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2006

The Advocate (Vol. 4, Issue 3)

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"The Advocate (Vol. 4, Issue 3)" (2006). *Student Newspaper (Amicus, Advocate...)*. 31.
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The Advocate

VOLUME IV, ISSUE THREE

WEDNESDAY, OCTOBER 4, 2006

WILLIAM & MARY SCHOOL OF LAW

Homophobic Incident Leaves Law School Outraged

by Meghan Horn
Contributor

Sometime on Friday, Sept. 22, 2006, the bulletin board for the Lesbian and Gay Law Association (LGLA) was vandalized with homophobic slurs. At this time, the identity of the vandal or vandals is unknown. It is also unknown whether the vandals were law students or someone outside the law school community. The vandalized bulletin board was located in the rear section of the main classroom hallway and has now been removed.

"The LGLA bulletin board centered around the upcoming vote on the Virginia 'marriage' amendment but also included general LGLA and Safe Zone information," said LGLA President Julian Carr. The text was crossed out, and the words "FAG" and "DIE!" were written over in large red letters.

"The climate surrounding gay rights in Virginia is particularly tense at this time because of the upcoming Virginia 'marriage' amendment," LGLA Vice President Laurissa Stokes said.

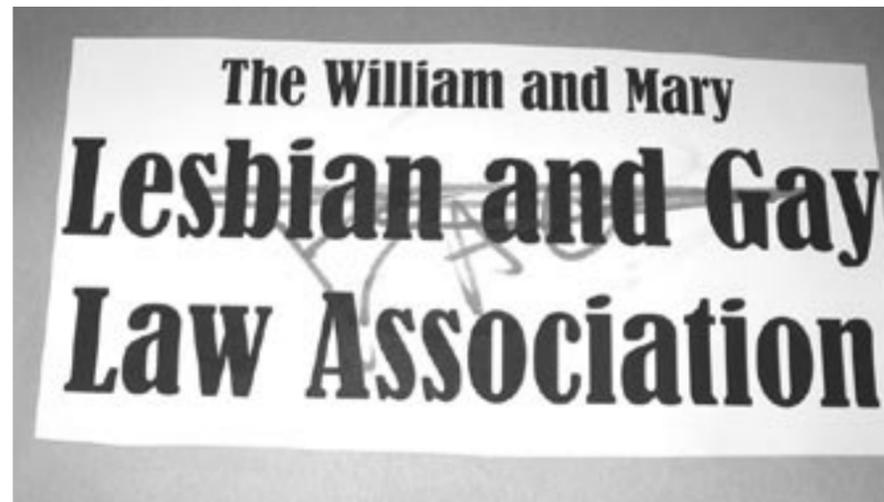
The Virginia "marriage" amendment, known officially as the Marshall/Newman Amendment, seeks to amend the state constitution, going beyond the current statute defining marriage as a union between a man and a woman. It further seeks to prohibit domestic partnerships, civil unions, and any other legal agreements joining unmarried gay and straight couples alike.

If passed, Article I of the Virginia Constitution will read "[t]hat only a union between one man and one woman may be a marriage valid in or recognized by this Commonwealth and its political subdivisions. *This Commonwealth*

and its political subdivisions shall not create or recognize a legal status for relationships of unmarried individuals that intends to approximate the design, qualities, significance, or effects of marriage. Nor shall this Commonwealth or its political subdivisions create or recognize another union, partnership, or other legal status to which is assigned the rights, benefits, obligations, qualities, or effects of marriage." (Emphasis added.)

At this time, Dean Taylor Reveley, the Student Bar Association, and Students for Equality in Legal Education have spoken out against the hate speech. Dean Reveley described the conduct in an e-mail to the law school population as "directly opposed to basic principles of our community." Stephen Cobb, SBA Vice President, stated that "Friday's vandalism was an affront not only to the LGLA, but to our community as a whole. SBA looks forward to working with our students, student groups, and administration to help mend this breach of the community trust." Anne Brinckman, President of SELE, commented that "an act like this hurts our entire community. Not only is it unlawful and unprofessional, the words used show an intent to threaten or intimidate."

The broader College administration has also rallied against the act. Vice President for Student Affairs Sam Sadler commented that "community occurs when we affirm the things we have in common and have a pact to discuss the things we disagree on civilly. When the opposite occurs, it undermines that community." He continued, "it goes without saying that this shouldn't happen at William & Mary, or at our law school, or in our community." College of



On Sept. 22, an unknown person or persons defaced the LGLA bulletin board. The words "DIE" and "FAG" were written over materials that had been posted by members of the student group.

William & Mary President Gene Nichol stated, "I appreciated Dean Reveley's statement regarding these cowardly and hateful comments. They have no place in this university or its great law school. Advocates of American equality and dignity have suffered abuse before. Such statements will not define our community."

The week after the vandalism was discovered, the LGLA organized a poster petition denouncing the hate speech and distributing rainbow ribbons to individuals who wished to show their support. The student and faculty response was overwhelmingly to denounce the behavior.

Bin Wang (2L) commented, "I think it's pretty cowardly." Margot Freedman (2L) described the conduct as "disturbing and horrifying," and Kelly Pereira (2L) called it "an act of hate." Eve Wang (2L) stated, "This is so awful." "It makes me want to cry. I think it's so incongruent with everything that William & Mary stands for," said Kelly Hart (3L).

On Tuesday, Sept. 26, a meeting open to the general student body was held to discuss the vandalism

and possible responses to it. At that meeting, Professor Erin Ryan suggested that the community treat the incident as "three separate things that all happened at one time." She explained that there are separate issues of vandalism, a death threat, and a possible policy argument regarding the "marriage" amendment.

At the Tuesday meeting, Dean Reveley explained that if the perpetrator is caught, the appropriate disciplinary procedure will be the main campus's Judicial Process, not the law school's Honor Council. Students and faculty suggested

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Baugh Defends the Bill of Rights

by Kaila Gregory
Staff Writer

Ku Klux Klansmen or U.S. Embassy bombers may be less-than-appealing clients for some attorneys, but Richmond trial lawyer David Baugh had defended both on the grounds of protecting constitutional freedoms.

Baugh spoke at William & Mary Law School on Sept. 22 about the importance of the Bill of Rights. Despite the Friday morning start time, the classroom was full.

"I'm a 3L, and David Baugh was definitely worth seeing at 9 a.m. on a Friday," said Nora Garcia, who does not have Friday classes. "Mr. Baugh was entertaining, charismatic, and inspirational. I only hope that I love my future job as much as he loves his: protecting our rights."

Baugh has been working as a lawyer for 31 years and says he absolutely loves his career.

"When I go to work in the morning, I can hardly . . . wait," he said. "I love my job. Every day

I defend the Constitution of the United States."

Baugh is well-known for representing clients like Ku Klux Klan Grand Dragon Barry Elton Black and U.S. Embassy bomber Mohamed Rashed Daoud Al-'Owhali.

Baugh said people were surprised that as African-American attorney, he would defend a KKK member. "If you believe in the principles, they apply to everybody, even people you don't like," he said. "Free speech . . . means you are going to have to listen to crap that you don't want to hear."

A Virginia statute made it illegal to burn crosses, but Baugh noted that burning a cross has the same meaning as standing in a field and shouting about hating people of different races.

"[A person has] the right to be a bigot," he said. "By protecting [the KKK's] right to free speech, we're protecting your rights as well. To give the government the right to shut [people like Black] up means to give the government the right to shut you up."

Jim Heller, Director of the Marshall-Wythe Law Library, said Baugh brings an important perspective to constitutional law.

"For [Baugh], a 'constitutional purist,' when the Constitution says that 'Congress shall make no law . . . abridging the freedom of speech,' and today this applies to any governmental unit, it means just that," said Heller. "Therefore, when [Baugh] . . . was asked to represent a Ku Klux Klan Grand Dragon who was being prosecuted for burning a cross . . . his decision to do so was easy. The Klan has a right to burn a cross, just like others have a right to criticize the Klan—or the government."

In discussing constitutional protections on human freedom, Baugh called the Bill of Rights "the most brilliant document ever written."

"The idea that the Framers had was that if we Americans could create a world . . . in which certain protections were in place, each of us could reach our potential," he said. "As long as we keep these protections in place, we can't oppress one another."

Baugh said that freedom and order are the two forces at work within the law, noting that greater freedom results in less order.

"The government doesn't want people to have these freedoms because it disrupts order," he said,

naming the government as the enemy of the Bill of Rights. "This is why the Framers established [the Bill of Rights]: to protect us from the majority, our well-meaning government, and ourselves."

Baugh noted that periodically the legislature attempts to inject laws that deal with morality, even though these laws have "nothing to do with freedom or order." As a result, he said, there is a greater attack on the Constitution right now than we've ever had before.

In spite of the great value of the Bills of Rights, Baugh said most Americans don't fully understand or appreciate the Bill of Rights. As he distributed Bill of Rights bookmarks to those in attendance, Baugh said, "Each of you, particularly law students, needs to understand [the Constitution] so you can protect it. You need to believe in it to protect it."

Lawyers, Baugh said, cannot let their own fear result in oppression.

"We must fight that fear and defend people we don't like," he said, noting that being an American means believing in the ideas of the Bill of Rights for all people.

"To be an American means to have faith in other people," said Baugh. "It means to believe individual people can do extraordinary things, because our Constitution tells us that we can."

The Advocate

"Complete and objective reporting of student news and opinion"

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Letters to the Editor and opinion articles 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 Advocate 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.

Vandalism, continued from cover:

responding by incorporating sensitivity training into "law camp" in future years, offering more classes on civil rights, providing more forums for open discussion of issues like the "marriage" amendment, and continuing to have discussions on security in the law school. Planned activities include SafeZone training and a speaker addressing the "marriage" amendment. The administration will consider whether any discussion can be incorporated into Legal Skills program and will continue to investigate this matter.

"The school—administration, faculty, and students—has offered

a great response against the vandalism, and the LGLA thanks everyone for their support," Carr said.

"I am deeply touched by the tremendous display of support from students, faculty, and administration," Stokes added. "It did wonders to restore my sense of comfort and belonging at the law school."

A police report has been filed. If anyone has any information about this incident, please contact Campus Police directly, or speak to someone in the law school administration. In addition, the law school faculty has offered a \$1,000 reward for information leading to the identification of the vandal or vandals.

