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2005

## The Advocate (Vol. 2, Issue 8)

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### Repository Citation

"The Advocate (Vol. 2, Issue 8)" (2005). *Student Newspaper (Amicus, Advocate...)*. 305.  
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# The Advocate

VOLUME 2, ISSUE EIGHT

WEDNESDAY, FEBRUARY 9, 2005

WILLIAM & MARY SCHOOL OF LAW



## Marshall-Wythe Students Take To the Ski Slopes in West Virginia

by William Y. Durbin

As 90 Marshall-Wythe law students found out two weeks ago, the old saw holds true. Be careful what you wish for, because you just might get it.

With temperatures climbing into the 60s just a week before the start of the Student Bar Association's annual ski trip, organizers and participants did not have high

expectations for the conditions. But after a week that brought significantly colder temperatures and several inches of snowfall to the Williamsburg area, a busload of 56 rambunctious citizen-lawyer-wannabes and several carloads' more set out for Snowshoe, W. Va., on Friday, Jan. 21, encouraged by the turn in the region's weather. Seven hours later, they began a weekend of skiing, snowboarding, hot tub-

bing and clubbing—and bitter, bitter cold.

Students loaded up and hit the road around 1:00 p.m., and the charter bus most rode quickly became a party on wheels.

"With all the card playing, bathroom gate-keeping and spillage-control, the ride flew by," said

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# East Coast Blizzard Not Enough To Chill Law Students Fun on SBA Ski Trip

*Continued from front page*

Ryan Browning (1L), who had one of the prime seats next to both a cooler full of beverages and the bus's commode.

In the early evening, the bus arrived at the Mountain Lodge, where the trippers stayed for the weekend. The Lodge is a ski-in, ski-out condominium complex in the village high atop Snowshoe's Allegheny mountain. Students bunked with friends in six- and eight-person units scattered throughout the complex.

Once they checked in and unpacked, the students disbursed to begin their evening festivities and to take advantage of the resort's amenities—in particular, the outdoor hot tubs and the village dance club.

"The 'discotheque' was great," said Gabe Kennon (1L), who was one tripper who kept his bum off skis but on the dance floor of the village club. "It had dancing, a live band, pool, random West Virginian

girls pulling a 'Coyote Ugly' on the bar—all in all, a good time."

Many students made a beeline for the hot tubs at the Split Rock Pools Complex. The Lodge was no more than 150 yards from the complex, but chilly conditions made getting to the hot tubs a frosty affair.

"It was pretty much ridiculously freezing," said Mike Spies (1L), who was one soul who braved the cold. "Plenty of people opted for the hot tub over frost bite."

One senseless student seemingly hoped for both, as he was seen running through the snow between the Lodge and the hot tub complex in only a tee shirt, swim trunks and flip flops.

Although the cold and snow made getting to the hot tubs an adventure, they greatly improved the conditions on the slopes—for the most part. Snowshoe received a foot of natural snow over the three days preceding the ski trip. The blizzard that hit the East Coast that weekend also dumped another

13 inches onto the mountain over the course of the weekend, mostly Saturday and Saturday night.

When the trippers set out on the slopes on Saturday morning, they saw nearly white-out conditions and felt temperatures peaking in the teens. Although the cold weather allowed Snowshoe to make snow to replace the base it lost in the prior week's thaw, the snow falling from the sky joined the stuff shooting from the guns to make for uneven visibility and surface conditions.

"Conditions were certainly not ideal, but for most of us that won't get out on the mountain very often this season, I think we certainly had a good time," Spies said. "I don't know if it was particularly appropriate for them to be making snow all day, since it iced over everybody's goggles and affected general visibility."

Still, the conditions were vastly superior to what they might have been had the cold and snow not arrived, so the skiers and riders were happy to deal with a little chill and precipitation. The mountain had been able to open about three-fourths of its 57 trails in time for Marshall-Wythe's visit.

"The consensus seemed to be that the mixture of natural and man-made snow was good for both people who were actually trying to ski or snowboard and people who just needed a soft place to fall," Spies said.

The excursion brought all sorts of snow enthusiasts to the slopes, from beginners to experts. A few first-time skiers braved the cold and had their friends show them the ropes.

"I could barely see or hear anything at the top of the mountain because of the bad storm that hit Saturday morning," said Mike Pegman (1L), who stepped into a pair of skis for the first time that weekend. "But Woody [Rubin (1L)] gave me a quick lesson and told me to follow him down the hill. I think I rolled down the first couple hundred feet, but past there, it was a really good time. I would definitely go back."

Several students joined the excursion simply for a change of scenery and did not ski at all.

"I decided to go on the ski trip because I thought it would be a nice weekend away from the 'Burg,'" Kennon said. "But since I don't ski, I figured there would be no reason why this trip to West Virginia should divert attention from my regular weekend activities."

The cold kept some would-be skiers and snowboarders indoors for part of the time, especially when winds kicked up on Sunday morning (temporarily closing two of the mountain's lifts), but that just allowed for more quality time with friends. A few hardcore students even managed to squeeze in a little studying.

This year's excursion, organized once again by Justin Hargrove (3L), was the biggest Marshall-Wythe ski trip in recent history. Hargrove has been organizing the trips for the past two years, with 55 participants two years ago and 32 last year. SBA Treasurer Dave Stern (3L) also helped put together the event, taking on the important task of coordinating transportation.

"I am from southwestern Virginia," Hargrove said. "I decided if I was going to plan the trip, it was going to head to my neck of the woods—so, it's been Snowshoe for three years running."

With Hargrove's graduation looming, the annual ski outing—as well as the annual whitewater rafting trip—will need a new organizer. Hargrove said that the person who takes up the torch need not be part of the SBA, but that the group has been instrumental in helping make the trip happen.

Hargrove planned this year's trip for Jan. 21 because the Martin Luther King, Jr. weekend was too expensive and too early in the season for good conditions. He also did not want the trip to be too late in the semester so as to conflict with the academic and extracurricular schedule, including the Bushrod Moot Court Tournament and Legal Skills trials.

## THE ADVOCATE

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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.



## Classical Islamic Law and Human Rights: Professor Sonn Sheds Some Light

by Dave Zerby

On Tuesday, January 25<sup>th</sup>, Tamara Sonn, William & Mary's Kenan Professor of Religion, delivered a lecture on classical Islam and Human Rights Law as part of the Law School's Distinguished Lecture Series, hosted by Professor Linda Malone.

