspects of the lives of the professors who do their best to teach us the law every day. The goal is to give readers a broader perspective of the law school faculty as a whole. Dean Eric Kades was gracious enough to be my first participant.

Dean Kades is from Beloit, Wisconsin. He has a wife, a daughter, and a son, but no pets. He is interested in maps, and collects old deeds, mortgages, and the like, that he finds at yard sales. He is a fan of hockey and football, and his favorite team is the Green Bay Packers. In high school, he played hockey, but now he prefers to run and go to the gym. He earned the nickname “Space” after spelling out his name for a teacher, and pronouncing the word “space” between his first and last names.

His favorite books include William Faulkner’s The Sound and the Fury and the various spy novels written by Alan Furst, particularly The Polish Officer. His favorite film is the original, unedited version of Once Upon a Time in America, directed by Sergio Leone. Musical groups he likes are The Byrds, Bruce Springsteen, and more recently, Yellowcard. His preferred way to spend a Saturday afternoon is to take his daughter to see a movie and then to take a nap. One of the places Dean Kades most likes to visit is a secret beach at an undisclosed location on Lake Huron in Michigan. He has never been to India, but he would like to visit. And one of his favorite quotes is “Absolute power corrupts absolutely,” first spoken by Lord Acton.

Dean Kades’ favorite course in law school was English Legal History; his least was Contracts. His main motivation for becoming a lawyer was his interest in the academic side of law, particularly law and economics. Not surprisingly, he was originally a macroeconomist. But while he was working on his Computer Science degree, he decided that he would rather go to law school. Before becoming a lawyer, Dean Kades worked as an analyst both for the Federal Reserve and on Wall Street. Prior to that, he worked in his father’s auto parts store. However, he is definitely not a car buff; in his family, his wife makes all the car decisions.

He did not spend much time as a practicing attorney, instead spending most of his law career either clerking or as a professor. As such, his greatest challenge as a lawyer was when he was a professor at another law school and was faced with the daunting task of grading 200 exams in two weeks. He had to lock himself in a room for over ten hours a day, but he was able to grade them all in time. The most unusual legal questions he has ever been asked were various convoluted manifestations of the basic question, “Can I commit fraud?” He said that the answer is always a very easy and resolute, “No.” The most interesting case that Dean Kades was ever involved in was a very technical, complicated case that he encountered while clerking for a federal judge. He said that at the eleventh hour of the case, he suddenly realized...
Best Dressed:
Kristen O’Connor & Chris Rey

Friendliest:
Mairead Blue & Rob Barrett

Most Likely to Judge a Televised Court Show:
Courtney Williams & Hunter Allen

Most Social/Biggest Partier:
Naomh Stewart & Matt DiMuzio
Most Musical:
Laura Collins & Evan Stepanick

Most Athletic:
Rachel Jones & Alex McCallian

Biggest Schmooze:
Christina Carroll & Benjamin David Novak

Most Involved:
Elyse Simmerman & Zack DeMeola

Cutest 3L Couple:
Carrie Pixler & Tommy Ryerson
Most Likely to Bust a Move in Court:
Tiffani Wesley & Kevin Weigand

Most Likely to be at the Ho House:
Naomh Stewart & Kevin Weigand

Most Likely to be in Public Service Forever:
Chanel Gray & Rob Poggenklass

Most Likely to Become a Professor:
Becky Wharton & Tommy Ryerson

Most Likely to Turn a Professor's Hair Gray:
Jessica Izzo & Chris Hall
Most Likely to be in the Law Library:
Leah Holt & Charles Crimmins

Most Likely NOT to be in the Law Library:
Washington & Andrew Gore

Not Pictured:

Best Looking:
Victoria McNamee & Andrew Reeve

Class Flirt:
Amanda Bosson & Bishop Garrison

Class Clown:
Stephanie Acree & Patrick Henry

Most Likely to be Held in Contempt:
Stephanie Acree & Patrick Henry

Largest Billboard/Biggest Ambulance Chaser:
Jessica Hass & Benjamin David Novak

Most Likely to Never Actually Practice Law:
Leslie Saar & Armin Zijerdi
that for technical but definitive reasons, the court lacked jurisdiction. As a result of his discovery, the case was dismissed. Needless to say, the judge and his fellow clerks were very pleased with his work.

