Christopher Center dedicated

BY DANIELLE GUERRA & JONATHAN PASKY
Photo editor, Editor in chief

Saturday, Sept. 18, 2004, was a beautiful day in Valparaiso, coinciding with the dedication ceremony for the Christopher Center for Library and Information Resources (CCLIR).

Since the groundbreaking for the CCLIR on April 27, 2002, the entire campus and community has been waiting in anticipation for the elaborately planned dedication.

The ceremony began with a procession of the group from Moellering Library to the Christopher Center. All professors in their academic garb were lead by President Alan Harre, Jay and Doris Christopher, and Provost Roy Austensen. Rows of chairs on the front lawn of the CCLIR were filled and it was standing room only on Chapel Drive as President Harre welcomed the audience.

The Christophers spoke next, saying they were proud to be a part of the Valparaiso community. Three generations of the Christopher family have graduated from Valparaiso University.

In his address, Mr. Christopher said he was excited to work with the alumni and guild and was honored to serve on the University Board of Directors. Dr. Harold Moellering.

The price of more time: A review of the Indiana Child Support Guidelines

BY BETH GARRISON
Guest writer

On Jan. 1, 2004, the new Indiana Child Support Guidelines ("the Guidelines") went into effect, changing the method of how Indiana courts calculate child support. After nearly two years of research, an organization comprised of all Indiana judges, known as the Domestic Relations Committee, presented the revised Guidelines to the Indiana Supreme Court, which approved the revisions on Sept. 4, 2003. As a result of the new enactment, all custody arrangements made are subject to the rules of the new revisions.

The principle theory behind the new Guidelines is simple: To encourage non-custodial parents to spend more time with their children. Very simply, the new Guidelines provide that the more overnight visits a non-custodial parent has with his children, the less amount of money he is obligated to pay the custodial parent in child support. In essence, the Guidelines are now offering non-custodial parents a financial incentive to spend more time with their children. Although this theory appears odd to some, since many believe that parents should not need an incentive to spend more time with their children, the Indiana Supreme Court views the new...
Inside the class of 2007
A look at the statistics

BY BILL SMITH
Managing editor

The red carpet has been officially rolled up. New pencils, pens and notebooks have lost their sheen. No longer are dazed 1Ls walking into upper-level classes while the professors are in mid-sentence.

Yes, we have officially settled in to another year at VUSL. Now it is time to take a look at just who the newbies are and where they come from.

The 2004 incoming class is comprised of 164 full-time and 25 part-time students. Also, as has been typical for several years, this year's class is split almost evenly between males and females.

Ages range from 19 to 60 with an average age of 25. There are 57 students over the age of 25. Students have come from a wide variety of locations here in the U.S. and abroad; however, international applicants have faced much tougher immigration standards and this year's class is representative. Only two international countries are represented: China and Saudi Arabia.

Domestically, most students come from the midwest, although 28 states are represented, with students coming from both the east and west coasts.

The first-year students comprise 55 undergraduate majors from 113 universities. The stalwart undergraduate majors present in law schools—English, History, Philosophy and Political Science—are well represented in this year’s class, but so, too, are degrees in Agriculture, Theater Arts, Music, and Zoology.

Twenty-two students have already garnered graduate degrees. These degrees include M.A.s, M.S.s, several M.B.A.s, and even one M.D.

The average GPA this year stands at 3.21 with an average LSAT score of 153. The LSAT 75th and 25th percentiles are 155 and 150, respectively.

These core statistics have dropped from last year's incoming class, with many also below the figures for the incoming class of 2002.

Director of Admissions, Tony Credit, credits this year's drop in the statistics to the large number of students who had been admitted to VUSL but opted to attend other schools after the U.S. News rankings came out in April 2004.

What this drop in the numbers does for VUSL's rankings this year is left to be determined. With the LSAT average and GPA average comprising 12.5% and 10% of the U.S. News formula, respectively, VUSL's hopes of reclaiming Third Tier territory may have to wait until next year.

VUSL Incoming Class Statistics

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Authors, alumni highlight Professional Development Days

BY JONATHAN PASKY
Editor in chief

When Career Services changed its name last year, it also changed its outlook on how to better prepare VUSL students for the job market.

The Career Planning Center has organized the largest career convention here at VUSL, to be held over the course of two days, Thursday and Friday, Oct. 7-8, 2004.

The idea for VUSL's first fall break was hatched last year, when the CPC figured they must do something to compete with other schools.

"We want to give our students every competitive edge in the job market," said Dean Curt Cichowski. He continued, "These two days have been designed to allow time, free from classes, to reflect and focus on their career paths and to engage in meaningful career activity ranging from traveling for interviews to taking advantage of the host of alumni and national experts that will come to campus for the specific purpose of offering career help and guidance."

The convention will begin on Oct. 7 with the annual 1L Practice Exam and individual counseling appointments available for 2Ls and 3Ls from 8:00 a.m. - 10:00 a.m. with Donna Gerson, author of the book, Choosing Small, Choosing Smart. She will give a Small Firm Program in Tabor at 10:15 a.m., followed by a book signing.

On Friday, Oct. 7, from 9:30 a.m. - 12:00 p.m. the alumni will be back, lining the main hallway of Wesemann to talk to with VUSL students about career opportunities. Lunch will be provided to all who attend.

At 1:00 p.m., Jack Chapman, author of Negotiating Your Salary: How to Make $1000 a Minute, will present a salary seminar, followed by the Streetwise Guide to Job Interviewing seminar at 2:45 p.m.
NEWS IN BRIEF

2004 VUSL Graduate Dies Over The Summer
Darrel Nitz, '04, passed away Tuesday, August 31, 2004, at his parent's home. He suffered a heart attack while with his parents.

Darrel was a graduate of Indiana University and the Highland High School Class of 1987. He was 35.

Valparaiso University Founding Recognized Sept. 24
The Valparaiso University community will celebrate its history Sept. 24 with various events planned throughout campus. A special prayer acknowledging the founding will highlight the midday service with historical hymns included.

Also this week a display of Valpo's history will be on display in the Union. Valpo was founded 145 years ago in 1859 as Valparaiso Male and Female College. The school was chartered Valparaiso University in 1906.

VU MBA Enrollment Rises, Bucking National Trend
Enrollment in Valparaiso University's master of business administration program has grown dramatically in the past year, defying a nationwide trend of dropping enrollment in the number of students pursuing an advanced business degree.

The University has increased enrollment by offering a values-driven curriculum that is built to accommodate the schedules of working professionals, said Dr. Mary Christ, acting director of the MBA program.

A year ago, 30 students were enrolled in the University's MBA program. This fall, there are 54 students enrolled.

The offering of a joint MBA-law degree program also has drawn several students, including Chris Ray, '11L, who wanted the advantage of a more in-depth educational background.

Ray comments, "The combination of the two degrees allows me to better meet my career objectives, and I can complete the degrees more quickly than I would taking them separately."

Dr. Christ said the MBA program, which was launched two years ago, has met its enrollment target and expects the number of students in the program to continue growing.

New VUSL Faculty Appointed
Elizabeth Bruch, who earned her bachelor's degree at VU, has been appointed associate professor of law. She comes from the Human Rights Clinic of the American University School of Law in Washington, D.C.

Professor Bruch earned her law degree from the University of Wisconsin Law School and was an editor for the Wisconsin International Law Journal. She has taught torts, immigration law and international law, and has served as an attorney with Minnesota Advocates for Human Rights and as executive officer of the Human Rights Chamber for Bosnia and Herzegovina.

Paul M. Kohlhoff, who has operated a private law practice in Valparaiso since 1994, has been appointed assistant professor of law. Professor Kohlhoff previously served as a trial attorney for the Office of Chief Counsel of the Internal Revenue Service, where he litigated tax cases before the U.S. Tax Court and provided legal advice to IRS agents.