William & Mary Participates in the First International Virtual Moot Court

by Kelly Pereira
News Editor

On Sunday, Sept. 24 and Tuesday, Sept. 26, William & Mary School of Law made history for participating in the first international moot court competition conducted by videoconferencing. William & Mary students competed against four Australian law schools, and U.S. federal judges adjudicated the pairings of Australian teams.

Liz McElroy (3L) and Amy Markopoulos (2L) had the daunting task of being the first William & Mary team to compete. They were surprised that the panel of judges did not ask them any questions and only asked one question of their opponents. Markopoulos stretched out her argument for nine of the ten allotted minutes before deciding to conclude on a strong point.

Perhaps the lack of questioning was due to the time delay and lack of familiarity with the technology. Regardless, the two made the best of it. McElroy said she was pleased to be making history. Markopoulos, arguing in her first inter-school competition, responded to the challenge of not being able to make eye contact with the judges while simultaneously being able to see herself on the split screen, which could have been disconcerting.

The competition problem con-



Svetlana Khvalina and Brandon Jordan prepare to argue their case. Photo courtesy Professor Lederer

sisted of a dispute over website names. Each side attempted to resolve whether similar website domain names to an existing business were legitimate. One of the trickiest arguments was whether or not a domain name created by adding "sucks" to a business name was legitimate or solely registered in bad faith.

The judges announced a split decision on the arguments and awarded three of the five domain names to McElroy and Markopoulos on the merits. The decision was based on an oral argument and a previously submitted written outline and list of authorities with hyperlinked citations.

The competition came about through Professor Fred Lederer's contacts at William & Mary's sister law school in Queensland, Australia.

"We have just made world legal



Amy Markopoulos and Liz McElroy were the first WM team to compete.

history, even if it is only a footnote, and we look forward to future competitions," said Professor Lederer in closing Sunday's session, which took place on Sunday night in Williamsburg but on Monday morning Aussie time. Professor Lederer said that videoconferencing may also have implications for national competitions.

Svetlana Khvalina (3L) and Brandon Jordan (3L), who competed on Tuesday, watched their teammates argue the first round and prepared to argue the opposite position. Khvalina said that they had only a week and a half to prepare and submit the written component; just a few days later, the oral arguments followed. Despite the short preparation time, Khvalina and Jordan soundly defeated their competition on Tuesday.

William & Mary placed second out of five teams, with one point



Svetlana Khvalina takes questions. Photo courtesy Professor Lederer

for McElroy and Markopoulos's tie and two for Khvalina and Jordan's win. The team has advanced to a final round currently scheduled for Oct. 8 at 10:30 p.m. The team must designate two members to argue for the respondent, so McElroy and Markopoulos will likely reprise their argument. The University of Melbourne, who placed first going into the finals, will argue on Oct. 9 at 8:30 a.m.

All of the members of the William & Mary team competed solely for the sake of competition and experience. Typically members of the moot court team participate in one annual competition, but all the participants in the Virtual Moot Court will compete in other tournaments this year. Their ability to prepare for this competition on such short notice and their outstanding performance should be great preparation for future competitions.

First-years Launch Election Law Society

by David Holmes
Contributor

Prior to November 2000, who had heard of election lawyers fanning out across polling places? Since then, election lawyers have taken up candidates' causes across the country in Washington, Alabama, and even the Virginia attorney general's race last year. This area of the law is booming.

With that mind, a group of politically active 1Ls from across the political spectrum have formed the Election Law Society. They believe the group is one of the first such law school organization in the United States. Professor Davison

M. Douglas, the director of the law school's Election Law Program, has agreed to serve as the organization's faculty advisor.

From the initial interest, the Election Law Society is filling a void at the law school. At its first meeting on Sept. 14, nearly 50 students turned out, said Alper Ozinal (1L), whom the club elected president by voice vote.

The demand for election law runs deeper than a new area of legal employment. "We're still relatively a 50-50 country," Ozinal said. "In a country that polarized, we're going to have tight elections. And tight elections mean we're going to have contested elections."

The club plans to educate future

attorneys on the rules, regulations, and potential legal issues in how the country's elections are conducted. Beyond that, the group hopes to foster discussion on the major issues in the area of election law, including campaign finance reform, the Voting Rights Act, and any potential constitutional issues.

The society's mission dovetails with the law school's "citizen lawyer" pedagogy. "Helping to ensure fair elections and making sure every vote counts is an integral part of being a citizen lawyer," said Liz Howard (1L), one of the Election Law Society's co-founders.

With the 2006 elections on the horizon, the society has a full slate of activities planned this semester.

"Campaign Finance 101" night is Tuesday, Oct. 10. The class will cover how campaign finance laws affect members of the law school community as voters, contributors, and individual citizens. The Election Law Society is also working with the Institute of Bill of Rights Law to host Michael E. Toner, chairman of the Federal Election Commission. His talk is tentatively scheduled for Oct. 19 or 20.

The group's "flagship" event is its election night party on Nov. 7. Members of the law school community are invited to celebrate democracy in action by dressing up as their favorite political figures or characters. The less festive can show up as themselves.

Marshall-Wythe Hosts 19th Annual Supreme Court Preview

Supreme Court Watchers Offer Predictions for the Roberts Court's Second Term

by Sarah Abshear
Staff Writer

Panelists David Savage, Linda Greenhouse, Pam Karlan, Dahlia Lithwick, and Maureen Mahoney met in the McGlothlin Courtroom on Sept. 15 to discuss their views of and predictions for the Roberts Court. The panel was one of several conducted for the annual Supreme Court Preview run by the Institute of Bill of Rights Law. Moderator David Savage directed the conversation by periodically posing questions to the panelists, who shared their varying prophecies about the future of the Court, both for the upcoming term and the next few years. After much discussion, the panel opened up to questions from the audience.

David Savage, the Supreme Court reporter for the *L.A. Times*, began the discussion by giving his own assessment of Chief Justice Roberts. He noted that while Democrats were prepared to fight Bush's first nomination to the Supreme Court, Roberts was hard to dislike or paint as a right-wing ideologue. He pointed out that in the end, half of the Democrats voted for Roberts, joining all of the Republicans. According to Savage, Roberts had a remarkably smooth transition; he came in and ran the Court well from the beginning.

Savage also commented on an op-ed piece written by Senator Edward Kennedy. In the piece, Kennedy claimed that Roberts had shown himself to be an activist. Savage discussed the two examples given of Roberts's "activist" behavior, which he thought could be an indicator of Roberts's future behavior.

In *Gonzales v. Oregon*, Roberts voted with Scalia and Thomas in a dissent that would have upheld the Attorney-General's right to issue an order voiding the Oregon Death With Dignity Act, which John Ashcroft claimed violated the Controlled Substances Act. The Act was passed in 1994 and allowed doctors to prescribe lethal

medications to dying patients.

Another case was *Rapanos v. United States*, in which Roberts joined a Scalia dissent that would roll back environmental law about 30 years. The Environmental Protection Agency had always interpreted the act broadly, in order to protect waters upstream and inland wetlands. However, Roberts said that was overreaching, even though it had been the law for 30 years.

Maureen Mahoney, a partner in the Washington, D.C., office of Latham & Watkins who has argued cases before the Supreme Court, took issue with Senator Kennedy's op-ed piece. She thought Kennedy was unfair and only accused Roberts of activism because he disagreed with his opinions. She also noted that Kennedy did not mention *Jones v. Flowers* or *Randall v. Sorrell*, which are two cases in which Roberts voted in a "liberal" manner. Roberts provided the fifth vote to say there should have been greater notice before a home was seized from a woman in *Flowers*. In *Randall*, Roberts joined a decision with Breyer to apply *stare decisis* from *Buckley v. Valeo*, which was a case not popular with conservatives. Mahoney said that deciding cases on a case-by-case basis is exactly what you would expect from Roberts, and that Kennedy attacked him only because he disagrees with him.

All panelists agreed that it was difficult to truly assess much after only one year. Linda Greenhouse, a staff writer for the *New York Times*, noted that the first term has been transitional, and that the real test will be in the upcoming term, in which the Court has taken on cases that should reveal Roberts's institutional posture. She said that we should look especially closely at the partial-birth abortion case, which was argued as part of the Supreme Court Preview's moot court demonstration. The panelists voted 8-1 to affirm the lower court ruling throwing out the partial-birth abortion law. Professor John Yoo was the sole dissenter.

Greenhouse also thought the two school district cases on the constitutionality of race-conscious student assignment plans in public schools would be of interest. She claimed it was very aggressive for the Court to grant certiorari in these cases because there was no conflict in the circuits. She said this may mean that someone on the Court has an agenda.

Dahlia Lithwick, editor of *Slate* online magazine, pointed out that changes will likely result because Roberts and Alito are part of a younger generation of Reagan conservatives. She said that while Kennedy, O'Connor, and sometimes even Rehnquist worried a lot about the Court and the Court's prerogatives not being diminished in any way, there has already been a shift away from that jealous guarding of the Court's prerogatives. Reagan conservatives feel the Court has overreached in the past and needs to be reined back in because it has trampled congressional and presidential powers. The Roberts Court is therefore more likely to have a great deal of anxiety when telling Congress and the President what to do.

Pamela Karlan, a professor at Stanford Law School, commented on the unanimous decisions that were decided at the beginning of its last term. There were three unanimous decisions on issues that were of tremendous controversy on both the Rehnquist Court and the Burger Court. However, she thought that people read too much into those opinions. She pointed out that we are moving from an era in which the big judicial issue was federalism into one in which it is executive power.

Furthermore, Rehnquist and O'Connor, who were part of a generation of conservatives who grew up in a states' rights environment, have been replaced by people who spent most of their time in the executive branch. She said this will have an effect on the way they think about issues before the Court. This may also help explain

why Roberts dissented in *Gonzales v. Oregon*. She suggested that it may have to do with Roberts's view of the executive power delegated to the Attorney General. She suggested that Roberts and Alito will most likely be less deferential to the states and Congress than the executive because of their backgrounds.

The panel moved on to discussing the strategy and the likely alignment of Justices. Greenhouse pointed out that Justice Kennedy will be very important in this term as a swing vote. She suggested that Roberts has a "Kennedy problem." Kennedy is not reliable for him. Kennedy may switch in an opinion, causing what was a majority opinion in conference to turn into a dissent.