James Tobin, the winner of the 1981 Nobel Prize in economics, is a figure for whom Dean Kades has particular respect. Two issues of which Dean Kades believes law students and people in general should be more aware are the overuse of antibiotics and stimulatory fiscal policy. And one piece of advice that Dean Kades would give to law students is “Be there now.” While our time in law school is an investment in our careers and our futures, we should not forget that it is also three years of our lives. Thus, he recommends that while we should work hard, we should also take the time to make great friends.

Hopefully, I have given you some insights into what Dean Kades is like when he is not lecturing on the basic rules of property law or expounding upon the finer points of an economic analysis of the law. Please let me know of any questions that I should have asked during my interview, which faculty member I should interview next, and any specific questions you might like asked, by dropping a note in my hanging file.

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**When the Rubber Meets the Ice**

**By The Editor in Chief Stan Jackson, 2L**

Maybe you’ve seen my license plate, ICERACR, heard my nickname, SpeedRacer, or even heard a story or two. I have to admit the nickname was not derived from any of my auto racing activities, but it fit, so it stuck. I would try to explain to you the incredible thrill of lapping a road course racetrack (sorry NASCAR fans, no ovals for me) at 10/10ths – but you just can’t – you can't without actually experiencing the adrenaline rush of flying into a corner, waiting until the last split second to carefully mash the brake while turning in, feeling the g forces pulling at you and knowing you are extracting every last bit of stick out of those tires, and then smoothly nailing the throttle as you pull out of the corner and head for the next. You’ll just have to believe me that it is all about the cornering, the braking, and a bit of slipping – the acceleration just gets you to the next corner of fun faster.

Since racing on the track is too hard to adequately describe, I thought instead I would give you a brief introduction into a lesser known sport that you probably think is a bit, or maybe a lot, crazy. However, if you ever happen to visit...
me in New Hampshire in say, February or March, you might very well find yourself trying out this unusual activity under the tutelage of myself, or perhaps our Chief Ice Racing Instructor, my sister. First, Auto Crossing is a pretty basic and common amateur auto racing event. Orange pylons (traffic cones) are used to mark out a course of gates, turns, and slaloms in a large rented parking lot. Each competitor races around the course as fast he or she can, one car at a time. Drivers are placed in various classes depending on the capabilities of and modifications to their cars, elapsed times are recorded, and the best time in each class wins.

Ice Racing is very much the same sport, except the course is laid out on a frozen lake. Yes, I said a frozen LAKE. We check the ice very carefully, and between my father, my sister, my brother, and I alone, we have had at least as many as six cars out there at once. A few expensive BMWs, Audis, and Porsches attend regularly as well, along with the occasional 6000lb pickup truck. Once we had over 100 competitors gathered on the ice of Newfound Lake! The best years are when the ice is thick enough and safe enough for us family members to get onto the ice at my parent's house and drive, or well sometimes fly (no speed limits!), down the lake a few miles to where we hold the events.

The thing about Ice Racing is that it is not only such a blast to do, it is also an incredibly great way to become a better driver. Not just on the ice and snow, but also on the pavement. As my father, the "Iceman" says, "it is all about being smooth" - smooth in how you turn the wheel, how you feather the throttle, and how you slide the car around the next corner. Learning to be as incredibly smooth as him is not so easy, but the ice is the place to do it.

You see, 10/10ths comes up VERY quickly when the traction is as low as it is on ice. And by driving at 10/10ths I mean that the car and the tires are at their absolute limit - any more and the car will slide off course or off the track. Sliding off course while on a frozen lake = sailing down the ice a couple of hundred yards or spinning out. Sliding off course on the track = tire wall or slippery grass followed by trees. I'm glad to have spent my time exceeding 10/10ths on the ice.

Once you learn how to control a car at the limit on the ice and snow of a frozen lake, it translates quite well to doing the same on the pavement. So the next time you are forced to make an emergency maneuver on the street, you have the confidence to trust yourself. Ice Racing is not as fun as sex, you can't do it while you are drinking, and it can be rather cold. But, it can also be sunny, fast, and fun – sliding around the cones in a complete sideways drift in mid-March. For those bold enough, I'll see you on the ice!

Mr. Jackson takes it to the ice

Marshall Wythe High School: An Equal Opportunity Offender

By Contributor Rob Murdough, 2L

"We treat all with equal derision and contempt." Professor William Warner Van Alstyne, 2009

My commentary about the student body here at Marshall-Wythe High may have caused some consternation among said student body, and some glee among the professoriate (who would have
thought that the things we mock about are the things they mock about us?!). In order to rectify the balance, here’s my categorization of the MWHS faculty. See how your professors stack up! As a nod to the pathologically prevalent political correctness in professorial publications, I will vary gender pronouns at whim. Just remember that both men and women can be anything they want to be, be it a judge, lawyer, or serial killer.