He earned his law degree from VUSL and a bachelor's degree in business management from Purdue University. He has served as director of land acquisition for the Indiana chapter of the Nature Conservancy and executive director of the Shirley Heineze Environmental Fund in Michigan City.

James Loeb has been appointed assistant professor of law. He was previously a visiting assistant professor at the University of Florida College of Law. Professor Loeb will teach trusts and estates, taxation and commercial law.

He earned his law degree from the University of Wisconsin Law School and a master of laws degree in taxation from the University of Florida College of Law. He received his master of business administration from Harvard Graduate School of Business Administration and a bachelor's degree in economics from Santa Clara University.

Dr. Jeremy Telman has been appointed assistant professor of law. Dr. Telman comes to VU after practicing in the field of commercial litigation with the New York law firm Sidley, Austin, Brown & Wood. He earned his law degree from New York University School of Law and a Ph.D. in European intellectual history from Cornell University. Before practicing law, he was a visiting professor at the College of Charleston and served as book review editor for the Review of Law and Social Change at NYU. Professor Telman will teach business and international law.

Engineering Dean To Attend Space Launch
The dean of Valparaiso University's College of Engineering has received an invitation to attend the Sept. 29 shuttle launch of a team trying to win the prestigious Ansari X Prize and make space tourism feasible.

Dr. Craig Olejniczak is one of a handful of VIPs who have been invited to watch the launch in person at the Mojave Civilian Flight Test Center & Spaceport in California.

Dr. Olejniczak received the invitation from VU alumnus Nick Skytland, a 2003 mechanical engineering graduate, who is special operations, logistics and development lead of the X Prize Foundation.

The shuttle, named SpaceShipOne, was developed by the American Mojave Aerospace Ventures Team and successfully completed its first trip into space on June 21.

More information about the Ansari X Prize is available online at www.xprize.org.

"The Rookie" Scriptwriter To Give Lecture On Campus
The screenwriter of "The Rookie" and "Finding Forrester" will give a guest lecture Sept. 30 at the Valparaiso University Center for the Arts.

Mike Rich, a veteran screenwriter, will discuss the filmmaking process from a writer's perspective. His presentation will begin at 8 p.m. in the University Theater and is free and open to the public.

Rich's most recent screenplays are "Miracle" and "Radio." Before becoming a screenwriter five years ago, he was a radio station news director and morning news broadcaster in Portland, Oregon.

— Bill Smith

Looking down?
The first person to correctly identify the place in the picture above will win a $10 gift certificate to Jimmy John's, compliments of The Forum.
E-mail your responses to forum@valpo.edu
What makes us successful?

We all want to be successful, even if we are not always sure what "success" means. Some of us measure success by wealth—I have seen a bumper sticker that reads, "Whoever dies with the most toys, wins." Some of us measure success by influence on the lives of others—this motivates so many to choose public service or pursuit helping professions. Some measure success by the constant ability to be able to look back and say that he or she has been a good person who led a just life.

This desire for success is a characteristic not only of people, but of institutions. In some cases, it is fairly easy to say whether an institution has been successful. A basketball team is successful if it wins the championship. A political party is successful if its candidates are elected to office. A business corporation is successful if it returns a profit to its shareholders.

But in other cases it is not so easy to gauge success, and this is true for institutions like ours. Everyone associated with the Valparaiso University School of Law wants it to be successful and to be recognized as successful. Yet it seems difficult to identify objective and shared standards for judging such success.

Obviously, one can't appeal to market share (having more students than other schools) or profitability (we do not have shareholders to whom we distribute profits). Financial measures are important, but not ends in themselves. Nor can one appeal to rough data about students, such as median undergraduate GPA (if the median were 4.0, would we be the most successful law school in the United States?) or number employed at graduation in large law firms (many, if not most, of our students don't want to work in large law firms). Again, these are important indicators, but not dispositive in their own right.

Yet, as we talk to each other and to people outside the school, we do boast about our successes. Isn't it important that more and more of our faculty are speaking at international conferences and assuming leadership in national law reform projects? That we are drawing students from an increasing number and variety of colleges and universities (Ivy League, Big Ten, West Coast, East Coast), and we are seeing an increase in variety of majors (from accounting and agriculture to theology and zoology)? That our alumni and friends have committed nearly $10 million to the law school in just over two years? That we gained national media attention in May through the Gala celebration of our 125th anniversary? Singly or collectively, these developments show that as an institution we are doing very well.

For the past several months, I have been challenging members of the law school community to think about the questions: What does it mean for us to be successful as a law school? and How do we measure our success?

I first raised these questions at the May 1st Anniversary Celebration (www.valpo.edu/law/125th/deanspeech/), where I described our successes over the past 125 years and concluded that they are attributable to the people that make up the law school community—the faculty, staff, and alumni. Specifically, our successes result from the commitment of these people to the values and practices that ensure our graduates will be not just good lawyers, but good people; not just individuals with excellent technical skills, but leaders who use their talents for the betterment of others and of society.

In my recent alumni letter (www.valpo.edu/law/alumniservices/newsandevents/Fall2004Web.doc), I pursued these issues further, and explained why we measure our success, not numerically, but qualitatively, through stories about our students and alumni, in particular ones about their successes and accomplishments, their character and values. (It is telling that the recently published history of the law school is essentially a compilation of stories about the members of the law school community.)

The particular story I recounted in the letter was about one of our students, who this summer quickly learned that she had far more of the knowledge and skills needed for success in a law firm than did her fellow clerks from other schools. Stories of this type are ones that I hear repeatedly, as do other members of our faculty and staff.

Stories like this guide the work of our faculty. They can also guide you, as students, by giving flesh to your own goals. You should want to be the subject of one of these stories. You should want to be one of the measures of our collective success.

And there is no doubt that many of you do. I have seen much of this on a group level recently. For example, I have discussed with the leadership of the Mock Trial Team and the Moot Court Society how they can make their teams more competitive in inter-school competitions, for the benefit of both the members and the school as a whole (victories build our reputation). Similarly, I have discussed with the Business Law Society, the SBA and BLSA their plans to create opportunities for our students to learn from our successful alumni.

Yet, as important as these group efforts are, the most important effort is by you as individuals. Over sixty years ago, Otto Kretzmann, the President of Valparaiso University, said that:

"Our future lies in the development of men and women, perhaps relatively few in number, whose quality will be so high that they will exert an influence on society that cannot be measured in numbers.

For our institutional successes are measured one person, one story at a time. The renown of this law school, its ability to attract employers, its ability to attract excellent students in the future, are in your hands. Your professionalism, your leadership and your service are not only benchmarks of your own professional success, but of the law school community of which you are a part."
The Valparaiso University Law Review Editorial Board is implementing some exciting changes for Volume 39. Beginning with Volume 39, the Review will be publishing four issues annually. Three issues will feature articles, essays, and lectures from outside authors in addition to student notes, written by members of the Editorial Board. The new essay section will provide feature articles, essays, and lectures from outside authors. The first issue will include an essay from Karen Koelemeyer of the Spirit of SBA. We're here to bring students and attorneys, will be published in the essay section of Issue One.

The Editorial Board has already begun editing articles and notes to be published in the first issue. Joshua Fershee's *From Self-Determination to Self-Domination: Native Americans, Western Culture, and the Promise of Constitutional-Based Reform* will be published in the articles section of the first issue. The first issue will also feature Ellis Washington's essay, *A Voice Crying out in the Wilderness: A Word about Brown v. Board of Education*. Likewise, Professor Randolph Braccialarghe's *Why Were Perry Mason's Clients Always Innocent?*, discussing ethical obligations of criminal defense attorneys, will be published in the essay section of Issue One. The lectures section will include Anita Bernstein's *The Enterprise of Liability*, as well as Geoffrey Hazard's *Lawyer for the Situation*. Student authors publishing in Issue One include: Jeremy Bertch, *Missing the Mark: The Search for an Effective Class Certification Process*; Beth Garrison, *Children Are Not Second Class Citizens*: Can Parents Stop Public Schools from Treating Their Children Like Guinea Pigs?; and Julie Van Groningen, *Thou Shalt Reasonably Focus on Its Context: Analyzing Public Displays of the Ten Commandments*.

