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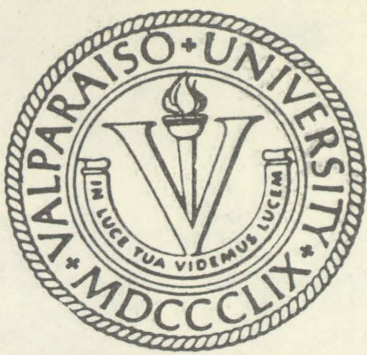


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THE FORUM

THE VALPARAISO UNIVERSITY SCHOOL OF LAW
Volume No. 8 Issue No. 9 April 23, 1979



Client Counseling Competition

by Dan Wehrenberg

During the weekend of March 31-April 1, the team of Glenda Drinkhahn and Eric Lewis placed second to the University of Wyoming in the ABA/LSD National Client Counseling Competition held at the University of San Diego. The second place finish is the highest in the history of Valparaiso Law School surpassing the showing of the 1974 Moot Court team that won its regional but was a losing semifinalist in national competition.

The team, which included alternate Jill Sisson, was selected by Professors Martz, Long, and Kmiec. It qualified for the nationals by defeating Northwestern, John Marshall, and Wisconsin in the regional finals. Other teams which advanced to San Diego from an original field of 120, included regional champions Boston College, St. Johns (N.Y.), American University, William & Mary, Stetson, Case Western Reserve, William Mitchell, Wyoming, Texas, Loyola (L.A.), and the University of Washington.

The legal issue underlying each round of competition, both at the national and regional levels was lawyer malpractice. However, the teams never knew in advance whether they would be counseling the client-plaintiff or the attorney-defendant. In addition, the field of substantive law was changed after each round of competition. For example, at the nationals Lewis and Drinkhahn dealt with lawyer malpractice in the areas of antitrust, partnership, and family law.

The actual competition at San Diego was preceeded by a Saturday morning conference on effective

methods of interviewing and counseling clients. Conference speakers, who also served as judges during the competition, included law professors, practicing attorneys, and mental health experts including the author of I'm O.K., You're O.K., Dr. Thomas A. Harris. Also in attendance was the President-elect of the A.B.A., Leonard Janofsky, and the Chairman of the A.B.A. Legal Education section, Sam Thurman.

The competition itself was divided into three rounds with the Saturday afternoon round reducing the twelve regional champions to six semifinalists. Each team was observed by a panel of five judges, who rated the teams on the basis of fact gathering, legal analysis, ethical decisions, and general rapport with their client. Teams were allowed thirty minutes to interview their client and an additional fifteen minutes to compose and dictate a memo describing the proper course of action. After the memo was submitted, the judges held an interrogation session where the teams would explain their rational for taking a particular course of action.

Valparaiso qualified for the semifinals by defeating William & Mary in the first round. Joining Valparaiso in the semifinals were Case Western Reserve, William Mitchell, Wyoming, Loyola (L.A.) and the University of Washington. Sunday morning Valparaiso defeated Case Western Reserve to advance to the Sunday afternoon finals along with Wyoming and Washington.

Unlike earlier rounds, there were no judges inside the interview room during the finals. Instead, a crowd of judges peered

at the contestants through a one-way mirror while a film crew recorded the action for use as next years client counseling training film. At the conclusion of the final interview, Wyoming was declared the winner with Valparaiso second and Washington third.

Besides Valparaiso's second place finish, other schools were impressed by the superior coaching of Professors Martz and Long. Drinkhahn and Lewis also commented that some of the coaches for other teams didn't know any more about client counseling than did the contestants themselves.

Our team was impressed with the methods that other schools use to induce participation in client counseling. Most schools do not merely place a note on the bulletin board asking for volunteers. Instead, they offer credit and in some cases semester long courses in client counseling. This is not to say that Valparaiso volunteers have no talent. Within the last two years, the National Moot Court team of Mike Meyer and D. Burgman and the National Mock Trial team of Scott Wolfram and John Junke have advanced to the final round of regional competition. The performances combined with the showing of Lewis and Drinkhahn are sufficient evidence that Valparaiso can compete with any school in any type of competition. However, imagine the results if the so-called mattress salesmen in our midst could be induced to compete with the volunteers. As for prestige, picture next year's client counseling team at Yale pouring over the film taken of Drinkhahn and Lewis during

