

2006

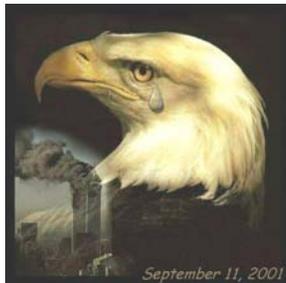
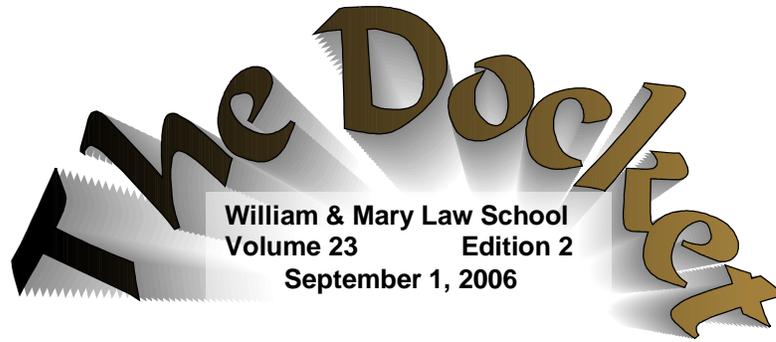
The Docket (September 1, 2006)

William & Mary Law School

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THE ANNIVERSARY OF SEPTEMBER 11 WE SHALL NEVER FORGET

NEWSWORTHY NOTES

CONGRATULATIONS to the following Notes selected for publication in Volume 15 of the **William & Mary Bill of Rights Journal**:

Stop Restricting Speech and Educate the Public: A Review of the ABA's Proposed Draft of Canon 5 of the Model Code of Judicial Conduct - by Tiffany Carwile

Recognizing the Grey: Toward a New View of the Law Governing Digital Musical Sampling Informed by the First Amendment - by Will Durbin

Sex Offenders in the Community: Their Public Persona and the Media's Corresponding Privilege to Report - by Doug Griswold

Time to Overturn TURNEY V. UNITED STATES - by Paul LaFata

All Men are (or Should be) Created Equal: An Argument Against the Use of the Cultural Defense in a Post-Booker World - by Elizabeth Martin

Sacrificing the End to the Means: The Constitutionality of Suspicionless Subway Searches - by Katherine Lee Martin

Reciprocal Doctrines?: RAICH, AMERICAN TRUCKING, and the Need for Revision in the Supreme Court's Commerce Clause Analyses - by Cliff Moorman

In Katrina's Wake: Rethinking the Military's Role in Domestic Emergencies - by Scott Tkacz

CONGRATULATIONS to the following chapter members on their election to the leadership of the 2006/07 W&M law student chapter of the Association of Trial Lawyers of America (ATLA): President Bereket Bisrat (3L), Vice President Bradford P. Meacham (2L), Secretary Clint A. Paulson (3L), Treasurer M. Nora Garcia (3L), and Parliamentarian Alisson O. Pouille (2L).

ATLA is the world's largest trial bar, and the chapter is dedicated to the mission of helping our law students develop the courtroom skills, legal knowledge, and professional contacts needed to build successful careers as trial lawyers. The chapter's website is currently under construction, but if you would like to learn more about ATLA, please visit ATLA's website at <http://www.atla.org>.

The chapter has formulated a program agenda for 2006/07 and will keep the law school community informed about upcoming chapter programs. Law students interested in learning more about the many benefits of ATLA membership can contact Bereket Bisrat by e-mail at bxbisr@wm.edu for more information.

FRIENDS IN FELLOWSHIP – René Bowditch invites you to a weekly Women's Bible Study on Thursdays, starting September 14, at her home. Come at 3:45 p.m. for cookies, refreshments, and encouragement. Study begins at 4:00 p.m. and ends at 5:00 p.m. For more information and directions, please call René at 561-4749.

ANIMAL LAW ORGANIZATION – Are you interested In an Animal Law organization at W&M? Over 4 million cats and dogs are killed each year in America's animal shelters and farm and test animals are abused every day. Law schools such as Harvard, Stanford, UCLA, Northwestern, University of Michigan and Duke have used their Animal Law groups as forums for exchanging and dispersing a variety of knowledge related to human treatment of animals: legal arguments, potential litigation, issues of morality and humanity, issues of human progress. Such groups have used their skills as budding lawyers to fight for better treatment for animals and greater judicial recognition of animal rights. A few of these groups have their own Animal Law Review, publishing several times each year. Many of these groups compete nationally against one another in Moot Court, Closing Argument, Mock Trial, and Legislative Drafting & Lobbying events. Please email Grant at ghkidn@wm.edu if you have interest in being involved in this organization in any capacity.