While the editing for Volume 39 is under way, the planning for Volume 40 has begun as well. The Indiana Continuing Legal Education Committee has asked our Review to publish the symposium, which will mark the 20th Anniversary of the Indiana Supreme Court's decision requiring continuing legal education for all Indiana attorneys. Author solicitation for the symposium has already begun, and several authors, including Indiana Supreme Court Chief Justice Randall Shepard and Dean Jay Conison have already agreed to write articles. The Review is pleased to have this opportunity and will be publishing that symposium in next year's Volume 40.

Due to the increased publications, the rates for annual subscription to the Review have increased. The student rate is $15 per year, and interested students should email Karen Koelemeyer at Karen.Koelemeyer@valpo.edu.

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**VIEWPOINT**

**Student Bar Association President**

**Paul Mullin**

Speaking on behalf of the Student Bar Association, I’d like to inform the students they can expect a great year with many social, charitable, and academic events to attend. For the last several years, we feel SBA has delivered a superior product to students. That product includes a constructive social scene for the students. As the returning students know, the social scene in Valparaiso, Indiana, can become, to put it nicely, predictable. The weekend jaunt to Chicago is always present, usually fun but often very expensive.

Besides me, the SBA executive board also consists of Hollie Tanguay (3L), Steve Lammers (2L), Kristin Nesib (2L), and Bob Summerfield (3L). The 2004–2005 SBA executive board promises to provide a social setting which is accessible, affordable, and conducive to you. Except Barrister’s Ball, which is usually held in Merrillville, SBA events are held in Valparaiso. Except Barrister’s Ball, price should never preclude any student from attending an SBA event. To paraphrase Steve Lammers, SBA treasurer, any SBA event that brings together the greater student body should be free or really close. That attitude captures the spirit of SBA. We’re here to bring students together.

If you would like to have your ideas, concerns, suggestions, complaints heard regarding SBA please approach and speak with your class representative. Every class has three representatives and one faculty representative. They serve as the eyes, ears, and mouth of your class. Moreover, they help organize SBA events on behalf of your class. All 1Ls, please speak with your freshly elected representatives, Mariel Lim, Jamie Druse or Manny Perez if you have any questions or concerns for your SBA. All our meetings are open to any law student. Minutes from our weekly meeting are posted outside the SBA office. Please know your SBA is striving to provide a superior product on the macro level.

To represent specific ideals and foster discussion on such, the School of Law is fortunate to have twenty four student organizations. On Sept. 21, SBA will have our annual budgetary meeting where we allocate funding to the groups. The groups have presented their budget to Steve Lammers and his budget committee. The student groups are here to provide opportunities to students who share similar interests. Although I can’t speak on behalf of any group, after reading all of their constitutions it is safe to assume every group is inclusive in every manner. In other words, every group is seeking more active members and would welcome your participation. The groups provide a variety of activities. For instance, an annual October event is the boat cruise in Chicago organized by P.A.D. The organizations will provide you an excellent opportunity to meet students and professors in smaller settings. The groups are here to create a superior product on the micro level. The organizations will allow you to become a more informed attorney and person on a specific topic. Find out more by watching the boards in the main hallway and reading the Wesemann Weekly.

Whether the programs are sponsored by SBA, a student group or the Career Planning Center, you benefit from their participation. Most 3Ls will agree that the law school experience is more than just attending class. Take advantage of the SBA product this year. Valpo Law is a close community where there should be no strangers.

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**Moot Court Society**

**Chief Justice**

**Joe Langerak**

Moot Court Honor Society is VUSL's premier interscholastic organization. Members have the opportunity to compete in national competitions at prestigious law schools. With a broad range of topics ranging from criminal to corporate law, members have the opportunity to compete in national competitions at prestigious law schools in such places as New York, Tennessee and Delaware. Members also compete in the annual intrascholastic Moot Court competition, Luther M. Swygert Moot Court Competition. The Competition culminates in a final round judged by some of the nation's leading jurists. Past judges have included the Hon. Antonin Scalia, Hon. Clarence Thomas, Hon. Frank H. Easterbrook and numerous judicial representatives from Indiana and across the nation.

Membership on Moot Court is based on academic performance as well as written and oral advocacy skills.

Try outs for Moot Court Honor Society are held late in the spring semester.

Moot Court refines fundamental skills. Members enhance their ability to research complicated issues and articulate them effectively in front of professors, judges and attorneys. These skills carry over into the workplace, enabling members to effectively understand and articulate ideas to co-workers, clients and in the courtroom. Moreover, employers look favorably on Moot Court experience because of the difficulty in gaining membership to the society and the skills Moot Court develops during membership.

This year's 16th annual Swygert competition is in full swing and centered around the issue of free speech in school newspapers. Members began researching and writing before classes started and their appellate briefs are due on Sept. 24. Oral arguments begin the first week of October and competitors are eliminated each round until only four remain. The final four competitors compete in the final round on Wednesday, Oct. 20, at the Valparaiso University Center for the Arts. A panel of five prestigious judges and justices will preside over the final round and select the winners. To fully understand what Moot Court Honor Society is all about, attend the final round of the Swygert competition on Oct. 20.
75% junk, 25% political junk

Before I begin my first column of the year, a quick explanation: I transferred schools, but was given an opportunity to continue to write for The Forum, and jumped at the chance. Besides, there is no law school newspaper where I attend. I enjoy writing this column, no doubt more than you enjoy reading this column. And if you don’t like it, transfer your eyes to another page.

In any regard, this year I promise even more allusions to hair bands of the 80’s, bad actors and the movies they starred in, and more overall references to Lorenzo Lamas and Renegade.

Apparently, and I am not kidding when I write this, you can pay to have Lorenzo Lamas call you on your birthday. Check out hollywoodiscalling.com. If Lorenzo is not your favorite F-list celebrity, you can choose Todd Bridges from Different Strokes instead. It may just be a rumor, but I have heard that you get free crack if you choose Todd Bridges to call you.

Also available are Dennis Haskins (Mr. Belding from Saved by the Bell) and Alex Michel (the first Bachelor). And of course, Kato Kaelin, who should come as no surprise to anyone. He is the only man automatically assigned Hollywood-irrelevant status overnight. If you so choose, each of these individuals will call you on your birthday for $19.95.

Doesn’t this all seem a bit weird to you?

Perhaps it’s just me but I always thought you needed a novel idea, a new product, or something worthwhile in order to make money. Only now do I realize you can earn as an extra in The Mummy Returns and make decent cash with your new-found celebrity. Hell, I’ll call you for $1.50 whether it’s your birthday or not. I guess it’s good that Todd Bridges has something to do besides narcotics.

We all need hobbies right, might as well make some dough while we’re at it. But what do you think these “celebrities” say when they call you? I imagine Alex Michel, The Bachelor, is short and to the point, a quick “Happy Birthday” and he’s hanging up. The other “celebrities” could probably use a friend, so they likely hang on the line for a while. Kato is definitely going to invite himself over and get hammered before you return home from school on a Wednesday afternoon.

But I digress. What I really wanted to talk about in this column (but can’t write more than 200 words on) is the election. I know, I know, you’ve gone through half a dozen paragraphs to hear something political? Well, in my typical style I’m not preaching either side. Rather, I’m tired of it all. I was tired of the California gubernatorial race with Arnold, and I’m especially tired of the debate I hear now.

The left argues Bush is an idiot, while the right argues that Kerry has no definable positions. Am I making this too simplistic? The rhetoric from both sides sounds more like a first grader’s debate over He-Man vs. Micro Machines as a political debate (and personally, I chose both, He-Man AND Micro Machines). I am immediately bored to tears when I hear the slightest indication that a debate will occur somewhere around me.