Weiner Announces "Forum Dead"

by Charles Weiner

Now that your attention is sufficiently drawn to this article, I shall be brief in wrapping up the year as co-editor of this paper. The Forum was a labor of love, oft times just sheer labor. Hours and hours each and every week, even if the paper was not to be published from two weeks hence. The pulling of ears under deadline, that is, assuming someone was writing a story in the first place; the 10-hour layout jobs pulled by yours truly, doubly difficult since our working hours were limited to eight-to-five at our printer, a rare trait indeed to the newspaper people habit of keeping late-night hours, compared to our past practices of using the TORCH facilities all night, all added up to a totally thankless task rarely ever appreciated. The editors received hell from the student body whether over cartoons, spelling errors, layout, too much reprinted copy, whatever, we asked and pleaded over and over for help -- basically, it never came.

It was fun and it was disappointing. To those of you who contributed over the past year and you know who you are, I personally thank you. To Dee Burgman, a person who observed all deadlines and even though I was on the short end of the stick on several occasions, I appreciated all the work and time Dee selflessly placed into The Forum. Dan Wehrenberg also

their final interview.

The team would like to thank Professor Kmiec for organizing the regional and Professors Long and Martz for their time and effort.

The Law School extends its thanks and congratulations to Glenda and Eric for helping to keep Valparaiso Law School on the map and for adding plaques for both the regional championship and national runner-up to our trophy case.

FACULTY NEWS

by Dierdre Burgman

The U.S. Department of State has invited Prof. Jack Hiller to participate in one of its Scholar-Diplomat Seminars. According to the State Department, these seminars are intended "to increase the exchange of knowledge and expert opinion between professionals inside and outside of government. The seminars are intended to draw together scholars...with government officials who have key foreign policy jobs."

Hiller will spend the week of May 7-11 at the State Department, participating in the seminar on East Asian and Pacific Affairs.

The case of Mackey v. Stanton, which Prof. Rosalie Levinson argued and won before the Seventh Circuit Court of Appeals in November, now appears at 586 F. 2d 1126. The principal issue before the court was whether the Eleventh Amendment bars claims of recipients of Aid to Families with Dependent Children (AFDC) against a county welfare department. Agreeing with Mrs. Levinson that the Supreme Court's decision in Mr. Healthy School District v. Doyle governed the case, the court held the plaintiffs were entitled to a trial on the issue of damages. Prof. Levinson has therefore filed a motion to compel discovery of documents, in an effort to determine the size of the class and the amount of damages. The trial date is as yet undetermined.

Professors Hugh Martz and Richard Stith participated in a conference on government regulation held by the Institute for Theological Encounter for Science and Technology (ITEST), March 16-18 in St. Louis. Mr. Martz delivered a paper entitled "Government Regulation: Of the People, By the People, For the People?" Mr. Stith then responded with a paper called "On the Liberty to Govern." Both works will be published by ITEST later this year.

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deserves special thanks for his time devoted to writing without ever a complaint. Thanks must also go to Phil LaMere; a talent gone untapped three semesters too long, for his insightful and detailed cartoons.

I am sorry there was little participation from both the first- and second-year class. None have shown manifest interest in either writing for, working on, or editing and managing The Forum. I would hate to see The Forum die a young death. It is mailed to most other law schools. Articles and cartoons have been reprinted in other papers. This reflects most favorably upon our school. The paper is there to serve as a forum for student ideas, as a tool to communicate with the body at large. If the students choose that this expression is not worth the time or money, that is the students' prerogative. The past two issues have sought out student input as to its own future, I have heard nothing. Too bad.

Finally, I have appreciated the opportunity to publish The Forum on a regular basis throughout this past school year and I hope that you, the student body and faculty, have enjoyed reading the same. For the only three or four students that ever thanked me or provided me with a pat on the back or a handshake for an article printed, YOU made it worthwhile for me. THANK YOU.

Law Review Published

by Dierdre Burgman

Volume 13, Number 1 of the Law Review, hot off the press, contains the written works of three VU law students and one VU law teacher.