Although originally scheduled for room 127, the lecture was switched to the larger room 120 because of the Williamsburg community's rather strong interest in the topic; in fact, Williamsburg residents outnumbered William & Mary students by a strong margin. Perhaps their presence accounted for the elementary—although informative—account of Islam that Professor Sonn presented.

Professor Sonn began her lecture by presenting a brief overview of the structure of Islamic law before delving into its treatment of human rights and modern developments. Similar to Talmudic law, *Islamic law is a relevatory law*—Islamic law is God's will for humanity as expressed through Muhammad; any accurate and true account of Islamic law necessarily

must be eternal and changeless in its quest to guide the everyman to eternal rewards by creating a just society. To this end Islamic law regulates a significant portion of a person's daily life.

Islam's emphasis on a just society grounds the discussion of human rights. That human rights are existent in Islam is not in debate; what is debatable is their extent. According to Professor Sonn, classical Islam included two categories of rights: the rights of God and the rights of man. Islam subdivides man's rights into five "essential" rights: religion, life, family, mind and wealth. Protecting these rights is one of Islamic law's primary purposes.

Whether the right to life is more primordial than the right of religion is a center of contention in Islamic law; what is not in debate is that just war or judicially adjudicated capital punishment are the only exceptions to the otherwise inviolable right to life. (Professor Sonn did not explain what comprises a just war or how to discern whether capital punishment has been fairly adjudicated within an Islamic legal system). The right

to family includes the right to marry and the right to bear children, while the right to mind includes the right to be free from intoxication. (No mention was made as to whether the right to mind included the right to be intoxicated as well, but presumably not, at least under most Islamic legal systems). The right to wealth includes the protection of property, which is guaranteed by punishment for the violation of property. Traditionally, the legitimacy of any Islamic government rests on the government's guarantee of these rights.

These essential rights root any discussion on human rights—that is, many scholars of Islamic law view human rights as a deepening and extension of the five essential rights. Some scholars extend the essential rights to include the rights to freedom of conscience and freedom of expression. Other Islamic law experts argue that equal protection and suffrage fall within boundaries of the essential rights. Adding these rights to the original five brings Islamic human rights within the realm of human rights espoused by most liberal scholars.

Once free speech, suffrage and equal protection come within the perambulations of Islamic law, the rights begin to look suspiciously like those often protected by democratic governments. It is a small step from incorporating these rights into Islamic law to arguing that Islam is legally pluralistic and can coincide with democracy. Indeed, Professor Sonn highlighted the opinion of one prominent Islamic legal scholar, 'Abu Fadi (a UCLA law professor), who argues that classical Islamic governments had to receive popular approval in the form of a pledge. Other scholars, however, claim that democracy interferes with God's position as leader.

Even if the debate above resolves in favor of broadened human rights, opinions still divide on whether such rights are "universal" or limited. One school of thought promotes the concept that human rights apply to all humans qua humans because the Qur'an addresses itself to all human beings; an opposing school contends that human rights inhere only for those members of the Abrahamic religious traditions.

## Dr. Pilon Talks of the upcoming 'Battle for the Courts and the Constitution'

by Rich Thomas

On January 25<sup>th</sup>, the Law School had the pleasure of hearing Dr. Roger Pilon, the founder and director of the Center for Constitutional Studies at the Cato Institute, deliver a presentation entitled, "The Coming Battle for the Courts and the Constitution: Why it Matters."

Dr. Pilon first predicted some "real fireworks" and "blood spilt on the Senate floor" when the first Supreme Court Justice retires and the battle for a new Justice begins. He believes that the battles over judicial nominations have become so fierce because judges make many of our laws.

According to Dr. Pilon, the dominant schools of liberalism

and conservatism are at war over how broadly to construe constitutional rights. Conservatives accuse liberals of reading rights into the Constitution that do not exist, while liberals claim that conservatives read the Constitution too narrowly by focusing only on the explicit rights it grants. If the goal is to protect rights, Dr. Pilon said, then both schools are wrong. The better approach, which he classifies as the Libertarian approach, is to recognize that rights are protected only when the role of the federal government is limited.

To understand this, he continued, one must first study the Declaration of Independence, which grants equality in our right to life, liberty, and the pursuit of happiness. "That which makes us happy

is subjective; our right to pursue our subjective values is objective. Freedom captures both." Mr. Pilon believes that the purpose of government is to secure this freedom. Government should be limited to its purpose: to secure our right to pursue our subjective values.

The challenge of the Founders was to form a government powerful enough to protect rights, but sensitive enough to not trample other rights in the process. The central feature of the Constitution that answered this challenge, opined Dr. Pilon, was the doctrine of enumerated powers. "The best way to limit power is to not give it in the first place." Americans have both enumerated and unenumerated rights, but the government was given only enumerated powers to secure those

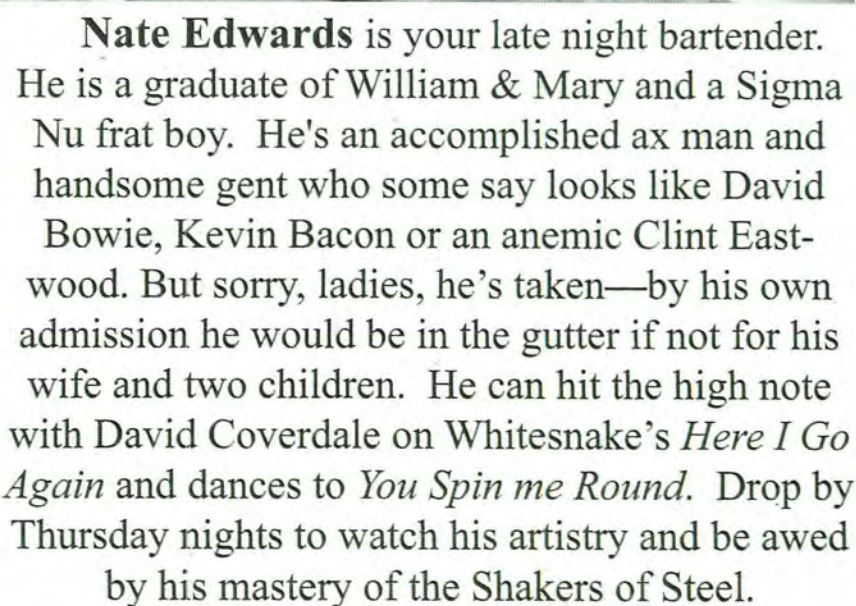
rights. Dr. Pilon used several historical examples to show that early Americans believed the federal government's power was limited to that granted in the Constitution. It was designed, he concluded, to give the federal government power only to protect rights. It does not grant the government power to provide us with services such as medical care, day care, and retirement; it protects the rights of individuals to provide for themselves.