Seriously, I try to run away from debates quicker than, well, Todd Bridges running from police. Debates tend to be so awful that you just have to keep on running. I would rather pick up a banjo and play “Old Man River” with Lawrence Welk than hear about Kerry’s war record or Bush’s National Guard service.

I can’t swear this will be the only column with a political bent this year. There may be others. But I will promise this: No matter who wins the election, come March 14th, I expect a call from Todd Bridges. Who knows, he and I may chat about the law, politics, or he may simply wish me a happy birthday and hang up. But what should I do with the free illicit drugs? Ah, the possibilities…

Global Perspectives

An economic reality

Nothing and no person can maintain existence in a vacuum. It is a matter of time before that vacuum erupts, and nature returns the equilibrium that exists in all things. The laws of economics defy the laws of nature in the sense that only in economics are all things not moving toward equilibrium. Resources are finite, and in the economical sense, tend to go to the few and the powerful, leaving the rest to scrounge for the scraps.

Since the fundamentals of economics underlie the principals of humanity and human nature, it is easier to understand the politics that govern our “now.” It is with this understanding that we truly should approach our political discussions and foreign relations. Until we, as a people, can learn to look beyond our “vacuum,” we will never be a self-actualized society.

Bringing this abstract train of thought into reality, there are some issues of grave concern that will be our undoing if we continue to ignore and/or perpetuate the current political trends. As Americans, we lead busy lives, worrying about paying our mortgages or rent, affording luxuries, moving forward in our careers, taking care of our families and other such important things that make us forget about the world beyond our borders.

This morning, as I write this column, there are thousands (if not hundreds of thousands) of refugees being traded into sexual slavery in Asia, Africa and the Middle East. As you sit with your cup of coffee and rehash law school class discussions, there are more than a billion people living in abject and dehumanizing poverty, desperate and hungry.

As you read this periodical, there are hundreds of thousands of Iraqis living in desperation because we invaded their country and destroyed their livelihood; there are millions of displaced people in Chad—wondering if they will ever be able to return to their homeland in Sudan, and probably wondering what friends and family, if any, survived the genocide committed by their own government; there are thousands of Tutsi refugees being slaughtered in Burundi and the Congo by Hutu militias; there are thousands of Palestinian refugees that maintain a squalid existence in refugee camps that were supposed to be temporary 30 years ago; there are millions of world citizens dying from preventable and curable disease. Yet, we continue to live in our vacuum, not caring about the world around us, undermining international institutions such as the United Nations that attempt to reign in the misery and chaos that exist beyond our borders.

I ask you this: Throughout history, has any civilization or world power been able to get away with squandering resources and living in gluttony while those around them suffered? If you think yes, then answer me this, where is the Roman empire today? What ever happened to the Ottoman, Greek, Persian and Holy Roman empires, or any other for that matter? The answer is that they all became engrossed in their consumption and lost sight of the simple matters of nature vs. economics—a very familiar pattern. Then again, President Bush might be right—maybe we can exist in a vacuum and continue to undermine or ignore the rest of the world— or maybe we are on a destructive course, and it is only a matter of time before the anti-American sentiment becomes a fervor leading to our eventual economic demise—bursting the vacuum in which we so ignorantly exist.

Enjoy your coffee.

Steven Sutow is a first-year student at VUSL. He can be reached at steven.sutow@valpo.edu.
VIEWPOINT

To all 1Ls: It's not better or worse... merely different

As I get older, and I am much older than most of ya'll, I realize that the things I once thought were important are not so important anymore. You will eventually arrive at these crossroads as well.

The purpose of this Texan's perspective has always been to make people think. Never are my editorials specific to any current topic plaguing our legal field, but all of my columns will attempt to make you think about things that sometimes get lost in the competitive realm of law school. This month's perspective is no different.

While you 1Ls look at your peers to determine whether or not they are married or available, try and open your minds to your colleagues and refrain from forming an opinion about them strictly based on what your eyes tell you.

Around February or March ya'll will begin to hear a buzz around campus about Valparaiso University School of Law's Summer Cambridge Program. I encourage you all to research the possibility of attending this program, and go if possible. The summer abroad will force you to use your minds to judge people, not just your eyes.

I spent my summer in Europe with twenty-five or thirty of the most amazing and diverse people in law school. Most of whom I never knew before landing in London, yet a majority of those will be life-long friends because of the experience. I am in no way preaching about the human nature of a prejudicial mind because I am the first to admit I formulated opinions with my eyes about my fellow students. The point is that it should not take forced close-quarter's accommodations for a summer to get one to see people for who they really are.

Arriving in London and getting to know my new friends, I soon discovered that their eyes told them that I appeared arrogant, cocky and unapproachable. I am not sure spending a summer with these folks reduced their first impressions in the least. But some of them are people that would have never spoken to me last year. I called it "The Breakfast Club" factor. The only difference is we were not in detention, we were in Europe. Enter "Serial." "Serial" was my roommate at Westfield House in Cambridge over the summer.

My first impression of "Serial" as I passed him walking the halls of the law school was to move to the far side of the hall and stay out of his "cross-hairs." After I actually met him a few months later I realized he and I had a lot in common. Today he is one of my closest friends in law school ("Serial," remember the "roommate privilege" is still in effect on this side of the pond). Yet faculty and students alike approached me and wanted the "scoop" on my friend "Serial."

By the end of our time in Cambridge, England, maybe one person out of everyone did not get along with and enjoy his company. "Eddie," "Beaver" and "Chuckles" all grew to love him too.

Enter Mr. Hunt. Steve is a retired Air Force patriot that is employed in a civilian capacity on the air force base outside of Cambridge. First impressions without talking to him might have kept some people away at first. He is very tall and imposing. Spend five minutes with the guy and you are sucked in at just how much knowledge Steve possesses.

On several occasions Steve took time away from his own life and would take a few of us on excursions around England, and the air force base. I mention the air force base because after spending two and one-half months in Europe, the only places you are going to see Mountain-Dew and Double Stuf Oreos is on a U.S. air force base. Steve is one of the guys that instills pride in our armed forces and makes you proud we have people like him protecting our freedom (even if Steve recently took delivery of a Mini Cooper Turbo).

Enter the people flocking to Pamplona for San Fermin. At first thought most Americans are disgusted at the thought of bulls being slaughtered for sport.

I am not referring to a posse of vaqueros running the plains of Spain killing mass amounts of cows. San Fermin is an annual festival best-known as the running of the bulls. Every night the bull-fights result in a run-carnage for sport. As "Chuckles" and I arrived in Pamplona, PETA was just ending their protesting of this alleged mistreatment of animals. The Spanish are not just killing bulls for sport...this is an enormous part of their culture.

As I can attest, local restaurants actually prepare and sell on the menu the meat from the bullfights. The right-of-passage these young Spaniards experience is this running of the bulls. In running alongside these boys becoming men with bulls chasing us through the streets, you cannot help but feel the deep sense of pride these people feel when they complete the run. Then the relief they exhaust when they complete the run unharmed. Some of us were not so lucky.

Every Thursday afternoon I spend a few hours washing dishes and serving food at the St. Teresa of Avila Soup Kitchen. Before I went for the first time I was predisposed with a bad attitude. I had heard that more of the people that come in for the free hot meals are not necessary homeless, but just people that want a free meal. In the beginning, this left a bad taste in my mouth. I initially thought if people have cars, homes and cell phones, they should not be taking advantage of the kind hearts of the volunteers.

Then I closed my eyes and opened my mind. I remember when there were times after my parents divorced that my mom, brother and I were in the same boat. We had a house, a car, but there were no cell phones when I was five. My mom was working and putting herself through medical school while raising my brother and me. Sometimes, people need a little help and if that comes in the form of one hot meal a week, so be it. My eyes now do not see people taking advantage of this Catholic charity. Now I see an opportunity to do what I can so a family can go at least one evening without eating macaroni and cheese.