The first note, written by third-year student Mike Meyer, is entitled, "Advertising by Public Utilities as an Allowable Expense for Ratemaking: Assault on Management Prerogative." The note examines the issue of whether state regulatory commissions can control the advertising expenditures made by public utility companies.

The second note, "Wrongful Birth Damages: Mandate and Mishandling by Judicial Fiat," was written by third-year student Dee Burgman. Wrongful birth usually is a cause of action in which the parents of an unplanned child sue the physician who negligently allowed the child to be created. The note argues that damages in such a suit should be denied or seriously limited.

"Academic Dismissals from State-Supported Universities: A Study in Policy" is the case comment written by second-year student Pam Price. The comment analyzes the recent case of Board of Curators of the University of Missouri v. Horowitz. In that case, the Supreme Court held that the due process clause does not require the imposition of procedural safeguards in an academic dismissal from medical school. (You may recall that the "academic" dismissal was based on the woman's personal appearance and cleanliness.)

The faculty contribution to this volume is a book review by Prof. Paul Brietzke of Sex Law by Tony Honore. Notwithstanding the seductive title, Prof. Brietzke finds "impracticality and just plain sloppiness" in much of the book. He does find, however, that the author's attempt at analyzing the subject matter is admirable.

The Valparaiso University Law Review is published three times a year by its student members. Subscription rates are as follows: one year, \$10; two years, \$18; three years, \$25.

Student Awards Announced For The 1978-79 Academic Year

I. WEST PUBLISHING COMPANY AWARDS:

- A. To the student who achieved the highest scholastic cumulative average in his class:
Hornbook awards
Law I Mark R. Herriott
Law II Eugene A. Schoon
Law III Richard P. Coffee
- B. To the three students who mad the greatest over all contribution to the law school: Corpus Juris Secundum awards
Dierdre Burgman
John Junke
Michael Meyer

II. LAWYERS' CO-OP AWARDS: American Jurisprudence books (for the highest grades in courses designated by the publishing company)

Course	Recipient	Am. Jur. 2d. Volume
Administrative Law	Stephen Maish	Administrative Law
Business Associations	Raymon Brown	Corporations
Constitutional Law	Kathryn Schmidt	Constitutional Law
Contracts II	Kathryn Schmidt	Contracts
Corporations	Kathryn Schmidt	Corporations
Torts I	Kathryn Schmidt	Automobile Insurance
Contracts I	Mark Herriot	Contracts
Torts I	Mark Herriot	Automobile Insurance
Criminal Law I	Wendy Dudderar	Criminal Law
Criminal Law II	Kathleen Patton	Criminal Law
Evidence	Eugene Schoon	Evidence
Torts II	Eugene Schoon	Automobile Insurance
Property II	Eugene Schoon	Bailments
Family Law	Linda Weiss-Malik	Divorce & Seperation
Trusts & Estates I	Donald Wray	Wills
Labor Law I	Robert Clark	Labor & Labor Relations
Trusts & Estates II	Robert Clark	Wills
Commercial Transactions I	Marsha Schatz	Bills & Notes
Procedure II	Clifford Johnson	Federal Practice & Procedure
Procedure I	Jon Dilts	Federal Practice & Procedures
Property I	Henry Muyskens	Landlord & Tenant
Property I	Thomas Sheets	Landlord & Tenant
Torts II	Richard Cagen	Automobile Insurance
Debitors' Protection & Creditors' Rights	Glen Dobasz	Wills
Conflicts	Ralph Huff	Conflict of Laws
Labor Law II	James Ralls	Labor & Labor Relations
Insurance	Keith Vanderburg	Insurance
Remedies	Terry Miller	Equity
Criminal Procedure	Charles Hudson	Criminal Law
Constitutional Law II	Daniel Murphy	Constitutional Law
Commercial Transactions II	Arthur Boos	Bills & Notes

THE UNITED STATES LAW WEEK AWARD - one year's subscription to U.S. Law Week to the Law III student making the most satisfactory progress in his third year:

Randal Huizenga

INTERNATIONAL ACADEMY OF TRIAL LAWYERS ADVOCACY AWARD (Plaque given):
Norman Paul Breen

The Forum congratulates these and other students who have labored to achieve the pinnacle.