Dr. Pilon explained that the New Deal brought many programs that the Founders never intended for our national government. He fears the court has allowed Congress to use the general welfare and commerce clauses to open the floodgates to the modern regulatory state. *continued on page 4*



citizen lawyer. The Law School is confident that this enterprise could engage law firm leadership and help firms develop more vigorous public service programs.

that when the federal government is doing anything other than protecting rights, it is exceeding the scope of the Constitution. In the meantime, the battle over judicial nominations will rage in a language most citizens do not understand. Dr. Pilon wants our leaders to recognize that the Constitution is a document that limits government and allows citizens to live their own lives, and to choose judicial nominees who recognize that fact.



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# Things Learned from a Summer In Norfolk

by M.D. Merolla

My 2004 summer internship was at the US Attorney's Office in Norfolk. First of all, I would like to offer a little advice to anyone who commutes into Norfolk. Do not take the Hampton-Roads Bridge Tunnel at all costs. The Monitor-Merrimac route is a longer distance but will actually save you time and will definitely save your sanity. Also, if you are ever on a long car ride with Rich Hadorn, don't be a fool, give him shotgun, or you'll wish your only problem was the traffic.

Though vitally important to beginning any commuter's day on the right foot, traffic tips were not the only lessons I learned from my internship. In the civil litigation division, I worked on several cases in defense of the United States federal government. Whenever a suit is brought against the federal government, the litigators I worked with had the task of organizing a defense. By meeting with the particular agency officials involved in the suit as well as their in-house counsel, the Assistant United States Attorneys

(AUSAs) would be brought up to speed on the facts of each case.

I helped the AUSAs by researching the legal issues raised by the facts of these cases and writing memos arguing how the law should be applied to benefit the US, what the plaintiff would argue, and predicting how the law might be applied in court. The AUSA would take my memo, maybe read it, most likely not, and then make a decision as to whether to settle with the plaintiff or proceed to court.

The AUSAs are highly motivated people and they vigorously defend the US government. However, because they are defending the federal government and not a private litigant, they have a strong desire to not only see that their client receives a strong defense but also and more importantly, that justice is done. In many instances that meant settling with the plaintiff because their case had merit and, in the AUSA's opinion, the law was on their side. Although I have not worked in private defense, I have the impression from hearing others speak that this is not the norm.

The AUSAs who work in the Eastern District of Virginia (EDVA) are extremely busy. Norfolk is an enormous naval base, and the Hampton Roads area in general is teeming with federal government employees and institutions. Additionally, the Pentagon's location within the district and EDVA's proximity to Washington, DC make it a prime target for overflow from cases involving the War on Terrorism. These cases are handled by the criminal division of the office, which also successfully prosecuted John Lee Malvo, the accomplice of John Allen Muhammad in the sniper case.

I was lucky enough to have the opportunity to work with the criminal division as well. Although I was not allowed anywhere near the really public cases, I worked closely with Rob Seidel on a multi-million dollar financial fraud case. Besides being a senior litigation expert, Rob is also an adjunct professor at W&M who teaches White Collar Crime.

My assignment was very cool. I prepared the prosecutor's

affidavit requesting extradition of the fugitive defendants from the United Kingdom. They were indicted towards the end of the summer, and I later learned that the fugitives were captured in the UK and were in the process of being extradited back to the US for prosecution.

No discussion of last summer would be complete if I did not mention the softball league championship won by my office team. The games were as intense as any I have been a part of. Who knew a softball league full of lawyers and FBI agents would be so competitive?

There was a real team atmosphere at the EDVA Norfolk office and everyone was a pleasure to work with. Memories of the work I did and the people I met will stay with me for a long time. Lastly, I am grateful to PSF whose funding made my summer experience possible. The organization is an important part of our law school and even I, a notoriously unwilling hand-lender, try to help PSF as much as possible.

## Happy Fifteenth Birthday, USPTO!

by Erin Page

Patents have been a part of the United States Code for over 200 years. Their official role is to promote research in science by protecting the original work of inventors for limited time periods. By giving them exclusive right to their respective discoveries for a statutorily determined length of time, patents have encouraged investment in new ideas. As a hint of how important these ideas are, they are mentioned in Article 1, Section 8 of the U.S. Constitution.

Trademarks, though often dealing with the same idea or product, are a somewhat different concept. A trademark is something unique to a particular producer's work that prevents the work from being confused with that of another producer. For example, if your machine always turns out sprockets that are red, you may not want someone else to be able to produce that

particular kind of sprocket in red. This kind of protection was created to prevent fraud on the consumer. Having products from different producers be distinguishable means that it is harder for someone to sell an inferior product and perhaps even escape lawsuits as a result of consumer confusion.

Both of these protections are regulated by the United States Patent and Trademark Office (USPTO). Yet, despite its importance, the USPTO functioned for a long time merely as a branch of the Department of Commerce. It wasn't until the Omnibus Budget Reconciliation Act (OBRA) of 1990 that the USPTO became a semi-separate agency with its own undersecretary. So, with its own budget, the USPTO turns 15 this year. However, a budget does not make a true entity. The major statutory authorities that the USPTO operates under are: 15 U.S.C. §§1051-1127, which govern the

administration of the trademark registration system of the Patent and Trademark Office; 35 U.S.C. which has the basic authorities for administration of patent laws and says that the Commissioner can use the fees from the patents to pay for the administration; and 44 U.S.C. §§1337-1338, which contain the authority to print patents, trademarks, and other matters relating to the business of the Office. The public can also use automated search systems of the USPTO.

"But wait," you say. "You've only mentioned two out of the three branches of Intellectual Property!" That's right. I haven't mentioned Copyrights yet. There's a reason for this omission. Copyrights are a form of protection provided to the authors of "original works of authorship" including literary, dramatic, musical, artistic, and other intellectual works. These works need not be officially published to receive copyright protection,

but they do need to be in a fixed form. Also, copyright protects the form of expression rather than the subject matter of the writing. You can't write the recipe for a perfect fudge and then say that no one can use it because you copyrighted the idea. However, if someone just copies and pastes your recipe into their final, you've got them nailed. The owner of the copyright can decide to publish, perform, publicly display, etc., the copyrighted work. But why didn't I mention this earlier when I was giving a brief introduction of the other two major ideas of Intellectual Property? Because Copyrights are not overseen by the USPTO. Copyrights are under the purview of the Copyright Office of the Library of Congress.