Karlan agreed, noting that it will be very interesting to see if Roberts uses his assignment power and strategy to tie Justice Kennedy to a vote in conference. Karlan further posited that Roberts will fall in between Chief Justice Burger, who was often unfair and deceptive when assigning opinions and very strategic, to Chief Justice Rehnquist, who was very fair and open when assigning opinions and not nearly as strategic.

Karlan also said that it will also be exciting to see if Justice Stevens, who is "masterful" at assigning cases in ways that move the law in his direction, will be able to be effective in the Roberts Court. Mahoney commented that Roberts may not be thinking of what direction he is going to move the law yet. She also suggests he may value accord on the Court as well, which is indicated by his efforts to get a unanimous opinion about military recruiting at law schools. She pointed out that if he had wanted to, he could have avoided a unanimous opinion and moved the law instead.

The panelists discussed what areas of law were likely to see changes in the years ahead. Mahoney thought that Title IX and

Continued on pg. 5.

Marshall-Wythe Hosts 19th Annual Supreme Court Preview

Experts Discuss Changing Role of Supreme Court Advocacy

by Aaron C. Garrett
Contributor

A distinguished panel of advocates, with a combined experience of 99 cases argued in front of the Supreme Court, discussed the ways advocacy may change in the Roberts Court. The panel was moderated by Steve Wermiel of the Washington School of Law at American University and featured Carter Phillips of Sidley & Austin,

Tom Goldstein of Akin Gump, Beth Brinkmann of Morrison & Foerster, and Richard Lazarus of the Georgetown University Law Center.

A major topic of discussion for the panel was the development of Supreme Court practices by several dozen firms from Los Angeles to New York City. Additionally, many state solicitor general offices have created Supreme Court divisions, and law schools throughout the

country have responded by increasing the number of Supreme Court clinics they offer. The panel wondered how this could be so when the number of cases argued in the Court has declined in recent years and remained steady through the first term of the Roberts Court. The panel wondered if the market for Supreme Court advocates was becoming overcrowded.

One possible explanation offered was that as one side in a dispute hired an experienced Supreme Court advocate, the other side would be forced to respond in kind. As the old adage says, in a one-lawyer town, the lawyer starves. Add another and they both become rich. Another rationale for expanding Supreme Court practices was that the Chief Justice intends to increase the number of cases the Court hears from about 75 to around 100 per year, an intention he revealed during his Senate confirmation proceedings.

The panel focused on the increased emphasis of oral argumentation by advocates that might result from having two new justices who had also argued in front of the Court. Chief Justice Roberts has more experience advocating in front of the Supreme Court than any other justice in history. The Chief Justice won twenty-five of thirty-nine cases he argued in front of the Court during both private practice for the D.C. firm Hogan & Hartson and as the Principal Deputy Solicitor General under President George H.W. Bush. Justice Alito argued twelve cases in front of the Court in his role as an assistant to the

Solicitor General under President Regan. Including Justice Ginsberg, there are now three justices who have advocated in the Court.

The panel concluded that because of the presence of former advocates on the bench, present advocates are more likely to be given an opportunity to express what they have to say prior to questioning by the Court. The panel of advocates warmly welcomed this development.

The panel debated the changing role of certiorari petitions and whether the Court will focus more on issues of national significance than on clarifying splits in the circuit courts. Particularly in the area of business law, the panel discussed whether the Roberts Court was more likely to accept cases where no split in the circuit courts existed, but where the decision was likely to have a national impact.

The panel ascertained that the Court is almost certain to hear more patent and copyright cases than before due to the Chief Justice's interest in intellectual property law. The panel concluded many of its discussions by saying it is simply too early in the careers of both Chief Justice Roberts and Associate Justice Alito to determine what their exact impact on advocacy would be. While certain trends could be identified in the Roberts Court, many questions remain, such as: Who will take the place of Justice O'Connor as the traditional lead questioner? Is Justice Kennedy a reliable place to look for a fifth vote? Exactly how active of a questioner will Justice Alito become?

Panel Considers Status of Civil Rights in the Roberts Court

by Neal Hoffman
Contributor

The Saturday afternoon talks began with one of the most anticipated panels, the civil rights discussion. The talk was moderated by Neal Devins, the Director of the Institute of Bill of Rights Law, and featured Michael Carvin, Maureen Mahoney, Carter Phillips, and William Van Alstyne.

The most significant issue of discussion was in regard to affirmative action. The case of *Parents Involved in Community Schools v. Seattle District #1* will be argued in the upcoming term in connection with a case from Kentucky. Mahoney, the lead counsel in the landmark affirmative action case of *Grutter v. Bollinger*, spoke in detail about the reasoning behind affirmative action, and the cases that followed. The issue in these cases, according to Mahoney, will be if busing children to different school districts in order to achieve a desired level of racial diversity violates the Equal Protection Clause, but the cases may also allow the court a chance to state their position overall as it relates to the issue of affirmative action. Carvin also spoke on affirmative action, stating his belief that the practice has outlived its usefulness. According to Carvin, having diversity is an excellent goal, but the problem arises when people try to determine how much diversity is desired.

The other big civil rights cases that will be heard in the upcoming term include *Gonzales v. Carhart* and *Gonzales v. Planned Parenthood*. These cases deal with the constitutionality of the partial-birth abortion ban and are being challenged on the grounds that they lack a health exception to protect the life of the mother or are otherwise unconstitutional at face value. The panel members spent a brief period discussing these cases, noting that an important sign in how the future of the Roberts Court would emerge would be the outcome of these two cases. Cases such as these will allow advocates and the public to learn a number of important things: how closely will Roberts and Alito align themselves with the more conservative members of the Court, how will Justice Kennedy use his role as the middle man on the Court, and how will the Court address future challenges to *Roe v. Wade*?

In the end, the panel seemed to reach a consensus that only time will tell in terms of the future of civil rights cases coming before the Court. There are simply too many variables up in the air to make an accurate or well-researched guess about where the new Court will go in terms of reaching decisions and deciding what cases to hear. However, these cases will give the public a much better understanding of the new Court, and what they can expect in the future.

Predictions, continued from pg.

4. discrimination cases were likely to see a change. She also thought that while *Roe v. Wade* would not be overturned, abortion law will likely see some changes. Karlan said that since Roberts has professed a desire to hear more cases, business, intellectual property, and new areas of law may receive more time on the docket and thus those areas of law

may change.

Greenhouse, however, was skeptical that the docket would significantly increase despite Roberts's hopes. She guessed that First Amendment law might see some changes. Lithwick predicted that the war on terrorism would produce many cases that we haven't even thought of yet. For his part,

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Marshall-Wythe Hosts 19th Annual Supreme Court Preview

Panel Considers Status of Civil Rights in the Roberts Court

by Sarah Abshear
Staff Writer

As part of the Institute of Bill of Rights Law's annual Supreme Court Preview, War on Terror panelists Chuck Lane, Lyle Denniston, Neal Katyal, John Yoo, and Walter Dellinger met in the McGlathlin Courtroom on Sept. 15 to discuss issues ranging from military commissions to the scope of executive and judicial power in wartime. After each panelist spoke for approximately six minutes, the panelists exchanged questions with one another, and then took questions from the audience.

Chuck Lane, a Supreme Court reporter for the *Washington Post*, former *New Republic* Editor, and the moderator of the War on Terror panel, opened by speaking about the role of the Supreme Court in the national response to the war on terrorism. He spoke about the Supreme Court case *Hamdan v. Rumsfeld*, which threw many of these issues to Congress.

Lane explained that in that case, the Supreme Court held that the military commissions created by the executive branch violated Common Article 3 of the Geneva Convention. Since that time, President Bush has challenged Congress to establish military commissions. Lane explained that this has caused much debate in Congress. The Republican Party has been split into two camps regarding the treatment of detainees. One group of Republican Senators claims that the Administration's proposal for revising the rules on detainee treatment is inadequate because it leaves the C.I.A. out of Common Article 3 of the Geneva Conventions.

Lyle Denniston, a reporter for an online legal clearinghouse, SCOTUSblog, spoke about the wiretapping of American citizens. He noted that the Senate is consid-

ering different proposals to deal with what some refer to as "the terrorist surveillance program." Denniston expressed his concerns over the plan supported by Senator Arlen Specter, which would require a secret government court, the Foreign Intelligence Surveillance Court, to hear all cases dealing with the constitutionality of the surveillance. Of particular concern is the fact that the plan would preclude the United States Supreme Court, or any civilian court, from hearing these cases. As of Sept. 25, 2006, no plan has yet been adopted.

Denniston also discussed the cases challenging the constitutionality of the wiretapping, mentioning that one inherent difficulty in most of them is that the plaintiffs are not sure that they have been wiretapped. One problem is that the Bush administration has attempted to use the state's secret privilege in order to dismiss these cases. However, Denniston points to a Portland case that is more likely than others to succeed. The plaintiff, The Islamic Foundation, received leaked documentation revealing that the N.S.A. did wiretap its phone. As a result, the government was privy to a privileged conversation between the plaintiff and its attorney.

Neal Katyal, the attorney who represented Salim Hamdan in the case mentioned above, spoke about that experience. He said that the most difficult part of the case was reaching the merits. Problems included the attempt by Congress to strip jurisdiction, not being able to get permission to get or see a client in the first place, and navigating the classification issues. Katyal further explained that the executive treated Guantanamo as a "legal black hole" in which typical freedoms given by the United States court system did not apply. For example, Hamdan was actually kicked out of his own criminal trial. Extreme conduct like this made the case easier for

Hamdan.

In *Hamdan*, Katyal argued that the actions by Congress and the executive were essentially a "war on the courts."

"If you are a green card holder, or any one of the other five billion people on the planet, you get this beat-up Chevy version of justice," Katyal said of the United States justice system. But if you're an American citizen, you get the Cadillac version."

Katyal compared the "two-tier system of justice" being set-up to discriminate against non-citizens in the United States to when Dred Scott was denied his constitutional rights because he was not a citizen.