"Last Chance" Terry Kerley

On top of seminars, exams, final class projects and other sundry activities that get in the way of graduating law students, I've been asked to write a few thoughts in honor of this being my last column for the paper, on my three years here.

I'm fairly satisfied with the last three years of my education, albeit it was not all joyous. Memories of Callahan's and Botsford's parties our first year help crowd the memories of first year panic. I remember how the class stood together and fought against the new Evidence requirements being applied to us. Echoes of "Tell me what you'd do with this" hang on the edge of my mind. Second year was just a matter of surviving the course load. And there was the time it

took to work through the pain and grief of Tom Reinhold's death. Third year brought resumes, job hunting, Mock Trial, the loss of good friends in December, and the realization that the "Real World" was about to descend upon all of us.

All in all, not a bad three years. However, there are a few situations I would, and I am sure others, enjoy seeing improved. The understanding and co-operation between male and female law students is mediocre at best. Ditto: black-white student relations.

Despite constant petitioning for new talent, The Forum has had a hard time surviving due to lack of participation or plain disinterest. Gripes we hear plenty, offers of assistance almost never. If the

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students do not wish to have a paper published, it is easily arranged.

Unlike other law schools, the students here who honor the school by participating in national competitions receive little for their long, hard hours of labour but a pat on the back. Even the brightest student enjoys an incentive other than having something extra for the resume and the added learning experience.

The Administration has taken major steps to obtain new faculty. Commendable. Remember that it takes money to lure well qualified educators into our halls; tuition may have gone up sharply for next year, but sacrifices have to be made in certain situations.

Student input into the decision making processes definitely needs beefing up. Since we do pay a considerable sum of money for our education it is only equitable that we know what is going on in regards to hiring new faculty, curriculum, and other major points that affect the student body directly.

There is one major advantage to attending school here. The size of the classes permits a closeness between faculty and students that is rarely found elsewhere. And because of our size, any student who wishes to participate in extra-curricular activities ranging from S.B.A. (committees) to Mock Trial, may do so.

There is little chance that a student will leave here feeling that he or she was nothing but a number.

Well, that's about it. I do have a few people to thank — Mrs. Kruger for sending news our way, ditto all the office secretaries. Many thanks to Charles Weiner for keeping us going all year. Kathy Kubiak, well I'll really miss you Kiddo, many pats on the back for all your work these last two years. Nods also extended to Dan Wehrenberg, Dee Burgman, Greg Rotter, and Nora Hudson for all their contributions.

I will miss working with all of you and I extend my best wishes for continuing good publications next year. My last word is for my fellow classmates: Congratulations on upcoming graduation and best of luck to us all.

So Long.....
Teresa Kerley

The Final Farewell To Kerley

The existence and necessity of a newspaper within the confines of the law school has been questioned on several occasions. Some ask why the current staff even bothers producing newspapers at all.

The classic answer is that a newspaper provides a flow of information and an opportunity to express and integrate student and faculty views. Further, a newspaper can be of vital service to the students on pressing issues in the law school; to-wit, softball standings, why tuition keeps going up, etc.

This combination of factual information, sports and entertainment, as well as editorial comment not necessarily in line with the views of the administration, has marked The Forum over the last several years. In part responsible for the variety, controversy, and spirit of The Forum is our departing co-editor, Terry Kerley.

Although most people no doubt recognize Terry as the backgammon player permanently parked in the law school lounge, Terry has, for the last three years, worked closely on the develop-

ment of The Forum, co-editing the paper for the last two years. Under her leadership, an editorial policy of totally open student input has resulted, so that in perhaps the most real sense, The Forum has become an open forum for student thought.

After working with Terry for two years, I can state that no student has ever had an article refused publication because of editorial content. Students objecting to The Forum's content and style remain those students unwilling, or perhaps unable, to contribute their thoughts and ideas to the student body.

A steady emphasis on sports and humor, as well as the more serious responsibilities of a newspaper, have marked Terry's reign as co-editor. Coupled with her participation in this year's Mock Trial competition, and securing a job as a tax attorney with a prominent international corporation, Terry has had a busy year.

The remaining Forum staff extends their thanks and best wishes to you, Terry; thanks for diligence and hard work on the newspaper, and best wishes for a satisfying and successful career.