*All information from the quoted statutes and from the United States Patent and Trademark Office website at <http://www.uspto.gov/>.*



## A Law Firm of a Different Breed

by Jennifer J. Lavigne

"Jen, this morning we have a prospective client coming into the office. I want you and Reika to conduct the interview." What? Interview? Me? Legal skills, don't fail me now!

As 11:00 am approached, my heart began to pound as it tried to break free from the confines of my chest. I knew that at any moment my phone would ring and Anna, the receptionist, would inform me that Mr. D. had arrived.

"Ring, ring." Oh, here it is now. Breathe. Breathe.

My nervous feelings fled as I opened the door and saw Mr. D. He could not have been any older than his mid- to late-twenties. He looked so scared. After all, this was his life. He was here for a very important reason—he wanted custody of his four year old daughter.

When Mr. D. and his ex-girlfriend (the child's mother) split up, he continued to visit and pay support to the child. As time passed, the mother became involved with a new man, an abusive man and she no longer allowed Mr. D. to visit with his daughter. Because of the abuse she suffered at the hands of the new boyfriend, the child was removed from the home and placed with her maternal grandmother. Mr. D. wanted custody of the child, but at the time he was sleeping on a couch in a friend's apartment. He knew that without a home of his own, the judge would never give him custody of his daughter. She would be safe with her grandmother and this would give him time to save money and find a new place to live. He wanted to get everything in order so that when he did go to the judge she could not refuse his request. After all, he was already making improvements; he had just been promoted to manager of the photo department of a local pharmacy.

Sometimes things do not go exactly as planned. Mr. D. came to our office because the child's maternal grandmother had fallen ill and the child was going to be removed to foster care. That was the way the story was likely to end until the firm decided to take Mr. D.'s case at no charge. Mr. D. was not an exception. Many of the firm's clients receive services at no cost or at nominal cost. In fact, the firm is a private, public interest firm.

Private, public interest law firms? Yes, they really do exist. Lansner and Kubitschek, the firm where I spent my summer, is located in downtown Manhattan. It is a small firm.

Translation: Two partners, one senior associate, four associates, four paralegals, and support staff. This means two things. First, there is no place to hide when personalities conflict and, second, summer interns get to do substantive work. Aside from standard summer associate work like drafting memos, I was interviewing prospective clients, going to court, drafting arguments for appellate briefs, drafting a writ of mandamus, attending depositions, etc.

I certainly did not choose the firm for its high pay. I got PSF money. Wine tasting, golf, Broadway shows...my summer included none of the aforementioned activities. Actually, aside from the weekly firm lunch which was more work and less fun, we had two social activities, a Mets game and a concert in Central Park. I chose the firm because of the work it does, mainly civil rights work. Most are family law cases and many involve domestic violence or abuse of some type. I came to know and care about the clients. It was more than a great learning experience, it was a truly rewarding way to spend my summer and develop my legal skills.

As for Mr. D., he is living happily with his daughter in their new Bronx apartment.

## Domestic Violence and Prostitution

by Emily Cromwell Meyer

Public service comes in many shapes and forms. The jobs vary. The experiences vary. The effects, however, are often consistent for those involved. The resonance of performing public service is rarely lost upon the provider, and at times permeates the recipient. My experience this summer, while unique in specific ways, was consistent with what many others (emotionally, professionally and personally) have experienced when working with the underprivileged and victimized. The work was often frustrating, usually engaging, and, at times, profoundly inspiring. While not all of my experiences were uplifting or positive, all were provocative, which seems to be a common tenor amongst these PSF stories.

I was assigned to the Domestic Violence and Juvenile (JDV) team at the Norfolk Commonwealth Attorney's office. I also worked extensively for the Project Safe Neighborhoods Team (PSN), which prosecutes misdemeanors in high-crime areas. I had the opportunity to handle cases (approximately 40) for both JDV and PSN. While many of my cases settled or the defendant simply pled guilty (rumor has it that I'm extremely intimidating), I engaged in a number of actual trials and sentencing recommendations. My cases varied from assault and battery upon a family member and simple trespassing, to the more common (probably 40% of my caseload) crime of prostitution.

The domestic violence cases were the most frustrating, for obvious reasons and less obvious ones. It was saddening to see the effects of domestic violence upon the victims, particularly the children in the household. What I found most frustrating, however, was that many victims changed their minds about testifying against their "loved" one, right before the trial. The victims were often afraid of the defendant, dependent upon him, or still emotionally attached to him. These apprehensions and affections frequently resulted in the victim not testifying fully and completely when it came time to try the case. This was incredibly frustrating as

a prosecutor (or intern) because this situation occurred repeatedly. The most disturbing cases involved defendants who had been accused of battery a number of times previously, but had never been convicted due to their partner's reluctance to testify. While this reluctance is absolutely understandable, it is incredibly frustrating to witness as a third party. This is especially true when a history of violence—often escalating—exists, and you feel that the victim is truly in danger of future severe bodily harm.

The prostitution cases, while generally disquieting, did provide novel fact patterns. The CA's office went equally after Johns and prostitutes, and prosecution of both prostitutes and Johns was generally aimed more at rehabilitation (through sending them to certain intervention programs). I thought about writing some of my more embarrassing or off-color experiences with the prostitution cases, but thought better of it. I'll tell you in person if you're interested.

Altogether, I had a terrific experience. It was extremely fulfilling to see certain results—specifically, rehabilitation for drug abusers and prostitutes, and jail-time for the worst domestic abusers. Additionally, The CA's office took us on field trips, which included the shooting range, the medical examiner's office (where we watched a complete autopsy), the city jail, and a ride-along with police officers. It was an eye-opening (and sometimes nauseating, in the case of the autopsy) experience, to say the least. I learned a great deal about ways of life that most of us never encounter and met a myriad of people (defendants and victims) who needed help in many different ways. While my contributions were modest, it reaffirmed my belief that public service directly impacts individuals on both sides: those receiving and those giving. I left feeling that in some very small, very modest manner, I may have done a bit of good for others. Even if not, I was at least bettering myself by interacting with and facing people and problems all too easy to push aside in my normal, daily life.