John Yoo, a law professor at Boalt Hall and a former Deputy Assistant Attorney General under the Bush administration, began by commending Katyal for his skilled representation in *Hamdan*. Yoo then contrasted the actions of the Supreme Court in *Hamdan* with its previous actions throughout history during wartime to suggest that it overstepped its bounds. For example, the courts considered the necessity of military commissions, which they avoided doing after World War II. At that time, the Supreme Court also claimed that it would not implement or execute the Geneva Convention. Yoo claimed that in this case, the Supreme Court changed the law. The executive made its decisions based on what it thought the law was at the time.

Yoo explained that Congress delegated power to the executive branch in three kinds of ways, indicating that the executive had authority for military commissions. The first was a provision of the ECMJ that had been in articles of war before. The second was the authorization to use military force given to the president, which the Supreme Court ruled two years

ago included the ability to detain. The third was the Detainee Treatment Act passed in 2005. He also claimed that the Supreme Court has required Congress to specifically enumerate powers it is giving the executive, which is something that it has never before been required to do, especially in wartime. Yoo closed by asking the audience to consider whether we want to make it easier or harder for Congress and the executive to cooperate during wartime, claiming that the Supreme Court moved in the wrong direction when deciding *Hamdan*.

Walter Dellinger, head of the Appellate Practice at O'Melveny & Myers and a former Solicitor-General, began by urging panelists to consider the most central issue to the war on terrorism, which is the assertion that the President has the authority to violate an act of Congress. Dellinger pointed out that whatever happens with the military commissions issue, Congress will not be "overruling" the Court, but rather complying with the Court. This is how our democracy works, he said. The executive defying acts of Congress, however, is in direct contradiction to the system of checks and balances.

Dellinger professed belief in executive power and that in the face of Congressional silence, the executive has vast powers to protect the country. However, once Congress has passed a statute, the president should comply. He noted that even Abraham Lincoln, who suspended the writ of *habeas corpus*, never defied an act of Congress.

"It is an extravagant claim of presidential authority to refuse to abide by acts of Congress, and even to decline to inform Congress that it is refusing to abide by acts of Congress," Dellinger said. "It is against the extraordinary sweep of that claim that *Hamdan* became the most important decision dealing with presidential power ever."

Predictions, continued from pg. 5.

Savage said that interpretation of the Establishment Clause is likely

to change. He conjectured that governmental displays of religion and ceremonial invocations of religion may be more likely to pass constitutional muster under the

Roberts Court.

To see how the panelists' predictions turn out, watch for the cases decided this term. The term begins in October, with first argu-

ments set for Oct. 3, 2006. The opening conference was held on Sept. 25. For more information about the Supreme Court, visit www.supremecourtus.gov.

Hamdan and the Future Constitutionality of Military Tribunals

by Kelly Pereira
News Editor

On Friday, Sept. 15, Professor Neal Katyal of the Georgetown University Law Center presented a lecture entitled "Seeking Justice in the Military Commissions" on the main campus. Katyal made the oral arguments on behalf military detainee, Salim Ahmed Hamdan, in *Hamdan v. Rumsfeld*. Katyal spoke about his involvement in the case and discussed the future constitutionality of military tribunals.

Katyal began his lecture by stating, "I believe we should have a strong president." The president has plenary power in foreign affairs and the deployment of ground troops, but Katyal said (and proved in his case) that executive power went too far in establishing military tribunals in Guantanamo Bay. "Can a President set up a system on his own when that system defies what Congress has said?"

According to Katyal, Rumsfeld handpicked judges for the tribunals. Although distinguished jurists, the judges chosen had previously made public statements sympathetic to the idea of military tribunals. All appointed to the bench received the rank of Major General, without any prior military experience. "We need judges appointed by the President but approved by Congress," Katyal said.

In November 2001, the Bush administration responded to the terrorist attacks by trying to "strip judicial power of review," with secret military tribunals unaccountable to U.S. federal courts.

"Trials were staged in Guantanamo Bay to avoid habeas corpus review," Katyal said. By Nov. 28, 2001, Katyal was already testifying before Congress about the seeming constitutional violation and inconsistency with the traditional role of courts.

Although detainees were held in Guantanamo Bay indefinitely and prosecutors were not appointed until May 2003, Bush alleged that

the issue of setting up the military tribunals was a timely response to the terrorist threat. Katyal began to develop test cases, but it was not until six detainees were designated for trial that he began actual defense work.

Salim Ahmed Hamdan, a Yemeni national, allegedly served as Saddam Hussein's driver. In December 2003, the government allowed a defense lawyer affiliated with Katyal, Lt. Cdr. Charles Swift, to travel to Guantanamo Bay to attempt a plea agreement. Katyal said that this was a farce because how could there be a plea to "an unspecified offense for an unspecified number of years"? Katyal prepared a letter indicating the insufficiency of the proceedings which Hamdan signed at this time, initiating the suit.

A suit was filed in Seattle on behalf of Hamdan with Swift as "next friend." Opposing counsel, also from the Washington, D.C., area complained, "Why do we have to fly out to Seattle to make this argument?" Katyal quipped, "Why do we have to go to Guantanamo Bay for the trial?"

The decision of the court in Seattle was that a decision pertaining to a foreign territory had to be decided in Washington, D.C. On Nov. 8, 2004, after removal of the case, a former Navy judge ruled in Hamdan's favor, relying on the Geneva Convention, international humanitarian law, and U.S. military law. The Court of Appeals reversed, and the stage was set for a writ of certiorari to the Supreme Court.

To Katyal's mind, this was an open-and-shut case. We do not have a history of not allowing criminal defendants to participate in their own trials (to hear and evidence and confront witnesses), unless they are disruptive in a court appearance. One such instance of "kicking a criminal defendant out of the trial" was by mistake during the Cold War, and it was reversed. According to Katyal, Hamdan was kicked out pretrial. Even during World War II, accused Nazi sabo-

teurs were allowed to participate in their own defense, but the press and public were excluded for security reasons.

Meanwhile, while certiorari was pending, the Department of Defense changed the military tribunal system to "make it more fair." This "flipped" the case in Katyal's favor, showing the system to be ad hoc with shifting rules.

"It's hard to violate Rule 3 of the Geneva Convention, but Bush has done it," Katyal said. "[The rules] read like a tax code full of loopholes That makes sense in a time of crisis but not when Congress has time to act."

Even on the eve of the oral argument, the rules of evidence changed to disallow testimony extracted by torture.

"Even then they didn't do a good job because the prosecutor had to call it torture testimony [for it to be excluded]," he said. "It was a fig leaf of a fairer system."

Katyal said the Bush administration looked to prosecutor-friendly systems throughout the world such as the former-Yugoslavia to try to "stitch together the rules" to make it seem like a fair system.

On June 29, 2006, the Court ruled in favor of Hamdan: "For the reasons that follow, we conclude that the military commission convened to try Hamdan lacks power to proceed because its structure and procedures violate both the UCMJ and the Geneva Conventions. Four of us also conclude . . . that the offense with which Hamdan has been charged is not an offense that by . . . the law of war may be tried by military commissions."

After the decision, Bush sought congressional authorization to continue the military tribunals. Just a day before the lecture, the Senate passed a bill that continues to strip the jurisdiction of federal courts.

"You would have hoped for a moment of reflection," Katyal said. But instead, even after the decision, it is being treated as a partisan victory.

Nevertheless, Katyal conclud-

ed in saying that he is confident that if the Senate bill becomes law it will be struck down. In opening up the lecture to questions, Katyal was asked to explain why. Katyal cited problem areas such as the concealment of exculpatory evidence, lack of judicial review, and scope of the bill, which would allow ally to detain suspected terrorists indefinitely.

According to Katyal, some have said the Bush system resembled the Soviet system more than the American. Katyal said the Senate version is not as bad as the executive version, but it comes close.

"It does not resemble a court martial," he said. "In fact it strips the precedent of court martials."

To Katyal, the best system would be trials, court martials, and appeal through the military system.

Katyal is not surprised why JAGs and retired military leaders are so opposed to the military tribunals.

"If you adopt this system, it is going to hurt us in foreign affairs," he said.

Captured U.S. soldiers may be subject to the same treatment in retaliation or because the U.S. has an exemplary role for the "rule of law."

"What the Supreme Court said was not 'terrorists get the Bill of Rights,' but basic, fundamental tenets of international humanitarian law," he said.

Katyal cautioned that, if the bill passes, Khalid Sheikh Muhammed and other terrorists can allege the application of *ex post facto* law. Moreover, the law is unnecessary. It would not be hard to convict Muhammed by court martial because of overwhelming evidence.

"The guys getting the brunt of it [would be] small fries without lots of damaging evidence," he said. "It is in everyone's interest to make it fair right away and provide judicial

Continued on pg 8.

Cutting Edge: Electronic Discovery

by Lawrence J. Perrone
Contributor

Everyone's favorite class in law school was Civil Procedure. And for good reason: personal jurisdiction, subject matter jurisdiction, subpoena duce tecum, and discovery. Salivation triggers just mentioning these thrilling legal concepts.

After the sarcasm has finished oozing, there is at least one person who does think this way, Michele C.S. Lange, Esq. Mrs. Lange's passion, which has dominated her entire legal career, is "electronic discovery." Yes, this encompasses the dreaded Rule 26 of the Federal Rules of Civil Procedure (many 2Ls are now contemplating whether to finish reading this article after the Legal Skills memo). While discovery may be complex and boring to some, electronic discovery is fascinating, and Michele Lange is somewhat of a pioneer in the area.

Mrs. Lange works for Kroll OnTrack, a global data recovery and technology company. Kroll OnTrack, a part of Kroll Inc., specializes in data recovery, proprietary search software, and electronic evidence discovery. Kroll Inc. is headquartered in Eden Prairie, Minn., housing 700 employees there, with a total of 1,200 world wide. Data recovery is a booming business, as demonstrated by Kroll Inc.'s growth from only about 200 employees in the late 1990s.

What is so special about e-discovery? For all you wannabe litigators out there, e-discovery is the future. Actually, it is the present, but almost nobody knows how to do it. It has been said that there are only about 200 people in the world who specialize in e-discovery.

Mrs. Lange, in her energetic and animated fashion, explained to those attending her presentation on Sept. 21 how discovery used to be, and how it is now. She stated that previously, in large litigation cases, law firms would hire temp workers and paralegals to do document review. There would be a U-Haul truck full of boxes containing hundreds of thousands of documents, sometimes well into the tens of millions. Then, document by document, lawyers and others would sift through the documents looking for the "smoking gun." Doesn't sound fun, does it? How does that \$140,000 dollars a year sound now?