Thursday nights give these families something to look forward to...which could be an uncommon occurrence when impoverished.

The first class we attended in London, Professor Gaffney warned us that we needed to approach our experience with an open mind. He reminded us that it helps to think that "...it is not better or worse, merely different." We are all people, no better or worse than everyone else...just different! Keep this in mind when you decide whether or not to become friends with a classmate. Bear in mind that there are more people out there that are different than the same.

Also, at the time this went to press, The University of Texas Longhorns were undefeated at 2-0...Texas A&M Aggies were not! HOOK 'EM HORNS!

Hal Price is a second-year law student at VUSL. He can be reached at harold.price@valpo.edu.
Exposing Dick: 
It’s time to pay some attention to the man behind the curtain

Quick! Who was Franklin Roosevelt’s Vice President? Which Vice President killed a man while in office and was later tried for treason? Which Vice President called capitalists “midget Hitlers”? Who said of his decision to become Vice President that it was the “worst damn fool mistake I ever made”?

Don’t feel bad if you can’t answer these questions without the aid of Google or an encyclopedia. You’re better off than most Americans if you can remember a single thing about Dan Quayle beyond his poor spelling record and his belief that Latin is the dominant language of Latin America. Historically, the office of the Vice President hasn’t been worthy of a whole lot of attention or scrutiny. Most VP’s don’t really do much beyond attempting to stay out of trouble and waiting for their chance to ride the boss’s coattails into the Oval Office. Unfortunately for us all, our current Vice President has been a notable exception.

According to many White House observers, Dick Cheney is the most powerful Vice President in U.S. history. Oddly, he is not a public figure. Though undeniably intelligent and occasionally quick-witted, public speaking is not his strength. He’s been known to go for stretches of 80 days or more without taking questions from the press and he seems to enjoy large public appearances about as much as he would a colonoscopy. No, his power-wielding is done behind the scenes and behind closed doors.

There’s apparently no chance of those doors opening, either, as Cheney has maintained a level of governmental secrecy unheard of before this administration. With complete disregard for the concept of an educated public, Cheney routinely refuses to release information on even the most mundane procedural matters. One notable example has been his rejection of all requests for information surrounding his top-secret Energy Task Force meetings.

In May 2001, Cheney unveiled a national energy plan that was the culmination of months of Energy Task Force work. No one familiar with Dick Cheney’s personal and career history was surprised at the gist of the Plan—more nuclear plants, more coal and, of course, more oil. Eyebrows were raised, however, when credible evidence came to light that major corporate contributors to the Bush-Cheney campaigns had been given major access to the Energy Task Force.

The General Accounting Office, wanting to dispel the rumors, asked the White House to provide the names of people present at Energy Task Force meetings.

The GAO never requested the minutes of the meetings, mind you, nor copies of any video or audio recordings made. It simply wanted a sterile list of names, the minimum needed to make certain that corporations who contributed millions of dollar to get Cheney into the White House were not now being repaid with industry-friendly energy policy. Request denied! Three years later, proponents of open government are still fighting for access to that information. Cheney has steadfastly claimed Executive Privilege.

Dick Cheney, of all people, should be sensitive to the appearance of impropriety, given that he received close to $200,000 in deferred pay last year from Halliburton, the Texas-based oil company he once headed that has been awarded billion-dollar government contracts in Iraq. Although he’s fond of saying that he “severed all ties” with Halliburton upon becoming VP, the truth is that he still owns more than 400,000 Halliburton stock options.

By the way, Franklin Roosevelt actually had three Vice Presidents: John N. Garner, Henry A. Wallace and Harry S. Truman. Thomas Jefferson’s VP, Aaron Burr, killed Alexander Hamilton in a duel in 1804 and was later tried for treason (for, among other things, scheming to conquer Florida and declare himself emperor). Henry Wallace, FDR’s second VP and probably the most leftist politician in the history of the United States, denounced capitalists as “midget Hitlers” while defending his belief in socialism. Finally, it was another FDR Vice President, John Garner, who looked back on his decision to take the office as “the worst damn fool mistake I ever made.”

Vice Presidents, especially those who don’t appear to be positioning themselves for a run at the Oval Office, tend to get ignored. Dick Cheney, though, has accumulated power and influence over policy that far outweigh his office’s historical role. It’s time that the press and the public began paying more attention to Cheney’s actions—the man behind the curtain needs to step out into the light.

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Attention Writers!
The Forum wants you!
e-mail: forum@valpo.edu

Next staff meeting:
Wednesday, September 22, 2004
6:00 p.m. in Ulbricht
Up the creek with the FRCP

There has been a great deal of angry buzz regarding the infamous “527” known as “Swift Boat Veterans for Truth.” Some consider its message a right and proper rebuttal to John Kerry’s claims about his record of service during the Vietnam Conflict. Others consider it some form of a pseudo-resurrected vast right-wing conspiracy. While it has been about two years since it took Civil Procedure from the illustrious Professor Lind, I believe that a proper jurisdictional analysis using the FRCP is in order to determine whether or not criticism of Kerry’s record as a “war hero” should be a campaign issue. For the sake of this analysis, I will consider the national press to be the jurisdiction in question, the “Swift Boat Veterans” as the plaintiffs, and John Kerry as the whining defendant contesting the jurisdiction. As I’m sure everybody remembers, there are three major jurisdictional prerequisites within the FRCP that must be met for a court to take a case: subject matter jurisdiction, personal jurisdiction and venue.

To begin, if a lack of subject matter jurisdiction can be shown at any point, the court must dismiss any claims. However, the press is the fourth branch of government, and the First Amendment basically gives it free reign to cover anything and everything under the sun. So, with the First Amendment at its side, the press has cleared the first hurdle.

The big question comes with what would be analogous to personal jurisdiction. This beast covered a massive chunk of our first five-credit class, but a mere two words dispense of this entire issue: purposeful availment. From the beginning of this election season, John Kerry has ranted and raved about his four months in Vietnam, and how his experiences there made him fit to be our Commander in Chief. In fact, he has practically built his entire campaign around his military service. By so doing he has left himself open for criticism on this matter.

It would be one thing if he’d said that he served in Vietnam with honor and won some medals in those four months. If he would have then moved on with the issues of the day, I could see where many would find the actions of the Swift Boat Veterans truly distasteful and out of place. However, they didn’t go public until many moons after every American and their dog heard that he won three Purple Hearts after every appearance on camera. These veterans weren’t lurking in the shadows trying to blindside him. They were responding to what they see as lies and mistruths about Kerry’s military experiences. The idea that these men should not be given “standing” to be heard as loudly and clearly as Kerry is preposterous. By opening his mouth about his service in Vietnam he opened the door for a flood of scrutiny.

Legal Conflict in a time of war

The United States Supreme Court recently handed down three decisions that directly affect the Executive power to detain persons classified as combatants during war, specifically whether the government may detain citizens and non-citizens under the guise of national security.

In Hamdi v. Rumsfeld, 124 S.Ct. 2633 (2004), the Court held that American citizens caught on foreign soil and detained in the United States have a right to a Due Process hearing. Similarly, in Rumsfeld v. Padilla, 124 S.Ct. 2711 (2004), the Court held that, for the purposes of a habeas petition, the proper named defendant is the party holding the power to detain an individual in wartime. In the final decision in the trifecta, the Court confronted a different problem. In Rasul v. Bush, 124 S.Ct. 2686 (2004), the Court held that foreign combatants detained during wartime have a right to a habeas corpus petition, even though they are not being held on American soil.