## Ask A Canadian

by Matt Dobbie

Welcome to this week's edition of "Ask a Canadian." If you have questions or comments for future editions, please send them to my new email account, [askacanadian@gmail.com](mailto:askacanadian@gmail.com). Seriously, it's my real address. Go ahead and check if you don't believe me. Dare. But if I don't answer your question here in the column, it's nothing personal—it just means your question sucked. Now, on to this week's questions:

*How is Canada handling the NHL lockout? No hockey must be pretty tough on your country.*

Arthur Fonzarelli, 3L

It's been very tough, Arthur, and quite frankly, I'm surprised the entire country hasn't been con-

sumed by its own grief. Canada and the NHL have had a long and often difficult relationship. It's like that one friend of yours who's dating a girl (or maybe a guy—I'm not here to judge) and it's clear that he is way more into the girl than the girl is into him. He calls everyday, knows everything from her favorite color to her mom's maiden name, while the girl is vaguely aware the dude has brown hair. That's Canada and the NHL. We are way more into the NHL than they ever were into us. Here we are buying jerseys, season tickets, and they just keep looking for a better option. They keep flirting with America, Europe, or even Asia. To make matters worse, every so often, just to make us mad, they move a team from a perfectly good Canadian city to Phoenix or Denver. I mean, honestly, Phoenix? Nobody likes hockey in Phoenix.



This is Matt. Matt's Canadian. And still really sensitive about the NHL lock-out, so don't make fun.

## In Memoriam: Why Dogs Are Better Than People

by Rajdeep Singh Jolly

It is my considered judgment that dogs are better than people. Opponents of the *dog superiority hypothesis* might claim that dogs lack free will and that dogs accordingly cannot subject themselves to moral judgment and comparison. At best, this *dog determinism hypothesis* makes a nice point; at worst, it implies that other living organisms also lack free will and that people accordingly cannot subject themselves to moral judgment and comparison. The following essay will not resolve basic questions of moral agency, but it will suggest that dogs are better than people.

*Equal Treatment.* Dogs will lick, sniff, and even try to copulate with nonviolent people of all races, religions, genders, physical appearances, sexual orientations, and attempt to do so without regard for socio-economic backgrounds or political affiliations. To be sure, it is inappropriate for people to lick, sniff, and copulate with strangers without consent, but the principle I'm trying to underscore here is the principle of nondiscrimination.

People routinely fail to prioritize the humanity of others: there are black people and Jewish people and fat people and gay people and rich people and liberal people, but there aren't ever any people.

*Authenticity.* Dogs do not pretend to be otherwise than they actually are. They know no insecurity. Dogs will relieve themselves in public and drink out of toilets in front of strangers. I remember attending a history lecture in college. One student brought her frisky Labrador to the auditorium. The professor spoke monotonously for two hours. Most students struggled to stay awake but did so anyway to avoid causing offense to the teacher. Ten minutes after the lecture started, the dog was unconscious. To be sure, it is inappropriate for people to relieve themselves in public and drink out of toilets; it is also rude to fall asleep during lectures. Even still, the point I'm trying to make here is that people create needless tension for themselves by worrying about the expectations of others and by trying fruitlessly to conform to those expectations.

I dedicate this essay to the immortal spirit of Chi-Chi the dog.

It's like watching your girlfriend make out with a gay guy just to make you jealous, because it's not like either one of them is really getting anything out of it.

But the lockout is the worst. It is clearly demonstrating who wears the pants in the relationship, and it's not Canada. We're like Jon Favreau in *Swingers*—you know how he's obsessed with that ex-girlfriend who broke up with him months ago? That's Canada. We just can't move on. Sure, we claim we're okay, but all it takes is one message on our answering machine or TSN (Canada's version of ESPN—just think less football and more curling) reporting a rumor that hockey might be returning and we're back faster than a Brett Hull slapshot (it's a saying in Canada, you'll just have to trust me).

*Does Canada have any imperial ambitions?*

Richard Cunningham, 1L

While perhaps not on the scale of some imperial powers like, say, China, India, or Poland, Canada does have its own limited imperial ambitions. To wit, debate rages in Canada as to whether we should acquire the Turks and Cacaos Islands, a British dependency in the Caribbean that has repeatedly petitioned Canada for membership. Apparently they don't pay enough

taxes. At first Canadians were very excited by the prospect of gaining some tropical islands, but then we remembered that the last time we added an island things didn't work as we'd hoped.

The year was 1948, and the island was Newfoundland. And boy, what a mistake that was. Newfoundland is like a combination of Maine and backwoods West Virginia. Picture the banjo-playing hicks from *Witness* with lobsters in hand. It's been just great for our national pride. Along with a fear of repeating the "Newfie" mistake, the Canadian government says the reason it keeps saying no to the T&C is the economic cost—hospitals, schools, infrastructure, military (okay, I made the last one up).

But I don't believe them. The real reason is that the government knows that if, as soon as that first Canadian winter arrived, we had the possibility of going to the Caribbean without changing our money, the entire country would move en masse. Not since Moses parted the Red Sea would such an exodus have occurred. Overnight, Canada would become the largest ghost town the world has ever seen. So instead we stay in the north, peering over snow banks the size of Volvos, cursing the government, and hoping not to get frostbite on our unmentionables. I can't wait to go home.



# The Advocate <3s Horoscopes

by the Advocate Horoscopes Staff (edited by Rob Eingurt)

Yes, by your sighing I can tell you can't believe that the horoscopes are back. But we begin the new semester contrite and seeking forgiveness for our past transgressions. To make up for all the ink we've wasted, the horoscopes staff is doing their best to be your wingman this Valentine's Day. To inspire a successful Valentine's experience we've compiled some movie quotes to inspire you, get your heart pounding, or send you running away gagging over all the mushiness.

## ARIES (March 21—April 19)

**Mike Cameron:** I don't know you very well, you know, but I wanted to ask you—how'd you get Diane Court to go out with you?

**Lloyd Dobler:** I called her up.

**Mike Cameron:** But how come it worked? I mean, like, what are you?

**Lloyd Dobler:** I'm Lloyd Dobler.

**Mike Cameron:** This is great. This gives me hope. Thanks.

*Say Anything, 1989*

## TAURUS (April 20—May 20)

"You're not perfect sport, and let me save you the suspense, this girl you've met—she's not perfect either. But the question is whether or not you're perfect for each other."