But times have changed. The days of file cabinets are a thing of the past. Now, everything is computerized. Corporations provide computers to most employees. Almost every corporation has a system which protects its data storage from catastrophic loss. Now, software that Kroll Inc. has pioneered, acts like LexisNexis or Westlaw. Instead of searching for caselaw, though, all of the documents are uploaded and can be searched through using keywords, subject, topic, dates, etc.

For example, Kroll Inc., was hired by the government during the Columbia shuttle disaster to recover data from the devices inside. After restoring the data, Kroll could reconstruct the last minutes of the explosion. Also, Kroll Inc. was retained to perform data recovery after Hurricane Katrina, restoring and retrieving all the data from the sewage soaked computer systems. This gives new meaning to lawyers "getting their hands dirty." Eeeeow.

Currently, Mrs. Lange and Kroll OnTrack provide services to law firms around the country performing e-discovery. Mrs.

Lange has worked on cases where a corporation attempts to find out whether a rogue employee, just recently fired, has copied all the company's information to a zip drive. Disgruntled employees may attempt to sabotage or even sell trade secrets. Or in another flagship case, a large settlement was induced due to the contents of an e-mail. In that case, a wife-to-be was taking the drug Fen-Phen, a weight loss drug. In her attempt to make that wedding gown fit just a little better, the wife-to-be suffered medical difficulties, ultimately leading to her death. The drug company was sued and through e-discovery, this e-mail surfaced from a high ranking drug company executive:

"Am I off the hook or can I look forward to spending my waning years writing checks to fat people worried about a silly lung problem?"

Ooops!

Mrs. Lange referred to e-mails as the new "watercooler" talk. People say things in e-mails from a very casual perspective. Beware, all. We never know who might someday read our e-mails.

Back to the large litigation cases. Once retained, Mrs. Lange and the team of computer forensic experts (these are the CSI people, only with computers) will seize data from companies and individuals computers, cell phones, PDAs, laptops, and zip drives, and then use their proprietary software to search through the data for discoverable evidence. When searching the information, they can tell when things were written, who by, if it was modified, or if the user attempted to delete it. Most of this information is referred to as "metadata." Metadata is essentially "data about data."

Metadata is one of the things that make e-discovery unique. If a

party produces a document and it is dated Jan. 24, 2006, it could have been written in July and merely dated January. But with computers, every time you use your computer and access anything, the computer records it. Thus, alteration, modification, and destruction of evidence are key issues in E-Discovery cases and Mrs. Lange's team can typically determine whether this has occurred.

A tip from Mrs. Lange: when you delete something, or in other words when you push the delete button, believe her, the information is definitely still there. Actually, the television show CSI consulted with Mrs. Lange concerning one of their episodes regarding reconstruction of a crime scene using information recovered from a deceased victim's cell phone.

So what does it all mean? The bottom line is, we should all enroll in Electronic Discovery and Data Seizure with Professor Fred Lederer. Professor Lederer instructs his students in his usual eloquent manner, eliciting thought-provoking discussions on how to draft a discovery plan in an e-discovery case; or perhaps a protective order for undue expense. This class will be invaluable in years to come and is a good way for students to set themselves apart from the rest of the pack. Finally the class is not only fascinating, but it is also extremely cutting edge and oriented towards real practice.

This writer is one of 11 students enrolled in Electronic Discovery and Data Seizure, and we use Michele Lange's co-authored book, *Electronic Evidence and Discovery: What Every Lawyer Should Know* (2004). Michele Lange's passion is infectious and along with the practical value of knowing how to do e-discovery, this new cutting edge field of the law sells itself.

Constitutionality of Military Tribunals, continued on pg 7.

review right away."

America should not shrink from its principles when the going gets

tough.

"A Yemeni with a fourth grade education sued and won against the highest leader—that's the vision we want," he said.

Katyal was the guest of the William & Mary Human Rights

and National Security Program. Professor Linda Malone, Director of the Program, and Professor Jordan Paust of Houston Law, wrote an amicus brief as professors of international law on behalf of Hamdan. On Thursday, Oct. 5, from 10:00 am

to 7:00 pm, William & Mary law school will be among more than 250 law schools and colleges that will link to the live webcast of the "National Guantanamo Teach-In" from Seton Hall University Law School.

Upcoming Events

Look to this space for news about speakers and other major events at the law school. If your organization has an event in the next month you would like advertised, please e-mail TheAdvocateWM@gmail.com.

October 4

Professor Ron Wright, Guest of Paul Marcus

Talk will be held at 1:00 p.m. in the Faculty Conference Room.

October 5

JAG Interest Meeting

Information briefing on two-year law school scholarship in Room 127 from 1:00 until 2:00 p.m. Major Lutz from the William & Mary Army ROTC department will provide information regarding the scholarship program and accessions into the Army JAG Corps. His office is located in the Western Union building next to sorority

court or call him at 757-221-3611 malutz@wm.edu.

Michael Gerhardt, guest speaker of IBRL

University of North Carolina Professor Michael Gerhardt, formerly a professor at William & Mary School of law, will talk on "Precedent and Constitutional Law" from 1:00 p.m. to 1:50 p.m. in the Faculty Conference Room.

National Guantanamo Teach-in

This event, sponsored by Professor Linda Malone, is offering a large variety of presentations and discussions regarding how the U.S. government, medical professionals, legal community, and members of the church should respond to Guantanamo. The program will link to the live webcast, which will begin at 10 a.m. and conclude at 7 p.m. at Seton Hall University Law School. The webcast can be viewed in two locations: Tidewater B in the Uni-

versity Center on the main campus and in room 134 at the Law School. For more information, go to law.shu.edu/guantanamoteachin/.

Trial Team Tournament

For the competitors and their cheerleaders, the competition will be held from 5:00 p.m. to 10:00 p.m. in Rooms 119, 127, and 141.

Virginia Bar Association Networking Event

The VBA will host a networking event in the law school lobby from 6:00 until 8:00 p.m. for students to meet practicing attorneys and judges in the local area, from Richmond to Virginia Beach.

October 6

The SBA Rafting Trip

Everyone is welcome to attend SBA's annual CRAZY, FUN, and EXCITING white water rafting trip on Friday, Oct. 6 and Saturday, Oct. 7!!! The plan is we will leave

Friday night and stay the night on the grounds. Saturday morning we will have breakfast, go rafting, have dinner, and then drive back in the evening. All this is included in the low price of \$85! Spots are limited! So sign up NOW! To get more info about this EXCITING adventure, check out www.rivermen.com. If you have any other questions, please contact Jillian Kipp at jekipp@wm.edu.

October 7

Justice Sandra Day O'Connor Discussion on Religion Clauses

Chancellor O'Connor will speak at the Kimball Theatre in Colonial Williamsburg at 3:00 p.m., and a roundtable about the speech will follow. Seating is limited and tickets are required.

Continued on pg. 12

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Alum Provides Inside Look at Patent Law

by **Tiffany Walden**
Staff Writer

Ten years ago William & Mary offered no IP, or intellectual property, courses. That was the situation when Andy Ollis graduated in 1995. Today Mr. Ollis is a successful patent litigator, and the law school offers a myriad of IP courses. Mr. Ollis is a patent lawyer at Oblon Spivak, one the country's top patent firms located in northern Virginia. On Friday, Sept. 22, Mr. Ollis gave up his lunch hour to sit down with 16 law students to talk about what it's like working in patent law.

Mr. Ollis graduated from Cornell University with a degree in government. He was originally planning to double major in government and engineering, but it never panned out. His background in engineering nevertheless proved useful, as a technical background is practically a prerequisite to work in patent law. Most patent lawyers have a science background and a few have PhDs or advanced degrees in the sciences.

Mr. Ollis got his start at Oblon Spivak by convincing a partner to hire him for six months to prove himself. He speaks fondly, in hindsight of course, of his first assignment—a partner said, “I’m leaving for Taiwan in a couple of weeks. Let’s see if you can write. I need a fifty-page paper on the International Trade Commission.” And apparently Mr. Ollis can write. He’s been with the firm ever since. Working with companies in Taiwan is nothing strange for patent law, which is a largely international business. Most of Oblon Spivak’s clients—on the order of 70-75%—are international, many from Asia and Europe.

Travel is not a common occurrence, and Mr. Ollis estimates he goes on one international trip each year. Long hours, however, are common—especially when preparing for a case. Only three to four percent of patent cases actually make it to trial, and when a case does go to trial, it is rare for it to be litigated for less than a million dollars. Because the cost of trial is

so expensive and the cases tried are typically for millions and millions of dollars, a patent litigator’s work is more hour intensive than many other types of law. The hours can seem endless when preparing for a case, yet Oblon Spivak is one of the more moderate patent law firms in the country. At other firms, attorneys average 2,500 to 3,000 hours a year, while Oblon Spivak is closer to 2,000.

Patent law is a great field to get involved in now because it is growing so quickly. In 1990 there were about 1,000 patent cases filed each year. Now the number is closer to 3,000. International companies that were afraid of the American jury system are now finding it a necessary to try cases in the United States because of a more globalized economy.

To get a job in patent law a background in science is a plus. At Oblon Spivak, for example, the patent division is separated into three departments: chemical/biotech, electrical, and litigation, which interacts with chemical and

electrical. A law student should also take IP and patent courses to prove he or she is serious about pursuing a career in patent law. Because of the many courses offered firms have an increased expectation for law students to be more well-versed in IP law before graduating. If one is interested in patent litigation, courses on trial law, such as trial advocacy, are an asset. As for the patent bar, Mr. Ollis said, “It’s not *that* important to take right after graduating.” Although it is not a formal requirement to work in patent law, it does demonstrate to potential employers one’s interest in patent law.

Patent law is a fast growing field of law. But it’s not for everyone. The hours are demanding, and it is a competitive field with lawyers working with companies from around the world. Plus, many of us chose law school to get away from math and science. But if you are one of the few that knows protons from purine and sin from sulfur, then maybe patent law is just for you.

Meet Francisco Jose Matiella

He goes by the name "Chico". Coming to the Green Leafe from Vienna, VA.