Rasul presents another perplexing situation the other decisions do not. In Rasul, the party petitioning for a Writ of Habeas Corpus is a detainee at the Guantanamo Bay Naval station. Unlike both Padilla and Hamdi, who are American citizens detained on American soil, Rasul is a foreign national petitioning the courts to challenge the validity of his detention. The Court held that Rasul does have the procedural right to a habeas petition, but declined to decide which law, be it American or international, would apply to the adjudication of his innate right to liberty. Weighing the balance, the Court delicately approached the issue with measured hebetude, impliedly noting the pernicious affects of a decision on the “merits,” but what remains is the classic conflict of laws problem.

At first glance, Rasul should not have the ability to petition the courts to challenge the validity of his detention. Intuitively, it does not seem as though a foreign national would have rights like the average citizen, but the government has extended constitutional protections to those within our borders, and in some situations, those without. Rasul’s situation is markedly unique. He is a foreign national being detained by the government outside our national boundaries, so constitutional protections do not necessarily extend, at least in a substantive way. Though it seems like the Court’s holding exemplifies its preoccusal nature, a petition for habeas is a procedural mode allowing an aggrieved party to enforce a substantive right. Under traditional conflict of laws theory, a court should apply its own procedural law to preserve its sovereignty. The remaining problem in Rasul’s situation is from what law that substantive right emanates.

The two possible answers are international law, like the Geneva Convention, and the American Constitution. It is not clear that the American Constitution should apply because of Rasul’s unique situation. Fifth Amendment rights may apply to a foreign national, but whether Rasul is part of a suspect class remains elusive. The Government has the ability to abridge Due Process guarantees with a sufficiently compelling interest, and the government has shown that national security in the time of war is adequately compelling. See Korematsu v. U.S., 323 U.S. 214 (1943). Arguably satisfying this justification for abridging Fifth and Fourteenth Amendment rights, American law will most likely not apply. For a ubiquitous resolution, applying rules of the Geneva Convention would satisfy the domestic conflict, and create a precedent for similar application among other countries bound by the convention. The liminal quagmire remains stagnant in the court system, awaiting disposition on remand to the District Court for the District of Columbia and final disposition on the merits remains some time in the future.

If the goal of the law, both domestic and international, is to create uniformity but preserve sovereign territoriality, an amicable solution to the paradoxical conundrum may never exist. Add the political variable of the current administration and the result is even more conspicuous. Satisfaction for all parties, at least in part, will most likely come from the application of international law beyond the pale of the Constitution.

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CIVIL PROCEDURE
- US diplomatic objectives trump service of process on former president of China


Court: U.S. 7th Circuit Court of Appeals
Topic: Civil Procedure, Civil Rights, Constitutional Law, International Law
Date Argued: 5/27/04 Decision Date: 09/08/04
Case Number: 03-3989

Summary: Plaintiff's attempt to effect service on the former president of China is denied where the Executive Branch has determined that this service of process could frustrate the United State's diplomatic objectives.

The appellants brought suit against former President Jiang of China and the court has recognized President Jiang's immunity from the appellants' suit. We are required to defer to the decision of the Executive Branch.

“The district court is correct that there are exceptions to the immunity a head of state (as well as a foreign nation) is granted in this country's courts. The district court recognized elsewhere in its opinion, the determination that these exceptions apply to a head of state, is left to the Executive Branch.”

Executive Branch has stated it is working to persuade the government of China to put an end to the human rights violations it has inflicted on its people for more than half a century. Judge Manion concluded that, “Success depends on diplomacy, not United States courts.”

- Drug trafficking defendant allowed plea withdrawal motion; confusion in guilty plea


Court: U.S. 7th Circuit Court of Appeals
Topic: Drug Trafficking, Firearm, Plea Agreement, Marijuana, Indictment, Guilty Plea, Predicate, Motion To Withdraw, Change-Of-Plea, Cocaine Base
Date Argued: 4/16/2004 Date Decided: 8/25/2004
Case Number: 03-3909

Summary: The district court erred when it denied a plea withdrawal motion; a fair and just reason for withdrawal was shown because neither the government nor defendant clearly understood what drug trafficking predicate offense defendant was pleading guilty to. Defendant's guilty plea is vacated where defendant's plea was not knowing and voluntary since there was a mutual mistake as to an essential element of the plea agreement, making the entire agreement invalid.

Defendant agreed to plead guilty to the gun and cocaine possession charges listed in the indictment. The written plea agreement and the government's statements at the plea hearing, however, referred to the drug offense as marijuana possession. Simple marijuana possession under U.S.C. was not sufficient to establish a drug trafficking crime, which was a necessary predicate for the offense. Prior to the hearing, the defendant obtained new counsel and sought to withdraw his guilty pleas. The defendant argued that his plea was not knowing and voluntary because of the mistake of the culpability of the offense there was a misrepresentation in agreeing to the plea and it should be void. The government asserted that the defendant did admit to carrying a firearm with the drug offense. However, the change in predicate offense was not addressed by anyone at the plea hearing. The district court denied defendant's plea withdrawal motion without addressing the predicate offense discrepancy.

Defendant contended in his appeal that there was a violation of due process because his plea was not knowing and voluntary. Additionally, the defendant asserted that the plea agreement did not contain accurate information as to the nature of the crime committed and therefore, since the true nature of his crime was not asserted, it could not be pled.

After a plea is accepted a defendant may withdraw his plea on the showing of a “fair and just reason for requesting the withdrawal.” There is no absolute right to withdraw a plea and the court stresses that the burden weighs heavily on the defendant to do so. In the instant
Just reason for withdrawing the plea was shown because the defendant's burden slightly easier because of a plea bargain's quality of truth. The court held that a fair and case, although the Government conceded, this only makes to which he admitted guilt; in fact, no one understood an essential element of the crime, namely, what the specific drug trafficking predicate offense was.

The court opined that plea bargains are governed by ordinary contract principles. When there is no “mutual meeting of the minds of all essential terms” a plea cannot be rendered valid. The Government asserted on appeal to which he admitted guilt; in fact, no one understood an essential element of the crime, namely, what the specific drug trafficking predicate offense was.

The court opined that plea bargains are governed by ordinary contract principles. When there is no “mutual meeting of the minds of all essential terms” a plea cannot be rendered valid. The Government asserted on appeal that it did not need to be exact in the plea when bargaining as to the change, but that it need only establish a “drug possession crime.” The court struck down this contention and pronounced that the specific offense must be stated in the plea in order for it to be accurate. Additionally, the Government must discuss the accurate nature of the offense with the defendant when bargaining for a plea. It is imperative that the defendant understand what crime he is being charged with in order to accept a plea. Therefore, the defendant could not have knowingly or voluntarily entered into the plea because of the misrepresentation of the offense. The invalid plea tainted the guilty plea that defendant had entered with regard to the related offense; he was entitled to withdraw both guilty pleas.

Additionally, the court stressed that even ambiguity on part of a plea agreement can render the entire plea bargain invalid because the entire plea and elements must be valid. Essentially, the court agrees that “either the whole plea agreement stands, or the whole thing falls.” The defendant in the present case is entitled to withdraw his plea and the decision is vacated and remanded.

CONSTITUTIONAL LAW

Murder conviction upheld over violation of due process and equal protection claims


Court: U.S. 7th Circuit Court of Appeals

Topie: Constitutional Law, Criminal Law & Procedure, Habeas Corpus, Juvenile Law

Date: 09/08/04

Case Number: 03-3980

Summary: Defendant’s murder conviction is affirmed over her challenges that 1) the trial court’s failure to give a felony murder instruction violated due process, 2) the statute governing juveniles in adult courts violates due process and equal protection, and 3) the trial court’s refusal to give an abandonment of intent instruction violated due process.

Judge Bauer delivered the opinion of the court.

Appellant, Latosha Armstead, brought a habeas corpus claim challenging her Wisconsin state conviction for first-degree intentional homicide, party to a crime. The district court denied the petition. Armstead appeals.