THE WILLIAMSBURG FARMERS' MARKET is open 8:00 a.m.-noon on Saturdays in Merchant's Square. This Saturday, there will be lots of baked goods, blueberries, mushrooms, melons, and seafood. Stephen Moore, singer, songwriter will perform from 9:00-11:00 a.m. Chef Daniel Abid of *Le Yaca* will demonstrate at the Chef's Tent. For more information, call 259-3768, or visit www.williamsburgfarmersmarket.com. On September 5, the Tuesday Market starts and will continue until September 26. Farmers attend from 3:00-7:00 p.m. with *just picked* produce, dried bouquets, potted herbs, and cut flowers. Fresh artisan breads will also be available.

LOST! Has any one found a golden Cross pen? It is old and not really expensive, but has a sentimental value for the owner. It was last used in the courtroom on

Wednesday. If you have found the pen, please turn it in to Chris Creech, in the front office. Thank-you!

NEED TO KNOW

Reminder! Flyers are not to be placed on any wall or door; especially our new doors in the classroom hallway and student lounge doors. These are beautiful new doors that we do not want scarred. You may place flyers in the student lounge and on the front doors of the building **ONLY ON THE DAY OF THE EVENT**. Please be sure to remove the flyers after your event.

WHERE DO YOU LIVE? The Law School must always have your most current address and phone number on file. Students should check their contact information by logging onto Banner Self Service. Please notify Chris Creech immediately of any correction to this information.

STUDENT ORGANIZATIONS - If your organization did not register with the Law School Administrative office last spring, please stop by and see Gloria Todd. Registered organizations will receive priority for room reservations at the Law School, and are eligible for hanging files and bulletin board space from the SBA. Officers should frequently check organization hanging files. FYI: Room Reservation Request Forms can be found on the Library handout shelves and by Gloria Todd's office across from the moot courtroom.

ADMINISTRATOR AND FACULTY MAILBOX ACCESS - If there is a need to contact an administrator or faculty member through their Law School mailbox, please place the item in the appropriately marked box in the reception area. The item will be delivered for you. ***Please remember that students are not allowed in the workroom.***

UNOFFICIAL TRANSCRIPTS - Students can now print their unofficial transcripts from Banner Self Service. It is possible to paste this unofficial transcript to a Word Document and then delete duplicative information (no changing or deleting grades though); make certain you add your name to the top of the document and should add the statement "Unofficial Transcript - Produced from the Internet." Please review the information for accuracy and immediately bring discrepancies to Dean Jackson's attention.

EXAM CONFLICT FORMS - Will be available from outside Gloria Todd's office and what is called a "perky file" next to the handout shelves in the Law Library, on Monday, September 4. The deadline for these forms is Friday, November 3.

LAW SCHOOL SECURITY - The Law School will be locked at 8:30 p.m. Monday-Thursday evening, 6:00 p.m. on Fridays and all day Saturday and Sunday. Access is still possible after hours using your ID key card. This schedule will be maintained until the completion of the Library renovation and re-installation of the Library circulation desk within sight-line of the Law School lobby. We regret this may cause some inconvenience. However, without supervision of the comings and goings through the Law School lobby, we have concerns for the security of the people and facility.

Those of you who have functions in the evening and/or on weekends please see Dean Lizbeth Jackson for a front door "key." While your event is in progress, you will be able to unlock the doors and then lock them at the conclusion of the event. Naturally, the library front door will be open the standard hours.

Be sure to test your ID card in the magnetic locks before you need to use your card. If the green light does not come on, report the problem to the circulation staff immediately. If the card was incorrectly programmed, we should be able to fix the problem. If the magnetic strip is defective, you will need to go to the ID office to receive a new card.

We emphasize the importance of keeping all outside doors as well as the doors into the library locked at all times after hours in order to maintain a secure facility. Since non-law patrons may remain in the library when the circulation desk closes, if you find a door ajar, please secure the door. We need everyone's help to maintain a secure facility for law students who wish to study in the library late at night. Thank you for helping us maintain a safe and secure study facility for everyone so that we may continue the 24/7 ID access policy.