After what seems like years of hard work in the dreaded Green Leafe Dish-Pit, Chico has emerged as a full-fledged Bartender. Chico exemplifies what The Green Leafe is all about: hard work and off-center personality. Where else would you be able to find a swing-dancer who drives a monster truck fit for a redneck? And stranger still, is the fact that he has stayed in Williamsburg by choice after graduating from William & Mary.

So drop by the Leafe some evening or late night to visit Chico and see a part of what makes The Leafe as great as it is.

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Monday: \$9 Entrees 5pm-9pm
Tuesday: VA Draft Night 5pm-9pm
Wednesday: Bottle of Wine Night 5pm-9pm
Thursday: Cocktails with Tony 4pm-9pm
Friday: New Draft Night
Saturday: Shrimp Night 4pm-9pm



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We Know What You Did Last Summer...

Every year the Public Service Fund, in cooperation with the Law School, provides financial support to a large number of William & Mary students during the summer so that they can pursue opportunities with government and public interest organizations. Each issue of *The Advocate* will feature stories authored by the sponsored students.

Fighting for the Endangered: My PSF Summer Experience with Defenders of Wildlife

by **Carrie Boyd**
Contributor

Caribou, Bald Eagles, Piping Plovers, Gray Wolves, Beluga Whales, Sonoran Jaguars, Pygmy Owls—these are a few of the clients represented by the attorneys at Defenders of Wildlife. The non-profit organization, where I worked my 1L summer, specializes in Endangered Species Act litigation. Yes, this does mean going to court on behalf of wild animals. A lot of my experience with Defenders was what most first-year associates do, which is to research and

write. One of my favorite parts of the summer was writing comments, on behalf of Defenders, to the Fish and Wildlife Service in response to a few of their proposals printed in the Federal Register. Those actions proposed, in our view, would impact species' critical habitat or lead to the removal of the Bald Eagle from the Endangered Species List without a solid post-delisting monitoring plan in place.

Not only was I able to help the attorneys with their cases, I also attended numerous committee hearings on Capitol Hill and discussions by professors and scholars

from across the country regarding recent court decisions and pertinent environmental law issues.

I felt good about the work I was doing, not only because it is unique but because species protection does a lot more than just protect animals. In the process of protecting these under-appreciated species whose entire existence is imperiled, Defenders' litigation supports habitat protection and a healthy planet in general.

I couldn't have asked for more in my first-year summer, and I have Public Service Fund to thank for making it possible

for me. The opportunity to work with Defenders was a privilege, especially given that environmental law is my primary interest and the primary reason I decided to come to law school. Without monetary assistance from the Public Service Fund, I could not have taken the job. I take a lot of financial aid, so when I started to look for jobs, I felt that working in the heart of Washington, D.C., would be an impossibility for me. However, PSF made it possible, and I can say with resounding truthfulness that the job was fantastic and so was living in D.C. for a summer!

Of Politics and Paper Mills: My PSF Summer in the Southern Hemisphere

by **Maryann Nolan**
Contributor

One week after handing in my last exam of my 2L year, I boarded a plane for Buenos Aires to start my summer adventure. I was looking forward to spending a summer interning at the Center for Human Rights and Environment (CEDHA) in Cordoba, Argentina, but I wasn't quite sure what to expect. I had received my internship at CEDHA with the help of Professor Christie Warren, who had worked with the founders of CEDHA over 10 years ago. Professor Warren spoke very highly of the organization's founders, and she was very encouraging and supportive of my desire to work in Latin America again. I had been told to bring a laptop, research the paper mills issue a bit before I left the U.S., and to be flexible. Other than that, I wasn't really sure what I would be getting into.

I suppose that not having any expectations would make it hard to be disappointed with my summer experience. I figured that I would go down and help out the best that I could and see what I could learn from everyone at CEDHA. After

two and a half years as a Peace Corps volunteer in Ecuador, I knew how important it would be to be flexible and hope for the best and to treat each day in a foreign place as a new learning experience. I wasn't sure what to expect, but I was very hopeful, and Professor Warren's enthusiasm was infectious. I was incredibly excited to see what I could learn, and I was very blessed. I cannot imagine a more wonderful and memorable summer! After making my way to Cordoba, nine hours north of Buenos Aires, and finding a place to stay, I started my work adventure. It was a very exciting time to be in Cordoba, and being a part of CEDHA this summer was particularly special.

In just 12 short weeks I experienced the highs and lows of World Cup soccer in Argentina. I hiked up the gorgeous trails on my own and rode straight up 400 meters on horseback, all while looking 10 inches over to my left and seeing nothing but a very scary drop off. I stood in a crowd of 30,000 people who sang happy birthday to Fidel Castro while he stood on a stage about 15 yards away, smiling and waving to the crowd, one week before he



gave up power due to illness. I listened to Venezuelan President Hugo Chavez pontificate on world affairs and politics and joke around with Castro on his status as a playboy (Castro insists that age has not slowed him down). I worked with lawyers and interns from five different countries so impressive for their wealth of knowledge and enormous hearts, and I am proud to call them my friends. Over the course of the summer I saw more than I could have hoped for, and learned more about international environmental law than I would have thought possible.

CEDHA is heading up Argentina's case against Uruguay in the International Court of Justice. Argentina and Uruguay signed a treaty in 1975 promising that all is-

sues arising from the Rio Uruguay, the river bordering the two countries, would be bilaterally agreed to. Uruguay was approached by Finnish and Spanish companies with a \$2 billion paper mill project, however, which would require the construction of two paper mills six kilometers apart on the river. Two paper mills using low-level technology operating in such close proximity would have a devastating environmental impact on the region. The project would severely damage the water supply for the community of Fray Bentos, as 100 cubic meters of water would be drawn from the river each day, and contaminants returned. The project also proposed a risk to the Guarani Acquirer, which was awarded a

Continued on pg. 12.

Argentina, continued from pg. 11. grant from the World Bank for its importance to the region. The project also posed a risk to the tourism, fishery, and dairy industries in the region, which would be affected by the contaminated water and foul sulphurous smells. Uruguay ignored the treaty and environmental impact the project would have, however, and allowed the construction of the two paper mills to begin.

CEDHA sought to halt the construction of the mills, and convince the paper mill companies that their project proposal was flawed. CEDHA also sought to convince the banks financing the projects to realize that their investments would violate the Equator Principles, which they had signed pledging to invest responsibly according to World Bank standards. As an intern with CEDHA I was able to contribute to CEDHA's work on the paper mills case and learned so

much in an amazingly short period of time. The Spanish company ENCE announced just last week that they have decided to abandon their paper mill project in Fray Bentos. ENCE officials acknowledged that "it was a crazy idea to put two huge mills together at a single site."¹ This acknowledgement is an enormous victory for CEDHA and the government of Argentina and is hopefully a huge leap toward convincing Botnia, the Finnish company, to reassess their plans to build their paper mill on the river.

When I came to law school I never could have dreamed that I would have an opportunity like working with CEDHA. My summer experience would not have been possible with the encouragement of Professor Warren, Career Services Dean Rob Kaplan and the support of the Public Service Fund, and I'm so grateful to have had this opportunity!

¹ See http://www.cedha.org.ar/en/initiatives/paper_pulp_mills/

Upcoming Events

Continued from pg. 9.

Third Annual Brigham-Kanner Property Rights Conference

Beginning at 9:30 a.m. in Room 119, panels examine Professor James W. Ely Jr.'s work and its effects on the law of property rights, the treatment of property rights, and the protections given to other rights under the Bill of Rights, and judicial responses to Kelo. For more information, contact Kathy Pond at ktpond@wm.edu or 757-221-3796.

Public Talk and Book Signing by Joan Biskupic and Marci Hamilton

Joan Biskupic, *USA Today* reporter and author of *Sandra Day O'Connor: How the First Woman on the Supreme Court Became its Most Influential Member*. Marci A. Hamilton, Benjamin N. Cardozo

School of Law, former law clerk to Justice O'Connor, and author of *God vs. The Gavel*. Appearance by authors will begin at 11:00 a.m. and will be held in Room 124.

October 13

National Folk Festival

A three-day *free* music festival in Richmond, including Blues, Irish, and Cajun music—a mix of types of music that we've come to think of as "American." For more information, visit <http://www.national-folkfestival.com/event.html>.

October 16, 17

Fall Break

October 19

Michael Toner, guest speaker of IBRL

Federal Election Commission Chairman Michael Toner will talk from 1:00 p.m. to 1:50 p.m. in the Faculty Conference Room.

Casino Night photos courtesy of Tara St. Angelo. The event is an annual PSF fundraiser.



Marshall-Wythe Student B-LAW-GS

by **Tara St. Angelo & Nathan Pollard**
Business Editor & Staff Writer



The 2L class has a celebrity in its midst: **Larry Perrone**. Although Larry could have been the stunt double for Tom Cruise in the movie *Cocktail* (if he was born a decade earlier), he settled for being the 2000 Northeast Florida Bartending Champion. Not only can Larry make you any drink you want, he can juggle the bottles while doing it. In short, he's the guy you want at your next party.

Larry moved inland to William & Mary this year after a life near the water to come. He's lived in

Hawaii for a good portion of his life and went to the Florida Coastal School of Law in Jacksonville. He's also lived in Georgia and South Carolina as a result of being a military kid. Larry loves being a law student. After having to juggle bartending, going to college, selling real estate, and buying a home, law school is a breeze for Larry. That is why Larry is willing to go to four years of law school instead of just three. It seems Larry was a rising 3L in Florida, but due to transfer credit losses, he is a 2L here. Larry is also under the impression that everyone here is more nonchalant than at his previous law school. I think this impression will change as exams approach.



Mike King is a Mississippi boy that married a Virginia girl and has been living here for the last five

years. After a year at Toledo College of Law in Ohio, he returned to Virginia. Mike is going to miss the big tailgate parties after avidly rooting for the Eagles at Southern Mississippi for four years as an undergrad. I don't know that Tribe football will be quite as exciting for Mike. Two advantages of living in Williamsburg for Mike are the absence of smog and the presence of the honor system, neither of can be found in Toledo. However, Mike is not thrilled with the overabundance of squirrels in our little 'burg.