*Good Will Hunting, 1997*

## GEMINI (May 21—June 21)

**Pepe:** There is a menu correction, okaaaaay. We will now be serving baloney sandwiches. [Swedish Chef shouts something]

**Pepe:** But, no bread.

*Muppets From Space, 1999*

## CANCER (June 22—July 22)

**Samantha:** Thanks for getting my undies back.

**Jake:** Thanks for coming over.

**Samantha:** Thanks for coming to get me.

**Jake:** Happy Birthday, Samantha. Make a wish.

**Samantha:** It already came true.

*Sixteen Candles, 1984*

## LEO (July 23—August 22)

"First of all, Rat, you never let on how much you like a girl. 'Oh, Debbie. Hi.' Two, you always call the shots. 'Kiss me. You won't regret it.' Now, three, act like wherever you are, that's the place to be. 'Isn't this great?' Four, when ordering food, you find out what she wants, then order for the both of you. It's a classy move. 'Now, the lady will have the linguini and white clam sauce, and a Coke with no ice.' And five, now this is the most important, Rat. When it comes down to making out, whenever possible, put on side one of Led Zeppelin IV."

*Fast Times at Ridgemont High, 1982*

## VIRGO (August 23—September 22)

**Miss Bingley:** I believe I can guess your thoughts at this moment.

**Mr. Darcy:** I should imagine not.

**Miss Bingley:** You are thinking how insupportable it would be to spend many evenings in such tedious company.

**Mr. Darcy:** No, indeed, my mind was more agreeably engaged.

I've been meditating on the very great pleasure which a pair of fine eyes and the face of a pretty woman can bestow.

**Miss Bingley:** And may one dare ask whose are the eyes that inspire these reflections?

**Mr. Darcy:** Miss Elizabeth Bennet's.

**Miss Bingley:** Miss Elizabeth Bennet. I am all astonishment.

*Pride and Prejudice, 1995*

## LIBRA (September 23—October 22)

"The making of a great compilation tape, like breaking up, is hard to do and takes ages longer than it might seem. You gotta kick off with a killer, to grab attention. Then you got to take it up a notch, but you don't wanna blow your wad, so then you got to cool it off a notch. There are a lot of rules. Anyway... I've started to make a tape... in my head... for Laura. Full of stuff she likes. Full of stuff that makes her happy. For the first time I can sort of see how that is done."

*High Fidelity, 2000*

## SCORPIO (October 23—November 21)

"Love gives you wings. It makes you fly. I don't even call it love. I call it Geronimo. When you're in love, you'll jump right from the top of the Empire State and you won't care, screaming 'Geronimo' the whole way down. I love her so bad, I just... whoa, she wrecks me. I'd die for her."

*Conspiracy Theory, 1997*

## SAGITTARIUS (November 22—December 21)

"He loves her. Love, it's a new starting. On the other hand, our old ways were once new, weren't they? On the other hand, they decided without parents, without the matchmaker. On the other hand, did Adam and Eve have a matchmaker? Oh, yes they did. And it seems these two have the same Matchmaker."

*Fiddler on the Roof, 1971*

## CAPRICORN (December 22—January 19)

**Han Solo:** Afraid I was gonna leave without giving you a goodbye kiss?

**Princess Leia:** I'd just as soon kiss a Wookiee.

**Han Solo:** I can arrange that. You could use a good kiss.

*The Empire Strikes Back, 1980*

## AQUARIUS (January 20—February 18)

"Well, I believe in the soul... the small of a woman's back, the hanging curve ball, high fiber, good scotch, that the novels of Susan Sontag are self-indulgent, over-rated crap. I believe Lee Harvey Oswald acted alone. I believe there ought to be a constitutional amendment outlawing AstroTurf and the designated hitter. I believe in the sweet spot, soft-core pornography, opening your presents Christmas morning rather than Christmas Eve and I believe in long, slow, deep, soft, wet kisses that last three days."

*Bull Durham, 1988*

## PISCES (February 19—March 20)

"Since the invention of the kiss there have been five kisses that were rated the most passionate, the most pure. This one left them all behind. The End."

*The Princess Bride, 1987*

'nuff said. Happy Presidents Day!

## Marshall-Wythe Hip-Hop Haiku

by Rajdeep Singh Jolly

Word to your mother:  
If you practice contract law,  
I will bust your jaw.

Word to your mother:  
LUDACRIS is king of rap;  
YANNI—king of crap.

Word to your mother:  
The Norwegian Dance Party:  
Is Yanni comin'?

Word to your mother:  
Tim Sullivan leave the Tribe:  
Put rims on his ride.



## The Aviator Taxis On...

by Marie Siesseger

At the Evergreen Aviation Museum in McMinnville, Oregon, the carcass of Howard Hughes' famed "flying boat," the Hercules, stands as an altogether appropriate testament to its brilliant, but oftentimes fantastically delusional, creator. Odds are that Martin Scorsese's latest cinematic turn may eventually meet with the same fate in the archives of Miramax. Like the Spruce Goose, *The Aviator* is mammoth, entertaining, but ultimately just too unwieldy and wooden.

In telling the story of the young Hughes, *The Aviator* aims to shatter, or at least explain, the popular Hughes-as-freakish-recluse notion. Starting with the filming of *Hell's Angels*, the movie tracks a more vibrant Hughes through his developing obsession with aviation, starlets, and germs. The standard storyline on Hughes starts much later, once he has already given

himself over to full-fledged dementia praecox, apparently unable to cope with the world that seems so ready to oppress him.

But there is a tinge of irony in casting the ludicrously wealthy, and famously iconoclastic, Hughes as the little guy who just wants to make his movies and airplanes and have perfectly formed chocolate chip cookies. This is a man who spent \$4 million 1930 dollars (\$41.2 million in current dollars) on a film, and who one day just decided to buy TWA, after all. Okay, so his accountant (played by the brilliant John C. Reilly) had a bit of a headache making the math work out, but it did, right? And Scorsese would like us to believe that in this epic struggle pitting the David-like TWA against the Goliath Pan Am we should unquestionably root for the one that is owned by a man who once directed a UCLA professor to give a scientific explanation of why Jane Russell's cleavage was no

more prominent than many other movie stars'?

Putting the relative dearth of sympathy factor aside, Leonardo DiCaprio excels as the larger (and weirder) than life Hughes. Despite his overexposure on the covers of teenager-targeted magazines in the 1990s, DiCaprio is quite a sophisticated actor, and always has been (if you need proof, go rent *What's Eating Gilbert Grape*). And his nuanced portrayal of the altogether too easily caricatured Hughes is exhilarating, and simultaneously rather uncomfortable, to watch.

To be sure, *The Aviator* is biographical fiction (and consequently entitled to some more artistic flourishes, which it duly indulges), but it's also a big-budget film, and there are points where Hollywood's insistence that every story have a banal, good-versus-evil plot line that has immediate appeal to us simpletons out in the audience usurps Scorsese's better judgment.