Good Luck
KKK

Last Will and Testament Of The Class of '79

Theresa Kerley

We, the members of the Valparaiso School of Law Class of 1979, being of semi-sound minds and slightly decrepit bodies leave the following mementos to our beloved Professors:

TO:
Judge Willis: a Gored Ox, and much luck in his new practice.

Mr. Bartelt: an amplifier suitable for classroom use, and the original scale that fell on Mrs. Palsgraf and daughter.

Mr. Berner: A '73 Pinto with a Chevy engine and a bridge hand with 24 points.

Mr. Brockington: A Bus. Assoc. exam with 3-4 questions on it. We also promise to beware of "Traps for the Unwary" and to send back tales of "Life After Law School."

Mrs. Levinson: A tape recorder, so students can listen to her lectures slowed down to 33 r.p.m.

Prof. Gienapp: A trade-in on her TR-7 and one free ticket to Burgasser's Used Car Parking Lot in Buffalo, N.Y.

Tommy "Admiral" Nelson: An original score of "Short People".

Mr. Hiller: God's answer to "What is Income?" and exclusive rights to distribute West's Publications in Africa.

Mr. Stith: One free lunch (with brown bag) and a blue janitor outfit to match the beige one.

Proffs. Martz and Long: We promise to move the Dean's office to 604 Freeman Street.

Mr. Stevenson: All the evidence of misspent hours partying when we should have been studying, to be used at any Mock Trial he wishes to conduct.

"Aunt" Esther Kruger: 15 minutes without a student or faculty member in her office.

Dean Ehren: An eyebrow brush and the promise to be "good" alumni and make money.

Mr. Gromley: 212 bow ties from A to O for life, reversion to P if the bow ties turn purple during an eclipse, remainder to Charles Gromley if he survives P by 22 years and becomes a fertile octogenarian.

The residue of the estate of the Class of '79, consisting mainly of thanks and friendship, shall be distributed in equal portions to the faculty and staff of Valparaiso University School of Law.

Continued from Page 1

Professor Richard Stith has been chosen to participate in a seminar on American Legal Thought in the Twentieth Century, to be held July 9 - August 17 at the Law School of the University of California at Berkeley. Sponsored by the National Endowment for Humanities, the seminar will be conducted by Morton Horwitz, one of the foremost legal historians in the country. The selection carries with it a stipend to cover expenses of tuition and living. Prof. Stith will be accompanied to Berkeley by his wife, Rosemarie, and two daughters.

Stith has recently published an article and a book review, and is currently finishing a chapter for a new book. The article, "Toward Freedom from Value," appeared in Vol. 38, No. 1-2 of The Jurist. In it, Stith discusses the contemporary practice of setting a value on human life, and questions the propriety of such an approach. His book review, also dealing with the concept of human life, will be printed in the International Review of Natural Family Planning. It evaluates a book soon to be released, entitled Life and Death with Liberty and Justice, written by Germain Grisez and Joseph Boyle. The book suggests that the idea of the sanctity of human life no longer enjoys enough support to be regarded as a legal principle, although people still feel strongly against unjust killing. Thus, the authors contend that legal arguments against euthanasia should be based upon principles of liberty and justice. In addition, Prof. Stith is currently completing a chapter for a new book, as yet untitled. The chapter is called "The Problem of Public Pretense," and in it Stith tackles the dilemma of distinguishing between lip service and true belief concerning human rights.

Mindbenders

by Dan Wehrenberg

In belated response to a clamoring for mental as well as physical competition in the Law School, here is a little exercise for your amusement and amazement.

1. As we all know, Abbott and Costello's famous baseball team featured Who at first, What at second, I don't care (give a darn) at short, I don't know at third, Tomorrow on the mound, and Today behind the plate.

You are a clerk for the Supreme Court of Indiana. Write a short memo detailing the identity of the outfielders.

2. The scene is Yankee Stadium late in October where the Yanks are battling the Giants in the seventh game of the 1979 World Series. The Giants are clinging to a 3 to nothing lead in the bottom of the ninth inning with 2 outs and the Count, John Montefusco, on the mound. However, the Yanks have the bases loaded with Nettles on third, White on second, and Dent on first. To make matters worse, the aging (32), but dangerous Thurman Munson is at bat. The runners lead off and Montefusco lets go with his famous fastball which Munson blasts deep to center field. In fact, the ball goes clear out of the park. As all the runners turn to watch the flight of the ball, Munson passes Dent, who is still halfway between first and second. Then the original three base runners score followed by Munson who allowed Munson who allowed Dent to repass him before they reached second base. Although the Giants threaten to boil the umps in oil, the Yanks are declared the World Champions. What result and why?