Leigh Thelen is a city girl who moved to the 'burbs after living outside of Philadelphia, working in D.C., and going to school in Atlanta. Leigh worked as a mechanical engineer after she graduated from UVA, but obviously got bored

of that and went to law school at Georgia State where she could do exciting things like reading cases and writing memos. Leigh wanted a graduate degree, and she decided that with a law degree she would have many choices. So far Leigh is really impressed with the amount of "organized drinking" the law school provides. Thank you SBA and PSF! Leigh has taken advantage of all these organized imbibing events, made some bosom buddies, and frequently makes appearances at the Leafe.

Leigh did not just come to William & Mary for the free beer though. She, like Mike, is really impressed with the honor system here and is amazed that things left behind will still be around later. Also, Georgia State was a commuter school and the students were not as apt to hang out with each other. This was obviously not a good fit for a social butterfly like Leigh. Leigh has already joined in many activities at the law school, including a stellar performance as a pitcher during the recent softball tournament. Leigh says her pitching ability was hindered slightly by the distraction of a scantily clad umpire. See Asim Modi's article about the SBA softball tournament in this issue of *The Advocate* for more information.

I am sure everyone is excited to welcome all the transfers to William and Mary, even if it is a little late in the semester.

One Account of the William & Mary Softball Tournament

by **Asim Modi**
Features Editor

Although a search of *The Michigan Daily* website might lead you to believe otherwise, I have no real experience writing a sports features article. Part of me wanted to approach the piece in true "Sport of the Times" fashion, complete with a literary headline (like "Rodriguez hits, but the Yankees get beaten"). However, the romanticism with which those writers approach sports would not quite capture an event such as the William & Mary Softball Tournament. Moreover, true sports writers actually cover the events of which they write about. Not only did I not observe all the matches and notice all the subtle tactical adjustments that win you law school softball games, I rarely paid attention to the action on the field for my own team (as evidenced by my several dropped catches and Manny Ramirez style jog to first base on one groundout).

So for those readers who actually want to find out what hap-

pened on the field, here is a brief recap. The Tom Jackson Project, captained by Michael Sweikar (but most closely associated with Dave "Sweeter than Shug" Bules), ran the table. Much like Gilroy in "Varsity Blues" once they moved up to 5A, they didn't just beat teams, they hurt them. The teams that joined them in the tournament were The Great Hambino, Shake-N-Bake, and Tim Polin's Team, with Shake-N-Bake coming in as runners-up. Completing the list of also-rans are The Ellsworth County Pipe & Steel, Facebook Friends, Chuck Norris (Chuck himself could not fit softball in with his grueling schedule of ass-kicking and TV testimonials), and the Jacksy Bilsborrow Project. Jacksy Bilsborrow Project finished second-to-last in the 2L division, with a 1-2 record. The inspiration for the name, a 2L whose doppelganger is Squints from the movie "The Sandlot," could not be reached for comment, but sources close to him remark that he was enraged that his eponymous team could not "bring it up."

Of course, the list of teams

given above could not be complete without mention of Balls in Your Hanging File. If this team was getting special mention only because I played on it, then reader outrage over my mediocre-at-best attempt at the George Plimpton genre would be reasonable. However, this team, captained by 2L J. Alex Chasick, stood out for a number of reasons. First off, the name. It was a difficult process to find a name that would be amusing and mildly offensive and not law school related at all. As a result, a perfectly decent name like Fee Simple Absolut just had to go. Of course, with a name like Balls in Your Hanging File, the on-field apparel just has to reach that level of class. Hence, wife-beaters with the word "Balls" on them were the uniform of the day and worn by all (except myself, for the concept of fun and I have only a casual relationship).

The uniforms would turn out to be a crucial asset for Team Balls. During one at-bat, Captain Chasick lifted his wife-beater to reveal what the French would call, *un peu de gut*. As captain and pitcher, he real-

ized the team was getting rocked and something had to stop the bleeding, so he played the team's ace in the hole. Sadly, the midriff baring did not work because an opposing batter asked Chasick to pull down his shirt and cover his belly.

Balls' rotating outfielder and seamstress Alison Stuart remarked, "For me, the best part of the tournament was when a batter asked our pitcher to pull down his shirt and cover his belly." Outfielder Nathan Pollard added, "My spirit came from Alex's pregnancy. I mean if a miracle like that can happen, I thought we could win the tourney."

Chasick's attempts to influence events on the field with fashion did not end there. During ump duties, he called balls and strikes, wiped the plate, and conveyed the general menace of an umpire wearing a far-too-short mesh shirt and sunglasses with lenses in the shape of the state of Texas (no pictures are available

Continued on pg. 16.

United Against Hate

by Alan Kennedy-Shaffer
Features Editor

The vandalism of the Lesbian and Gay Law Association (LGLA) bulletin board on Friday, Sept. 22, 2006, highlights the need for the Marshall-Wythe School of Law to unite against hate. We must act immediately to demonstrate our commitment to tolerance and justice.

The initial response to what can only be categorized as a hate crime has been encouraging, spurred on by mass e-mails from Dean Taylor Reveley and the Student Bar Association. Students, faculty, and administrators attending a public meeting on Tuesday, Sept. 26, proposed unity rallies, universal sensitivity training, and student debates as possible forums for

responding to the incident. These are all good ideas that ought to be pursued.

Whoever wrote "DIE" and "FAG" on LGLA posters discussing gay marriage is both a criminal and a coward. The perpetrator is a criminal because a threat made against the members of the homosexual community constitutes a hate crime, a far more egregious offense than vandalism alone. The perpetrator is a coward because he or she does not have the courage to step out of the shadows and engage in appropriate discourse.

Acts of terror have no place in our school. The right to live without fear of attack solely on the basis of race, religion, or sexual orientation is a fundamental principle of a free and democratic society. We have an obligation to protect the gains achieved so far by the gay rights movement from the attacks of the

faceless few.

Too many people have died fighting in defense of liberty for us to allow bigots to make a mockery of free speech. While a person's right to speak freely extends to all types of speech, that right ends when it interferes with the inalienable rights of others.

Black's Law Dictionary defines hate speech as "speech that carries no meaning other than the expression of hatred for some group." The Supreme Court has ruled that hate speech may be restricted when it has the effect of silencing, intimidating, or otherwise harming members of the targeted group.

In this case, the manifestation of the hate speech constitutes both a direct threat against individuals and the physical crime of vandalism. Dean Reveley has rightly promised "severe sanctions" against the perpetrator if he or she is found to

be a law student. The threat is real and the perpetrator deserves to be prosecuted to the fullest extent of the law.

One faculty member emphasized this point at the public meeting on Sept. 26, correctly noting that "this is not a free speech issue—this is a threat."

Jason Wool (1L) condemned the vandalism as a "breach of the trust of the community." Laurissa Stokes (2L) astutely noted that "the underlying disagreement is about my existence."

The full meaning of the threat becomes apparent when we consider how hate speech contributed to the tragic slaughter of the 21-year-old college student Matthew Shepard in 1998. The Federal Bureau of Investigation reported 1,406 hate crimes against homosexuals

Continued on pg. 15.

SWEETER THAN SHUG: DATING ACCORDING TO DAVID BULES

by David Bules
Contributor

I believe that friends are the best indicators of whether a relationship will last. Friends are like airbags for relationships. You know they are there to protect you, but you take them for granted. You never really put too much thought into the fact that all they are trying to do is save you from disaster. Have you seen that new Volkswagen commercials where people get nailed out of nowhere by another car? I love the commercials, but the underlying point is, those people would be seriously hurt without the airbags. Let your friends save your life. If they tell you that you're dating a psycho, they are probably right.

Cougars are about as psycho as you can get. A cougar is an older woman who preys on younger men. The typical cougar is over 30, and all of her friends are married and/or have kids. So she is re-living her 20s vicariously through this younger man. Cougars strategically hang out in bars that are known to have younger crowds (e.g., college bars). If you've ever lived in D.C., you know this is prime cougar country. With all the sports leagues, social

organizations, Young Republican/Democrat groups, and generally young population, cougars can have their pick. Again, cougars are psycho: There's a reason they are not married yet.

Now onto reader questions: "Sh-A-D-Pi" wants to know, "Whatever happened to guys asking girls out before sleeping with them?" First off, this is a loaded question, but I'll attempt to tackle it. First off, both sexes are guilty in this situation. Yes, generally it is a good idea for the guy to ask the girl out before sleeping with her, however, sometimes it's just not feasible. Don't slap me yet, just let me explain. Most guys, if they sense the chance to succeed, are not going to stop mid-drink at the Leafe and say something like, "Before we finish this drink, and before we go back to my house *or yours*, I think we should go on a date. So let's stop talking for tonight." Now, I do believe in taking a girl out to a nice dinner, but law school is not a perfect world to accomplish this. We barely have enough time to even make it to the bar, so if people want to do the small talk at the bar rather than dinner, that's fine with me. One last qualifier: Here at Marshall-Wythe High, people will find out about a dinner date faster

than a hook-up.¹ I'm serious about the flow of information here.²

Moving right along, this one is kind of funny and I hesitate to report it, but what the hell, here goes nothing. "Catlover4ever" asks, "Dear Shug, what do I do if I want to invite someone over to hook-up, but he is allergic to my cat?" Pets are an interesting issue. Some people hate cats. Some people hate dogs. Others will let pets lick them like an ice cream cone in July. If your significant other happens to be allergic to pets, I suggest two things: (1) Always have some allergy medicine in the house, and (2) follow that up with a dose of Red Bull. This will curb the allergies, and keep your significant other from passing out in the next half hour. Red Bull is really the key here, because if you really do want to hook-up, don't just give him/her the allergy medicine alone. This situation, if left untreated, can be an absolute mess. There was a rumor last year involving a girl named "Susie," her boyfriend, and her cat. Susie got the cat after she and her boyfriend broke up. The guy was allergic to cats, but she invited him over to hook-up anyway. Soon after the hook-up, they almost called an ambulance after his throat closed and his eyes swelled shut.