Armstead, who was 13 at the time of said incident, and her boyfriend, Williams, who was 18, devised a plan to steal Brown’s car and murder her. According to the plan, Armstead was to distract Brown while her boyfriend strangled the victim with a cord from a walkman. Armstead testified that she withdrew from the conspiracy prior to the murder but retained her intent to steal the car. However, during her attempt to save Brown she instead cut Brown’s neck, although this did not directly contribute to Brown’s death. Armstead was present during the time the body was dumped and Armstead subsequently gave the stolen car to her mother.

The court was not convinced that the failure to instruct the jury on felony murder resulted in a miscarriage of justice. Armstead argues “that Latosha was guilty of felony murder and not first-degree intentional homicide as she abandoned the requisite intent to kill Brown.” However, it is clear even from her testimony that she did not withdraw from the plan prior to Williams looping the cord around Brown’s neck. Armstead proceeded with dropping her Walkman on the floor of the car so that Brown would lean over to pick it up; this was, according to Armstead’s brief, part of the plan. It was not until Williams was in the process of strangling Brown that Armstead says she withdrew. The court contends that “once the bullet has left the gun, it is too late to withdraw.” This is not legally sufficient to prevent criminal liability for murder. Therefore, with the core of Armstead’s argument eliminated, she offers no other justification as to why the jury would have chosen to convict her of felony murder instead of first-degree intentional homicide. Judge Bauer pronounced, “There was no miscarriage of justice.”

Throughout her appeals Armstead argued that these two statutes result in different treatment of children and adults in adult criminal court. The state court on appeal held “... this claim, however, is moot because, ... the failure to give the felony murder instruction was harmless error ...” Accordingly, the court stated that it need not address her claim of equal protection and due process.

Armstead again argued equal protection and due process violations in the district court. The State consistently answered that the state court’s finding was an adequate and independent state ground and therefore, there should be no review of this claim in federal habeas proceedings. Armstead did not respond to this argument until after the district court had entered judgment based on respondent’s argument. She admits that this was an error but nonetheless asks that we review the merits of this claim. However, there is no further discussion as to what prejudice or what miscarriage of justice she refers to, as her statement is simply conclusory. Accordingly, such an issue is not preserved for appellate review unless the district court exercises its discretion to excuse.

The Docket is a regular feature of The Forum. If you know of any recent and interesting cases and would like to have them appear in this space, e-mail your ideas to forum@valpo.edu.
1L class elects SBA reps

BY JONATHAN PASKY
Editor in chief

With the ballot boxes closed, another round of SBA elections concluded last week with four members of the 1L class being elected by their peers.

On Sept. 16-17, 2004, 103 first-year students cast their votes for SBA representative elections. With 189 eligible first-year students, both full- and part-time, turnout was a very high 54.5%.

The pool of candidates was large, making for an interesting election full of creative tactics. Candidates gave out free candy and snacks, wore decorated T-shirts, crafted campaign buttons, and in a spark of ingenuity, hung election posters from the ceiling.

In the end, elected to the three open at-large seats were Jamie Druse, Mariel Lim, and Manny Perez. Timothy Suha ran and won the faculty representative seat unopposed.

The first task for the new representatives was the trial by fire of the Tuesday, Sept. 20, 2004, SBA meeting where budgets for all student organizations were voted upon by the entire SBA after the Budget Committee had made its recommendations the previous week.

The next SBA meeting will be held on Tuesday, Sept. 28, 2004, at 8:20 p.m. in Chicago/Hessler.

Regular meetings of the SBA are held every Tuesday throughout the school year and are open to the VUSL student body.

Election Results:

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<tr>
<th>CANDIDATE</th>
<th># VOTES</th>
<th>%</th>
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<tr>
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<td>Matt Emmons</td>
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<td>24.3</td>
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<tr>
<td>Timothy Suha*</td>
<td>73</td>
<td>70.9</td>
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</tbody>
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*C unopposed candidate

In 1999, the Christophers were each awarded honorary doctoral of law degrees by Valparaiso University School of Law for their contributions to business.

Scott Christopher, brother of Jay, earned an undergraduate degree from Valpo in 1968 and a law degree from VUSL in 1973.

CCLIR continued from page 1

grandson to library founder Henry F. Moellering, spoke about the generosity of his grandfather and grandmother. Moellering’s grandmother wanted to make the donation for the library anonymously, but the University felt that putting names on the donated buildings would encourage more outside building funding.

"Look what that decision resulted in," Moellering said, gesturing at the vast building behind him.

The keynote address was given by entrepreneur Richard Kessler.

"God’s hand has been very active here at Valparaiso University and through many other people," Kessler said.

He also talked about how Mrs. Christopher, creator of The Pampered Chef, Ltd., started her business and how tentative and scared she was at first. He recalled a story of her packing up kitchen utensils to show at a friend’s house and wondering what she was doing.

“Ten-million vegetable peelers are funding this gift and Doris sold them one at a time,” Kessler joked.

The key to the library was presented to President Harre and he ceremoniously opened the doors as Provost Roy Austensen blessed the entrance. Everyone entered the front doors and filled the foyer, the crowd being so massive it overflowed down the stairwell and onto the lower level. Inside the CCLIR, Dr. Moellering placed the Moellering family Bible into the collection.

Following the placing of the Bible, every college placed a significant title into the collection. Dean Jay Conison, with the help of Lindy Arwood, editor of the Law Review, placed Michael Swygert’s history of the Valparaiso University School of Law entitled, “And, We Must Make Them Noble.”

The formal ceremony ended with the dedication of the Moellering Collection and a final blessing. A giant reception was held on the south lawn after the ceremony.
Barman author Alex Wellen on life in law school and beyond

By Jonathan Pasky >>see BARMAN page 14
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the law to television to writing?

A.W.: I wasn't very sure of my writing skills. Law Review helped for sure. Ultimately, I knew I was an artist, to an extent. I didn't find practice to be creative enough. So, when the opportunity came for a cable TV show on a new network, I took it. It was hard work and a struggle, and it took eight years to publish the book. Sometimes I worry I didn't practice long enough. Ultimately, I would encourage people to pursue something creative in their life. Think about this, too: I wrote that book, but I never quit my job. It took eight years because it was on-and-off while I was working. And only now, ten years later, am I taking a chance on myself and writing full-time. The law can be the golden handcuffs. You can get these great salaries, and it gets very hard to leave. You can get these great salaries, and it gets very hard to leave.

F: How can a law degree help you out in the non-legal world?

A.W.: It opens so many doors. It's so strange, isn't it? How everybody hates attorneys until they only get one phone call, and then they need an attorney at the police station. People love to hate attorneys, or make jokes about them. But then you tell someone that you have a law degree and they're always so wowed. Especially if you're not practicing. There are very few jobs you can't apply for with a law degree. And you're a professional writer.

Here's what I say: The law is like a lens that enables you to look at the world differently than anyone else. If you, as a lawyer, and someone who's a non-lawyer hear something, whether it's current events or anything, we're changed forever dramatically, profoundly. We don't look at the world ever again the same way, sometimes to the chagrin of our partner or spouse. A law degree is a powerful thing you have in your back pocket that enables you to always see every single type of issue from a different point of view from anyone else in the room. It's empowering.

GARRISON:
CONTINUED FROM PAGE 1

Guidelines "as a move toward fairness to non-custodial parents who are often shortchanged under current rules." As of January 2004, the revised Guidelines now provide that the more overnight visits a non-custodial parent has with her children, the less amount of child support she has to pay the custodial parent. This approach is referred to as the "income shares" model, and premises on the idea that children should receive the same portion of parental income after a dissolution that they would have received if the parents had remained married. The revised Guidelines therefore attempt to "apportion the cost of supporting the children between the parents according to the means of each parent." This apportionment of expenses is evidenced in the Guidelines in what is known as the "parenting time credit." The "parenting time credit" is a fictitious method of balancing how much money a non-custodial parent is obligated to provide the custodial parent, depending upon the amount of overnight visits he spends with his children. Simply stated, this credit is afforded to non-custodial parents who spend a minimal number of overnight visits each year with their children. Thus, so long as the non-custodial parent spends a designated number of overnight visits a year with her children she will qualify for the parenting time credit under the new Guidelines.