AUDIOCASEFILES - Do you want to be better prepared for class? AudioCaseFiles provides the world's first digital recordings of cases that law students have to read for class. AudioCaseFiles provides users with mobility, thoroughness, reading preparation, reinforcement, and free case briefs. To try AudioCaseFiles, go to www.audiocasefiles.com, and search for the cases you are required to read for class. Add the cases to your cart and enter the following promo code at checkout to get a free case: 0bd76bb4fa.

MARK YOUR CALENDAR

STUDENT LEGAL SERVICES - Student Legal Services aids members of the William & Mary community with their legal problems. If you are interested in working with real clients and with a local attorney to help out other students, faculty, and staff, drop by the SLS Recruitment Meeting on **September 1 at 1:00 p.m., in room 120**. Pizza and soft drinks will be provided! If you are interested in SLS but cannot make the meeting, or you have questions, please email Matt Forgue mpforg@wm.edu, Victoria Starks vlstar@wm.edu, or Andrea Stevens amstev@wm.edu.

SBA- 1L REPRESENTATIVE/HONOR COUNCIL - 1Ls interested in running for a 1L representative position on SBA are reminded to submit their intent by email (with name and phone number) to Ryan Brady at rrbrady@gmail.com. You must also attend an election rules meeting on **Friday, September 1 at 1:00 p.m., in room 141**. Interested 1Ls must submit their Honor Council Applications to Sarah Fulton's hanging file by **5:00 P.M. ON FRIDAY SEPTEMBER 8**. Extra forms are available on the door of the SBA office.

AMERICAN CONSTITUTION SOCIETY - ACS will host a brown bag luncheon with Professor Davison Douglas on the topic of: "Death Penalty, International Law and the U.S. Supreme Court" on **Monday, September 4, 1:00-2:00 p.m., in room 124**. All are welcome to bring their lunch and listen as Professor Douglas speaks about the role of

international legal norms and their effect, if any, on death penalty jurisprudence in the Supreme Court.

INSTITUTE OF BILL OF RIGHTS LAW: STUDENT DIVISION - There will be a general interest meeting for anyone interested in IBRL:SD on Monday, **September 4, at 1:00 p.m., in room 127**. Come and find out how you can get involved in exciting activities such as the Supreme Court Preview, teaching the Bill of Rights to high school students, and meeting distinguished Constitutional Law scholars!

VIRGINIA BAR ASSOCIATION – The W&M Student Division of the Virginia Bar Association will hold an interest meeting on **Tuesday, September 5, 2006 at 12:50 p.m., in room 127**. Pizza will be served. All are welcome. If you have questions, please contact Carrie Harris at cmharr@wm.edu.

VIRGINIA BAR ASSOCIATION - William & Mary Student Division of the Virginia Bar Association will hold an Interest Meeting on **Tuesday, September 5, 2006 at 1:00 p.m., in room 127**. Pizza will be served and all students are welcome to attend. If you have questions, please contact Carrie Harris at cmharr@wm.edu

STUDENTS FOR THE INNOCENCE PROJECT – Will meet on **Tuesday, September 5, 1:00-1:30 p.m., in room 120** for an interest meeting of "Students for the Innocence Project." This new student organization aims to bring the Innocence Project to W&M and to raise awareness of death penalty issues on campus.

The Innocence Project works to exonerate those wrongfully convicted from prison and to bring about legislative reforms needed to prevent wrongful convictions and restore the rights of exonerees. Throughout the year, Students for the Innocence Project plans to host exonerees as speakers on campus, work with existing Innocence Projects in Virginia, and partner with criminal defense attorneys to help those who need it most: America's wrongfully convicted. For more information, email Jacquelynne at jmjr2@wm.edu

BLACK LAW STUDENTS ASSOCIATION - The Black Law Students Association will have a general interest meeting on **Wednesday, September 6, 12:50 p.m. in room 133**. Lunch will be provided. Contact Shalanda Franklin at snfran@wm.edu if you have any questions.

ENVIRONMENTAL LAW SOCIETY - Environmental Law Society is having its first meeting on **Wednesday September 6 at 1:00 p.m. in room 135**. Members will discuss plans and activities and there will be light refreshments. Please plan to attend.