So, word to the wise, keep some Benadryl lying around.³

All right enough stories for the week. Guys, I promised your list this week, and that's just what you'll get. Some of these will be obvious, but you'd be shocked how frequently these phrases are used. Also, notice a lot of these are questions. When in doubt, shut your mouth. Without further ado, here is the Top-Ten List of "Worst Things to Say to a Girl:"

1. "How much do you weigh?"
2. "I didn't know we were exclusive."⁴
3. "Your roommate (*or* sorority sister *or* any other girl at all) is pretty cute."⁵
4. "Can I get a ride to your house?"⁶
5. "How old are you?"⁷
6. "Well, that was her own fault."⁸
7. "How many girls are on my list? Oh it's _____."⁹
8. "It looks fine."¹⁰
9. "How do you feel about an open relationship?"
10. "Are you still on the pill?"

Until next time, keep livin' strong and lastin' long.

¹ Some prefer to kill two birds with one stone and throw 'dinner parties' to increase the law of averages by inviting a group of youngins'. Generally this has a higher success rate than one-on-one dinners. This also takes care of the combined lack of social skills of said hosts.

² Faster than the "triplets" that bat 1, 2, 3 on the "track team" disguised as the Tom Jackson Project. And you thought the St. Louis Rams were the "Fastest Show on Turf."

³ Any resemblance to actual events at Marshall-Wythe High is purely coincidental.

⁴ If you cheat you're stupid. If you use this after you cheat, you're a moron.

⁵ This *actually happened* to a girl last weekend. Hands down, worst line I've ever heard.

⁶ Exception: Have your buddy ask her. She'll get mad at him for asking, and thank you for not doing so. This is how I met Cougar #2.

⁷ No matter what her girl friend did, your guy friend did something worse. Even if you don't believe this, just agree it was *your* friend's fault.

⁸ Much like the "I wish my parents liked you," from last week. You cannot fix this. Once you let it fly, she'll remember that number forever.

⁹ If you are going to be honest, just tell her to choose something else. She'll be happier that you were nice enough to tell her, rather than giving her a half-ass answer implying the outfit is bad.

United Against Hate

United, continued from pg. 14.

in 2004, a number that probably underestimates the true figure.

As members of the lesbian and gay community know all too well, bigots seek to divide us by playing off our prejudices and fears.

They want us to live in fear of their perverted version of morality. They want us to respond to the attacks with anger and violence. They want us to be afraid to speak out against homophobia, racism, sexism, and other forms of bigotry.

We must—and we will—prove the bigots wrong. We will reach out to our sisters and brothers with love and understanding. We will transcend the hatred represented by these despicable acts and renew our commitment to equal justice under the law.

Starting today, we must take significant steps to ensure that every member of the law school community knows that hate speech and hate crimes fall outside the pale of appropriate discourse and

human dignity. We must make it crystal clear that the law school is a place for honest and open debate among friends.

Stickers and ribbons can only do so much to raise awareness of the broader issues concerning equal rights. Regular conversations between students, faculty, and administrators, will ultimately do much more to foster an open and affirming environment in the law school.

In the long run, we are all re-

sponsible for the well being of our fellow students and of our school. If we remain silent and fail to circle the wagons, then the bigots will have succeeded in their objectives. Our best option is to turn our anger into action by promoting tolerance, justice, and respect for all segments of our community.

United against hate, we will surely win.

Alan Kennedy-Shaffer can be contacted at axkenn@wm.edu.

CANADIAN BACON

by **Matt Dobbie**
Staff Columnist

As you are all no doubt aware, The Advocate is published every other Wednesday. Most, if not all of you, read it Wednesday afternoon or some time on Thursday.¹ That means then when you read this Pulitzer Prize-winning² column and paper, I will be counting down the hours and minutes to the start of this year's National Hockey League Season.³ The start of the season also dovetails quite nicely with the Canadian Thanksgiving, giving us Canucks one of the best weekends of the year.

The festivities kick-off at 7 p.m. tonight when the defending champion Carolina Hurricanes⁴ host the Buffalo Golden Hamsters.⁵ But as far as I'm concerned, the season doesn't really start until a half hour later when my beloved Maple Leafs host the Ottawa Senators in the battle of Ontario. It's the first game of a home series, as the Leafs face the Senators again

Thursday night up in Ottawa. So, while you're reading this witty banter and marveling at the in-depth coverage of the Supreme Court Preview,⁶ I'm eagerly anticipating the Leafs' first and second losses of the season. Don't get me wrong, I love the Leafs—we just suck something awful.

Thursday and Friday are the days that we start making travel arrangements to get home for Thanksgiving. This is something I am quite excited about, as this will be my first Thanksgiving at home since I moved to the United States. It's going to be a great couple of days. I'll see my parents, my sister, aunts, uncles, cousins and my grandma.⁷ Then of course we'll eat some turkey, stuffing, cranberries—the whole nine yards.

For those of you wondering, Canadian Thanksgiving is a lot like American Thanksgiving. Like you guys, we celebrate for the same reasons: first harvest and the Indians helping us out. In fact the only real difference is we don't

go out shopping the next day and spend our entire salary at the King of Prussia Mall.

Also, Thanksgiving, like most of our holidays, is on a Monday,⁸ which, let me tell you, is awesome. I'd much rather have Monday off than Friday, or even your weird tradition of having the holiday on a Thursday.⁹ All week long you're looking forward to the long weekend, it comes, it rocks and then instead of that hellish post-holiday bliss, you've got a short work week. America should really think about the switch.¹⁰

So let me paint the picture for you—Wednesday night, Leafs hockey; Thursday night, Leafs hockey; Friday night, hanging out with my buddies from college at the Madison, the best bar on the planet; Saturday night, Hockey Night in Canada, and a renewal of the best rivalry in sports, Leafs and the Montreal Canadiens.¹¹ I'll be watching the game in Sinclair's basement, and if tradition holds, after the game we'll play a rousing

game of mini-stick hockey.¹² Most of you probably aren't familiar with mini-stick hockey, but it's a great game. It's much like floor hockey except you play with plastic sticks about a foot long in someone's basement. It usually consists of lots of body checking, breaking of various household objects and ends when someone hits their head. At that point we realize that this is dumb and we probably shouldn't be doing it.¹³

But I digress. Anyway, Sunday, rousing day of ball hockey with my buddies, and then probably something fairly stupid that evening; Monday night, Thanksgiving dinner; Tuesday, leftovers and a return flight back to the U.S. All in all, it should be quite the weekend—for both me and the entire country of Canada.

So, that's it for this week and while perhaps this wasn't my best column, just be thankful I didn't go with my earlier idea—an extensive, detailed breakdown on the upcoming NHL season.¹⁴

¹ Then of course you wait with unbridled anticipation for the next thoroughly thought-provoking issue. Who will be in the BLAWGs? What Canadian nonsense will Dobbie talk about next? What event that no one cares about will be the front-page story? The suspense is just killing you, isn't it?

² Perhaps a slight exaggeration on my part, but, hey, it's not like you actually know who won the last Pulitzer. By the way, if you do know, you need a life.

³ The Canadian equivalent of Cinco de Mayo.

⁴ In case you're wondering, that's a painful couple of words to string together.

⁵ Actually, they're called the Buffalo Sabres, but they introduced new uniforms and logos for this season which feature neither Sabres nor Buffalo. Instead they have a weird creature on their uniform that best resembles a combination slug/hamster/porcupine. Shockingly, it's not attractive and their fans already hate it. I'm going to go ahead and call the new uniforms the worst business decision since Hooters started an airline.

⁶ This year's slogan: "It's Nerdarific."

⁷ Who will, of course, mistake me for my cousin, call me Adam, and ask where my wife is. It's actually become such a tradition that even she jokes about it. For the record, Adam and I look nothing alike.

⁸ The other great Monday holiday is Victoria Day, in honour of Queen Victoria, and falls on the third Monday in May. My favourite Victoria Day tradition is my buddy Freeze arranging a camping trip, getting wasted, neglecting to put up his tent, spending the entire weekend sleeping outside in the rain, coming down with a cold, the flu, German measles, and then annually claiming "it was the best weekend ever."

⁹ Can someone please explain this to me? I've got pretty much everything figured out about America except for why your biggest holiday falls mid week—it's the one thing that still feels complete foreign to me. Well, that and Clay Aiken.

¹⁰ Other switches you should consider: the metric system. Join the twentieth century already.

¹¹ Not spelled wrong, they just use the French spelling. It's also another reason that they suck.

¹² For the record, I'm 26 years old, and I'm excited about the possibility of playing mini-stick hockey.

¹³ This realization lasts at best for 24 hours.

¹⁴ Because I can, I will give you my top five picks (in order) to hoist Lord Stanley's Cup: Carolina, San Jose, Ottawa, Minnesota, and Buffalo.

Members of Chuck Norris discuss strategy. Or possibly the weather. Pictured: Josh Stewart, Jason Mullins, Kevin Grady and Heather Willis.



Stephen Hobbs makes the catch of the day.



Members of Shake 'n Bake celebrate a run.

Softball, continued from pg. 13.

of that but Alex will wear this on demand).

Nevertheless, Balls in Your Hanging File were both style and substance. With numerous practices that focused on the fundamentals of batting, fielding, catching, and not falling in the massive crater in the park off Monticello, there was no reason to believe the team would not excel on the field. Off-the-field discipline was imposed as well, with pasta dinners, long

runs, Tom Emanski's instructional videos, creatine supplements, etc. Plus, Balls knew it had its back to the wall and took a one-game-at-a-time approach. The team credo was to give nothing less than 110%, to be warriors, and to leave everything out on the field. Plus, God was on our side and we knew to stay cool (that might be more of a generic yearbook message than sports cliché). Nothing summed up Balls in Your Hanging File's approach to softball better than this paraphrasing of legendary

Liverpool manager Bill Shankly: softball was not a matter of life and death—I can assure you it is much more serious than that.

Shockingly, something went missing along the way because Balls in Your Hanging File lost every game by the mercy rule. In the middle of the match against the Tom Jackson Project, the umpires were moved by Balls' futility and allowed 10 men in the outfield and

allowed batters to make their own calls. Intoxication led to a pitcher who couldn't catch and a shortstop who couldn't stay on the field.

Jennie Cordis, left fielder and PSF heavyweight, summed the day up: "The whole day was a lot of fun! The rain made things a little interesting but our team in particular made the best of it by bundling in our beer jackets and taking the field like champs!"

Original Flip Cup Tournament photos courtesy of Joelle Laszlo and Nora Garcia. The tournament supported the Bone Marrow Drive.