Thus, we are forced to endure the endless squawking of Alan Alda as the bribe-taking Senator Brewster (not to mention his devilish machinations to bring down the mighty Hughes with a well-placed thumbprint), and, just in case we didn't get the point that Pan Am is bad, bad, bad—the I-will-conquer-the-WORLD map painted in foreboding hues on the walls of Pan Am President Juan Trippe's office. To his credit, Alec Baldwin (who plays Trippe) doesn't stoop quite so low as to attempt to deprive DiCaprio of his erstwhile King of the World status, but he instead exudes an appropriate amount of pomposity as the pandering yet ruthless Pan Am executive.

The cycle of starlets Hughes flies through begins in earnest with Katharine Hepburn, played by Cate Blanchett. As the inimitable Hepburn, Blanchett faces an

*continued on page 4*

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# Marshall-Wythe Student B-LAW-GS

by Jennifer Rinker

*Thanks again for the information provided by this issue's blog participants. I continue to be amazed by the incredible people at this school.*



**Geneva Perry (2L)** was a member of and financial advisor to a gospel choir when she lived in Wyoming. She claims that if she could do anything all the time, it would be to sing in a gospel choir. According to Geneva, all gospel music, regardless of faith background, provides its members and the community with "songs of hope, faith, courage, and overcoming hard times." Geneva's gospel choir sang "Trouble Don't Last Always" at the campus memorial service for Matthew Shepard. The experience again demonstrated to Geneva the importance of singing these sorts of songs and the healing value they can have. Geneva and her fellow choir members recognized that, even if the campus didn't feel that "trouble don't last always" at that moment, the service and the choir's participation was a point from which to move forward. For a campus filled with national media, LGBT groups, and hate groups all voicing divergent beliefs about whether Matthew's was "a just and appropriate outcome," gospel music wasn't going to heal all wounds immediately. The magnitude of the situation would not bend immediately, even to the sounds of the choir. But it was a good place to start.



**Josh Baker (2L)** advises that, in the event he goes missing, we should look for him in the British Virgin Isles where he went sailing after high school graduation. On that trip he and a buddy went on a dingy to scope out one of the islands without checking the gas. This "bonehead move" (Josh's words, not mine) left them floating around on

empty, in the ocean, and would have sent them drifting into the Gulf if some crazy random speedboater hadn't come along. Though crazy random speedboaters in open water come in either the Kill-you or Help-you variety, Josh and friend were lucky to intersect with the Help-you kind.

Josh is a bit of a poker player (and one of the organizers of the successful Bone Marrow Drive Poker Tournament last year). Even though talking to poker players about the best-ever hand is like talking to fishermen about the biggest catch, I feel confident in Josh's story since there can be corroboration from 2L Patrick Speice. In a cash game last summer, Speice was dealt a pair of Queens to Josh's Ace, Six off-suit. The flop showed Ace, Ace, Queen giving Speice trip Queens and Josh trip Ace's. Fourth and Fifth street were a Queen and Ace respectively giving both players four of a kind. Speice was out about \$15 or \$20 bucks on that hand.



**Lamont Maddox (2L)** was kind enough to provide his own blog—Thank you Lamont!

"During high school and undergrad I worked for a company that owned several psychiatric hospitals. It was my job to help maintain the computer facilities for their corporate office. Sometimes I would get a chance to visit the inpatient children's ward of their psych hospitals. The children seemed so loving and innocent, but some of the stories of the issues they were dealing with were utterly heart-breaking. After undergrad I started a computer consulting company. One of my major clients was the Children's Hospital of the King's Daughters in Norfolk. I again witnessed the sweetest, most adorable children battling severe medical conditions. Also, a few years ago, I served on the board of directors of Tidewater Family Services. One of the programs of the agency was to operate a summer camp for mentally handicapped children. Every year, I would visit the camp and witness the precious smiles and joy of the participants as they engaged in summer fun activities. It always seemed so unfair to me that children should have to suffer such circumstances at such an early stage in their lives, often through no fault of their own. While I was not in much of a position to assist or comfort these children at the time, it has always left a burning desire in me to someday do more to personally contribute in a manner that might help similar children in need."



**Kerry Eaton (3L)** does adventure-style extreme racing—somewhat akin to Eco-Challenge. The team-oriented events usually take place in the mountains and involve orienteering, trekking, repelling, mountain biking, and kayaking. There are varying durations and lengths of races, from five to ten up to 25 and 50 miles—all to be started and completed in one day. The focus is on the team, and at no one point can any of the three to four members be more than 100 meters apart. Second only to the physical aspect of the races themselves, one of the best parts of the experience for Kerry has been racing with her twin sister Kelly. In one race, Kerry and Kelly had to carry their mountain bikes UP the mountain. At one point, one of the teammates was carrying TWO bikes so the team could maintain their pace and remain within the 100 meter distance. To hammer home the team nature of the event, at various points of the race teammates must work together to resolve additional physical or mental challenges contrived by the race organizers. Challenges have ranged from traversing ropes without anyone touching the ground to winning a hand of Blackjack in a Las Vegas race. In her first season, Kerry's co-ed team participated in five "heat-waves" (races) and placed third overall.



**Kris Koletar (2L)** has some unique interests in music. If any of you have ever heard of any of this stuff, please let us know. I suspect he might be making it up (but am almost certain he isn't—which is the scary thing). Bands: 3 Inches of Blood, Aborym, Amon Amarth, Dragonforce, Dying Fetus, Edguy, Gamma Ray, Gone Jackals (would pay someone to know who that is), Iron Savior, Lazarus, Limbionic Art, Necrophagist, Ram-Zet, Symphony X, Tormentor and Tsathoggua. Kris can "explain the complex interrelationships between Helloween, Gamma

Ray and Iron Savior." That said, he is perfectly comfortable revealing he also has both Spice Girls albums and ABBA Gold in his collection.

Kris is obsessed with the Necroscope series by Brian Lumley and has even corresponded with the author on some tricky plot twists and controversies. The cover artwork of the series will soon be placed prominently on Kris' upper arm once he gets the dough for the tattoo artist.

Other random things: first car was a brown 85 Mercury station wagon; his Hungarian dad likes to share random Hungarian facts in a manner reminiscent of the dad in My Big Fat Greek Wedding (minus the Windex); finally, Kris challenges anyone to beat his self-proclaimed "largest mental collection of worthless trivia on earth."