This semester, the **INSTITUTE OF BILL OF RIGHTS LAW** will host six workshops. Workshops will be held on Thursdays from 3:30 - 5:30 p.m. in room 133 and will provide opportunities for students and faculty to hear from preeminent academics as well as journalists and government officials on topics that involve the intersection of law and politics. Please join us on **Thursday, September 7**, to hear Louis Fisher speak about his paper "NSA Eavesdropping: The State Secrets Defense." Mr. Fisher, an award-winning expert on constitutional law and congressional authority, is a senior scholar in the Law Library at the Library of Congress and is the author of more than a dozen

books. His most recent book is *In the Name of National Security; Unchecked Presidential Power and the Reynolds Case*. For a list of topics and speakers for the fall series, please visit www.wm.edu/law/ibr/.

BONE MARROW DRIVE - The Bone Marrow Drive will be holding an informational meeting on **Thursday, September 7 from 1:00-2:00 p.m., in room 127**. Free pizza and drinks will be served. We are looking for volunteers to help with various events including our Fall and Spring Flip Cup Tournaments, Poker Tournament, Ali's Run 5k, and Drive Day. This is your chance to be a part of the largest on-campus drive in the country. You do not have to donate to participate. If you would like to learn more, but cannot attend the meeting, please contact Cabell Clay mcclay@wm.edu or Jason Stickler jlstic@wm.edu.

STUDENT/FACULTY MIXER – **Tuesday, September 12, 5:00-7:00 p.m.** Please plan to attend this event in the Lobby

CRIMINAL DEFENSE LAWYER TO SPEAK - Esther Windmueller, president of the Virginia Association of Criminal Defense Lawyers (VACDL), will speak about her work, and work-life balance, on **Thursday, September 14, at 1:00 p.m., in room 133**. This event is one of a series to be hosted this year by the *Journal of Women and the Law*.

FIRST ANNUAL RIVERSIDE HARVEST FESTIVAL RUN - **Saturday, September 23** at the Williamsburg Winery. One Mile Fun Run starts at 8:30 a.m.; Eight Mile Run starts at 9:00 a.m.; Awards are presented at 11:00 a.m. and the Harvest Festival starts at 11:30 a.m. Tickets are available in advance as well as at the festival. The race and festival are to benefit the United Way of Greater Williamsburg (UWGW). Please contact jgill@wm.edu for a registration form. If you would like to be part of the SBA team, please email safult@wm.edu so that we can get a list together!

BRIGHAM-KANNER PROPERTY RIGHTS CONFERENCE. On **October 7, 9:30 a.m.–12:30 p.m.**, the Law School will host the Third Annual Brigham-Kanner Property Rights Conference, presented by the William & Mary Property Rights Project and the Institute of Bill of Rights Law.

The W&M Property Rights Project will honor Professor James Ely as the recipient of the third annual Brigham-Kanner Prize. The conference will include academic commentary on Professor Ely's property rights scholarship, and a panel comparing the protection of property with other civil liberties enumerated in the Bill of Rights. Participants include: Stuart Banner UCLA School of Law, Charles McCurdy University of Virginia Department of History, John Orth University of North Carolina School of Law, Gerald Torres University of Texas Law School, Michael Heller Columbia Law School, Michael Berger, Manatt, Phelps & Phillips, LLP, Los Angeles, and Toby Prince Brigham, Partner, Brigham, Moore, LLP, Coral Gables, Florida.

For conference registration and accreditation information, call Kathy Pond at 757-221-3796 (ktpond@wm.edu). Students are free for Saturday's conference.

MULTISTATE PROFESSIONAL RESPONSIBILITY EXAM - Those planning to sit for the Virginia Bar are forewarned that the Virginia Board of Bar Examiners requires

applicants to take the Multistate Professional Responsibility Examination (MPRE). The MPRE is a fifty question, two-hour, multiple-choice examination administered three times each year. A limited number of MPRE applications are by the handout shelves in the Library. You also can register online at: <http://www.ncbex.org/tests/mpre/mpre.htm>. The next scheduled MPRE exam is **November 4, 2006**. Good luck!!!