3rd Year Class Gift

The third-year class will meet Tuesday, April 24th at 11:40 a.m. in the courtroom to finalize plans for their class gift. Dick Coffee, chairman of the gift committee, will conduct the meeting. Students will be asked at that time to make a pledge toward attainment of the gift and to give their future addresses, if known, to the gift committee.

Dear Forum:

May I take this opportunity to question why in the centennial year of Valparaiso University School of Law, tradition was broken and so many people were disappointed at the Barristers Ball?

Did not the "powers that be" recognize that two third-year students, Glenda Drinkhahn and Eric Lewis, accomplished quite a feat by coming in second at the National Client Counseling Competition? Their peers might have wanted to collectively applaud them.

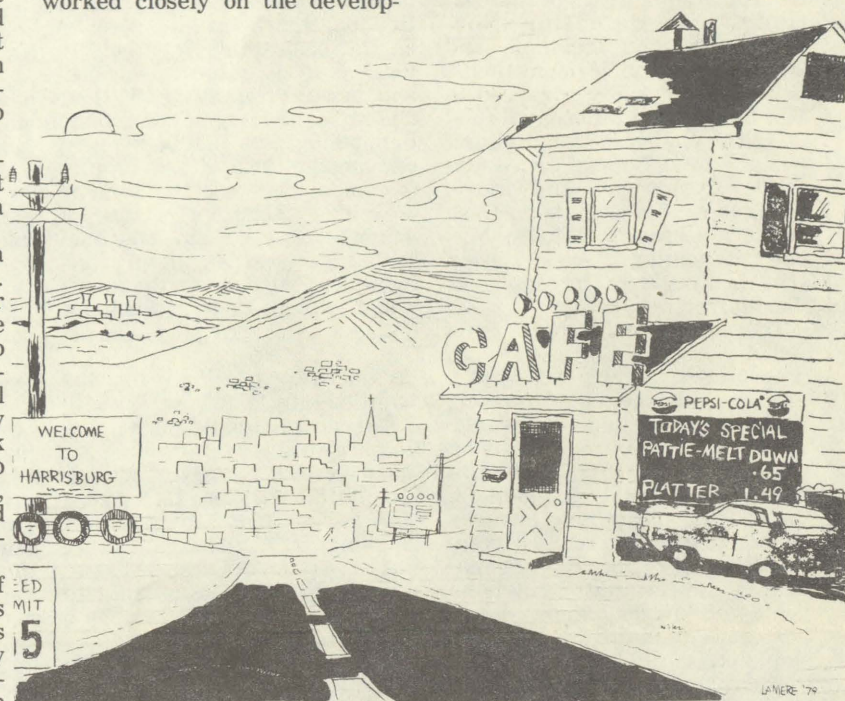
It was suggested to me that the Ball was an inappropriate place to recognize academic excellence. Where else I ask? The Ball is the one occasion where all three classes join in a bond of camaraderie. In past years, people deserving praise received it there. This was something the students strive for. Honor Papers were important; participation in Moot Court and Mock Trial was important; being an outstanding oral advocate, as recognized by the faculty, or being first in your class was important and being the one student, as chosen by the faculty, who made the most significant contributions to the Law School was important. Aren't these things meaningful anymore?

Surely if the Barristers Ball was an appropriate forum for the Dean to explain his own importance, it was an equally appropriate time and place to recognize the accomplishments of all the students who have worked so hard.

Perhaps I was naive when, as the wife of a first-year student, I was so impressed by the presentations. Alfred Meyer, who was then Dean, said that this was the part of the program that represented the real purpose for Law Day celebration. I believed him. It may be a social event but it's incredible to think that recognition for academic excellence can't be a part of a Law Day celebration.

The Ball itself was terrific but there should have been something more.

Thank You,
Terry Coffee



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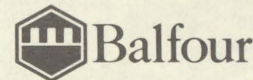
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