The Hugger: The hugger is, to me, the most annoying of the professors. She calls on a student, and it is soon painfully obvious to everyone in the room that the student is completely unable to string words together into a coherent sentence, much less discuss the case at hand. After an awkward pause, she attempts to convert the muddle of words into a relevant thought, attention (which isn't hard), he will hone in on that student and ask a very detailed question which he knows the student cannot answer. He is then not afraid to pointedly say, "No, you're wrong," and move on. As an added display of passive-aggressiveness he will usually keep calling on that student for the next two weeks.

The Opinionator: Where the law ends and where the soapbox begins . . . no one really knows.

The Cold Caller: The surest way not to be called on is to raise your hand.

The Reviewer: She starts off class by "just very quickly reviewing what we did last time." An hour later, you finally get to new material. Ten weeks into the semester you're inexplicably eight weeks behind.

Sarah Jackson slides sideways while ice racing

by leading off with, "I think what you're saying is . . ." before finishing with words that were nowhere close to what the student actually said. She realizes that everyone is a brilliant and unique snowflake with a fragile ego, and simply saying, "No, you're wrong" would shatter the carefully structured codependent delusion.

The Cool Jerk: Conversely my favorite. He's cool, he makes little quips that always get a chuckle, and he probably doesn't have tenure yet. But at the same time, whenever he senses a student is not paying

The Deluded: Actually thinks that you want to participate in class (you are paying him a lot of money after all), and consequently only asks for volunteers. He spends a total of thirty minutes each class in awkward pauses waiting for someone to answer the most basic questions like "Who won this case?" or "What color is my tie?"

And just to show that I'm really not afraid of professorial retribution, my exam code number is: [REDACTED]
Marshall-Wythe High School:  
Proceed to the Exits in an Orderly Fashion  

By Contributor Rob Murdough, 2L

Fire drills haven’t changed much since the last time you were in high school. The alarm goes off, and for a few minutes everyone looks around trying to remember what that noise is. Then, they leisurely gather up their belongings, and join the herd of people ambling toward the exit. Once outside, everyone congregates eighteen feet away from a two story building that is theoretically on fire. Wednesday’s fire drill wasn’t much different — although, as we learned afterwards, it wasn’t really a drill, plus it wasn’t really a fire. On the off chance it was real, everyone gathered up their laptops, Blackberries, iPods, iPads, iPhones, and iETCs. (you haven’t bought food in three weeks, but you’ll be damned if you don’t have four ways to access the internet). Of course, everyone still left a few hundred dollars worth of textbooks in the building — again, on the off chance it was real.

It wasn’t much different, but it was a little different. When it happened in high school, five minutes into the fire drill the hippies would gather to start playing Frisbee, hacky sack, or kick off a drum circle. Those were the only times they would ever set foot on the football field. Here, the hippies gathered to start discussing (I assume) the hidden gender biases of emergency evacuation codes and the need for legislation mandating alternative-energy fire engines. Frankly, I would have rather they played Frisbee.

Still, one thing was definitely the same — the smokers. In your old high school, the smokers would at least go hide behind the football team’s equipment shed. This time, the smokers didn’t bother to segregate themselves. It’s as if the inadvertent exposure to fresh air triggered a pavlovian need to light up. By the by, who brings a cigar to class? Do you keep an Arturo Fuente in your laptop case just on the off chance we have a fire drill?

Speaking of smokers, it was pretty entertaining to see a certain octogenarian con law professor mosey his way out of the building, fifteen minutes after everyone else had evacuated. I know I wasn’t alone in wondering, just a little bit, if he had started it. Everyone got a kick out of the track pants and sleeveless t-shirt. Personally, I think the reason he was so late getting out was that he was changing his clothes. Likely he was sitting in his office in a shirt and tie, but when the alarm went off exclaimed, “I must change my clothing! I have a reputation to uphold!”

So it’s good that everyone made it out ok. It’s also good that it wasn’t really a fire — that tinderbox library, full of decades-old books, pressed-board furniture, and 1Ls, would go up in seconds. And if Wednesday’s procedures were any indication, a fire drill at MWHS (Home of the Tribe of Griffins! [sic]) is about as useful as a fire drill at every other high school.

CONGRATULATIONS class of 2010!