THE 52nd ANNUAL WILLIAM AND MARY TAX CONFERENCE will be held *November 16-17, 2006* at the Kingsmill Resort in Williamsburg. Entitled “When the Type of Pass-Thru Entity Makes a Difference: A Comparison of Life Cycle Issues for S Corporations and Partnerships, including LLCs,” the conference is presented by the School of Law, the School of Business, and by the Taxation Section of the Virginia Bar Association and the Taxation Section of the Virginia State Bar. For more information, please visit www.wm.edu/institutesprograms/taxconference. More employers are registering every day, so be sure to check for updates.

ALUMNI DEVELOPMENT

On *Wednesday-Thursday, September 6-7, 9:00-11:00 a.m.*, Alumni Development will have Co-Counsel sign-ups in the Lobby. Each year the William & Mary Law School Alumni Association sponsors the Co-Counsel Program. This is a program that pairs first-year students (Junior Counsels) with alumni (Senior Counsels). The purpose is to identify alumni mentors who can provide advice, guidance and moral support, as well as insight into legal careers.

OFFICE OF CAREER SERVICES

World Wide Web Site of the Week - Law Periscope is an online law firm research tool. Its database includes information on the 300 largest U.S. law firms and produces its search results in the form of a succinct profile page with simple, direct links to the relevant section of a firm’s web site. Each profile provides a quick and efficient road map for students to learn about a firm in general and then review a particular practice area, branch office or legal topic from a primary, current source – the firm’s web site. www.lawperiscope.com

UPCOMING PROGRAMS

State and Specialty Court Judicial Clerkships for 3Ls - It’s not too late to apply for judicial clerkships! Third-year students are invited to come hear W&M Law School alumni discuss their experiences clerking for trial, appellate and supreme court judges. Learn about the types of clerkships available and the benefits that each have to offer on *Wednesday, September 6, at 1:00 p.m., in room 127*. Students interested in attending should RSVP via email to Ramona Sein (rjsein@wm.edu) in OCS by 12:00 noon on Monday, September 4.

Lunch with Lawyers – Handling Complex Litigation: Plaintiffs’ and Defendants’ Perspectives - W&M graduates Michael Baumann ('79) of Kirkland & Ellis in Los Angeles and R. Joseph Barton ('00) of Cohen, Milstein, Hausfeld & Toll in Washington, DC will be on hand to talk with students about their work on *Thursday, September 7, 12:45-1:45 p.m., in Courtroom 21*. Those interested in attending should RSVP via

email to Ramona Sein (rjsein@wm.edu) in OCS by 5:00 p.m. on Tuesday, September 5.

Mounting a Successful Government and Public Interest Job Search - What's unique about searching for government and public interest jobs? Are resumes and cover letters different than those you send to law firms? We will cover all that, as well as Early Decision Public Interest and Government Summer Funding for 2Ls and will provide information on the largest public interest job fair in the country, which is coming up in October. Please plan to attend on ***Wednesday, September 13, at 1:00 p.m., in room 133.***

ANNOUNCEMENTS

2Ls and 3Ls - Information on the U.S. DEPARTMENT OF JUSTICE hiring programs is available in OCS as well as online at www.usdoj.gov/oarm. Applications for the **SUMMER LAW INTERN PROGRAM** for 2Ls and the **ATTORNEY GENERAL'S HONORS PROGRAM** for 3Ls must be submitted online. You have until midnight on ***Monday, September 18,*** to submit your applications online, but we advise students not to wait until the last day to submit, in case anything should go wrong with their Web site. If your application is not in by September 18, no matter whether the problem is yours or theirs, it will not be accepted.

3Ls - Equal Justice Works Equal Justice Fellowship applications are now being solicited. These two-year fellowships provide salary and loan repayment assistance to lawyers who advocate on behalf of individuals, groups, or interests that are not adequately represented by some aspect of the legal system. You may obtain additional information and an application on Equal Justice Works' website, www.equaljusticeworks.org. Deadline to apply is ***September 19, at 5:00 p.m. EDT.***

Equal Justice Works Public Interest Career Fair, October 19-20, University of Maryland, University College, Adelphia, Maryland - Law students seeking summer and permanent positions in public service will have the opportunity to conduct one-on-one interviews and participate in Table Talk with more than 200 employers at the job fair. There will also be workshop sessions on public interest career development, loan repayment assistance, and law school organizing throughout each day. Check out www.equaljusticeworks.org/employers/browse.aspx to find complete details on participating employers, including which days the organization will attend, and any available positions. **Each position description includes student application procedures.** Search by issue area, state, or date of the conference to find the employer you are looking for. More employers are registering every day, so be sure to check for updates. **STUDENTS MUST REGISTER ONLINE BY SEPTEMBER 22.**