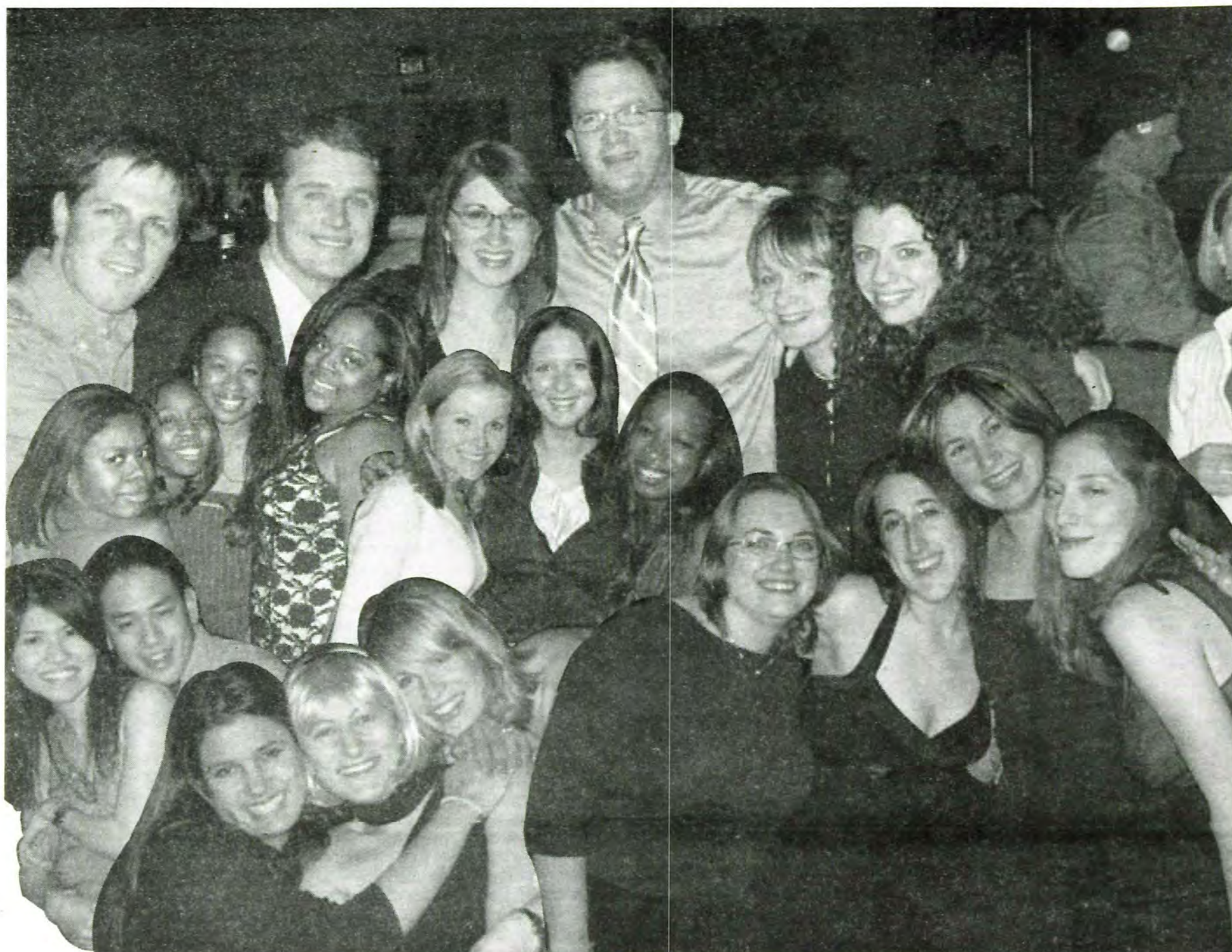
For the record, the morbid metalhead exterior is completely thrown out the window when he's around pets. Trust me. It's disgusting.



**Jinju Park (1L)** may be one of only a handful of current law students with a Bachelor of Fine Arts degree. A professional painter for eight years, Jinju's work is touted by one gallery website as "steeped in the tradition of representational oil painting and executed with sophisticated elegance." Jinju is, of course, more modest, claiming her B.F.A. really means "I can barely read and can't do math, which would discount me from being a 'model minority.'" Jinju attended a fine arts high school, taking required substantive courses in the mornings, leaving the afternoons free for work. She has exhibited pieces at national juried shows, at Christie's, and at other galleries, cafés and restaurants. Some have asked her how she deals with the workload at law school. Her response is that two hours of reading is considerably less grilling than her usual 12 hours in the studio. So much for the slacker artist stereotype. Jinju paints mostly landscapes, and to her the so-called representational style means that she sees nature as a reflection of the way she wants to see it, a place of beauty and light.

Jinju also plays the violin, is a black belt in Tae Kwon Do, and speaks Korean, Spanish, Italian, French, and English (and hopes to add five more languages to her skill set before she dies). She has worked as a translator for the Korean church, as a waitress, and hopes law will better support that nasty art habit.





## 3Ls Celebrate at the 100th Night Party

*Aviator Continued from pg. 10*

almost impossible task and, not surprisingly, she comes up a bit short. Gwen Stefani makes a passable Jean Harlow for the entire two minutes she's onscreen. More's the pity, as Stefani almost certainly has some latent acting ability. And as the somewhat shockingly compassionate Ava Gardner, Kate Beckinsale is given rather short-shrift for the number of costume changes she's made to go through. She's so perfectly suited to her '40s garb,

though, that it's hard to begrudge the costume designers their fun.

Just as the *Hercules* was never destined to soar into the stratosphere (in fact, it only lifted 70 feet off the water and was airborne for less than a mile), *The Aviator* never really takes off. It reaches a relatively comfortable cruising altitude and coasts along, relatively turbulence-free, for the better part of three hours. The famously exacting Hughes would probably have expected more.

### *Sex, Politics, and the Constitution*

The 2004-2005 Cutler Lecture

Presented by Professor Edward L. Rubin  
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Thursday, February 17, Room 127

The William and Mary Journal for Women and the Law  
and the Human Rights/National Security Law Program  
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McGlothlin Courtroom

*Naomi Cahn: "Women in Post-Conflict Reconstruction:  
Dilemmas and Directions"*

*Connie De La Vega: "Women in Peacekeeping and  
Peacemaking"*

*Alice W. W. ("Tally") Parham: "The Quiet Revolution"*

*Linda Malone: "Sexual Violence in Armed Conflict"*