Applying for a Government or Public Interest Summer Job? Funding available through William & Mary may help you get that job! There are several **Fellowship Programs** which provide stipends of up to \$3,600 for students who secure summer internships with employers who are unable to provide funding or can only provide partial funding. The availability of funds through William & Mary enhances your candidacy with employers. There is a one-page handout available on the display racks in OCS that describes William & Mary's various Fellowship Programs for the summer of 2007.

Please feel free to include this flier with your resumes and cover letters to government and public service employers. In your cover letter, you may want to indicate that “William & Mary has several public interest [or government] summer funding sources, as detailed on the enclosed sheet.” The application process for these fellowships is very competitive, and you must have a written offer of employment in order to apply for funding. **2LS PLEASE NOTE THE MESSAGE BELOW ABOUT THE “EARLY DECISION” PROCESS.**

Deadline for “Early Decision” Public Interest and Government Summer 2007 Funding for 2Ls - Funding through six programs (Bell, Criminal Justice, Lambda, Virginia Law Foundation, Public Service Fund [PSF], and Williams) is available through an “early-decision” process, which gives 2-Ls the opportunity to know about funding decisions before the end of the fall semester. **The application deadline for “early decision” funding is Friday, November 17 at 5:00 p.m.**

Strategies for Success If You Do Not Receive an Offer from Your Summer Employer - If you find yourself in this situation, see Dean Kaplan, Dean Lewis or Ms. Sein, and pick up a copy of the handout on this subject from the OCS Display Rack.

Labor and Employment Law - The Peggy Browning Fund is sponsoring their eighth annual **National Law Students Workers’ Rights Conference** on Friday-Saturday, October 13-14 in Silver Spring, Maryland. The program will include a keynote address, a film and panel discussion, four interactive workshops led by leading labor practitioners and professors, and more. The law school may select up to three students for the program; students should have a demonstrated interest in either workers’ rights issues or public interest law. Some support is available for on-site meals and lodging. **If you are interested in attending in this program, see Dean Lewis by September 15.** For more info, see www.peggybrowningfund.org.

Fax Machine - A fax machine is available in Room 263E of the Office of Career Services for students’ law school-related matters, such as job searches, bar applications, and coursework. Use of the machine is free for current students. Students have access during all the hours OCS is open – that is, the same hours as the library circulation desk. The machine may be used for outgoing faxes only; use is governed by the Honor Code. Instructions are posted next to the machine.

WRITING COMPETITIONS

Note: Throughout the academic year we receive announcements regarding essay competitions and invitations to submit papers for publication in law reviews and journals. This information is posted on the bulletin board in OCS, with additional information filed in the Applications Cabinet. In addition to the intellectual and often monetary benefits of these contests, the competitions are another way for you to demonstrate your legal writing abilities to prospective employers. Because they are often sponsored by bar associations and other professional groups, they also provide excellent networking opportunities. Keep in mind that faculty members are a good source of ideas and guidance.

Federal Income Taxation - The Federal Bar Association Section of taxation hosts an annual writing competition and invites students to submit any original, unpublished paper concerning federal income taxation. Prizes of \$1,500 and \$750 will be awarded. **Entries must be postmarked by February 1, 2007.**

The **ABA Law Student Division** is now accepting entry forms for the following competitions:

Arbitration Competition (entry deadline September 8, 2006)

Negotiation Competition (entry deadline September 15, 2006)

Client Counseling Competition (entry deadline October 27, 2006)

National Appellate Advocacy Competition (entry deadline November 10, 2006)

Details about the competitions, as well as online entry forms, can be found on the Competitions website at www.abanet.org/lzd/competitions/.

The Docket is a biweekly publication of the William & Mary Law School produced during the academic year. All submissions (in either Microsoft Word or WordPerfect) are due to Cassi Fritzius, (room 108) or by E-mail (cbfrit@wm.edu) no later than 5:00 p.m. the Wednesday prior to the Friday publication date.

2006 publication schedule

August 18; September 1, 15, 29; October 13, 27; November 10; December 1

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