The parenting time credit is not a stagnant process, but increases with the number of overnight visits a non-custodial parent spends with his children. It also directly affects the non-custodial parent's financial obligation to the custodial parent in child support. In an effort to compare, the parenting time credit acts as a seesaw, balancing the non-custodial parent's amount of time on the one side and the amount of child support on the other. If the non-custodial parent spends only the minimal amount of overnight time with her children, then the seesaw stands balanced, requiring that parent to pay a greater sum of child support to the custodial parent. Yet, when the non-custodial parent begins spending more overnight time with her children, the seesaw teeters down on the side representing the amount of child support the non-custodial parent has to pay the custodial parent. As such, for every increase in overnight visits per year, the non-custodial parent has less child support obligations to the custodial parent. Conversely, the custodial parent will receive less in child support, but in theory, will also have fewer financial obligations since the child will physically be with the other parent on more occasions.

Indiana is one of twenty (20) states to adopt the "parenting time credit" theory. According to St. Joseph County Superior Judge Michael Scopelitis, who chaired the Domestic Relations Committee, the parenting time credit theory helps to avoid "duplicate expenses" when calculating child support. Specifically, Judge Scopelitis stated:

"The actual child support need is greater than we've been recognizing. Federal statistics show half of every dollar spent to raise children goes toward expenses duplicated by parents living apart, including housing, transportation and utilities. Yet, until the revisions, these costs have not been explicitly or automatically figured into the equation for child support." The new Guidelines thus attempt to eliminate certain duplicate expenses, such as food, entertainment and toiletries, in an effort to maximize the amount of money spent by each parent. The parenting time credit theorizes that the custodial parent will not suffer financially as a result of the non-custodial parent spending more time with the children because the custodial parent's "duplicate expenses" for the children will be reduced the more time the children spend with the other parent.

The State's theory behind the new Guidelines appears genuine. In fact, most people would agree that children are happier when both parents are actively involved in their life. However, despite Indiana's concerted effort to encourage non-custodial parents to spend more time with their children, what are the effects of the new Guidelines? Are they practical, or are the Guidelines causing both custodial and non-custodial parents more problems? The State's theory behind the new Guidelines appears genuine. In fact, most people would agree that children are happier when both parents are actively involved in their life. However, despite Indiana's concerted effort to encourage non-custodial parents to spend more time with their children, what are the effects of the new Guidelines? Are they practical, or are the Guidelines causing both custodial and non-custodial parents more problems?

At first glance, the new Guidelines appear better for all involved. Yet, upon a much deeper analysis, they have created a new set of problems for parents, children and family law attorneys to handle. First, the new Guidelines are problematic because they focus on the number of overnight visits a non-custodial parent has with his children per year, not the amount of time he spends with the children. More specifically, according to the new Guidelines, it is irrelevant which parent spends more hours per day actually parenting; instead, the primary focus is how many times per year the non-custodial parent has the children overnight. In other words, it is irrelevant how much "quality time" the non-custodial parent spends with his children; he will still get "credit" under the parenting time theory. Therefore, one major fallback of the new Guidelines is that they do not focus on the number of hours spent each year parenting, but on the number of annual overnights a child spends with the non-custodial parent.

A second problem that has developed as a result of the new Guidelines is that custodial parents in need of child support money are now less willing to "share" the couple's children. In many circumstances, the custodial parent works only part-time to ensure that she is able to spend more quality time with her children. Because the custodial parent only works part-time, she relies on the child support money to live. Consequently, the custodial parent is reluctant to share the couple's children with the non-custodial parent because she cannot financially afford to allow the children more overnight visits with the non-custodial parent.

Although the Guidelines appear beneficial, by encouraging parents to share in the responsibility of raising children, they also elicit tangential issues for parents. Those issues include how the Guidelines are measured and how they decrease the custodial parent's willingness to share the children as a result of losing child support money. Consequently, these issues beg the question of whether the Guidelines are more practical than the last, or whether they have simply created more problems for all persons involved. Only time will tell how strongly the "price of more time" affects the most important group involved, the children.

Just before ten o’clock, Officer Chapman casually strolls into the Valparaiso Police Department Headquarters. Fifteen minutes prior, dispatch informed me it is Chapman with whom I will be riding. He stands slightly less than average, clean shaven, wearing a close-cropped military style buzz cut which, combined with the youthfulness of his face, could allow him to pass for a young man.

I later find out Chapman is thirty. His juvenile features are offset by his uniform and particularly by the gun which sits holstered on his left hip. He speaks with a calm, trained voice and we cordially exchange greetings. But as we do I see a searching look in his eye, to which I feel compelled to give an explanation. A nuanced police tactic. Before we are off I read and sign a liability wavier indemnifying VPD.

The cruiser feels like a cockpit, cramped with ergonomics. A mild wave of claustrophobia hits me as I buckle my seatbelt, but it is simultaneously lost as the squawkbox starts rattling codes.

We drive and Chapman explains he has two kids, aged five years and six months, respectively, and has been on the force for seven years. It was either an aviation mechanic or an officer of the peace and he is glad he chose the latter. Always the midnight shift. Short three and four word bursts are offered to my questions, which echo the calls clamoring from the dash mounted transmitter.

10:34 p.m.

Chapman is radioed to back up several other officers who have already arrived at a loud party disturbance call. Because we are last to the scene, and the interrupted party is in a second story apartment building, Chapman chooses to stand guard below the balcony to dissuade any potential “runners.”

It is a tempting escape route, this short drop, padded by an elevated grassy landing pad. Above, at least one itch trapped soul seems to be looking at Chapman’s steps and trying to measure the right timing to break, as if he were preparing to enter a jump rope contest.

Then in a rush he goes. Chapman lunges and starts with his enormous Mag-Lite beam from his raised left hand. My heart shoots with adrenaline, but in caution my strides restrain themselves as I follow Chapman in pursuit.

Out of sight, neighborhood dogs sound off, betraying any stealth maneuvers the suspect attempts. But somehow he is lost. Then excitement hits again as in the distance I see three police flashlights converge beneath a park bench.

Heaving and shaking, I approach Chapman and ask him how often he finds himself in foot pursuit, and he unaffectedly remarks that such exercises are a frequent matter-of-course.

11:52 p.m.

A stalled vehicle needs a jump. As we arrive another officer is putting his cables back into the trunk of his car and the jalopy lurches away.

There is no callousness to Chapman’s tone, but as he recites graphic stories he admits the utility of detachment. As a father and husband, he experiences moments of sympathy, but most often the police officer cloak is impermeable. The power of repetition is unmistakable. See anything enough and it loses its stimulus. I am thankful, at least for now, my fresh eyes still shine bright.

12:06 a.m.

A two tone truck without tail lights traveling east-bound passes us heading in the opposite direction. Chapman patiently continues to the next intersection where he turns around, flips on his blues and reds and opens up the 2003 Ford Crown Victoria.
SEPTEMBER 2004

Spotlight

Alcohol Content test. The arrested individual cooperates, but his stupor makes even the most rudimentary tasks seem to him confusing.

Against the humming of the breathalyzer, I hear in the background a man voice several connected pieces of legal nomenclature. My ears perk up. But upon turning I see his bloodshot eyes indicate he has nothing more. The test administered, Chapman signs papers and we leave.

Back out on to the streets. In the ebb and flow of crime Chapman recounts some of his more memorable nights. When he sees my thoughts get too carried away he speaks of the mundane in a pointed tone. But between gang fights and dog bites there is plenty of fat to be chewed. And when I am listening his stories are projected onto a screen just inside my forehead.

2:37 a.m.

We are back at jail and there are new faces. The next shift of coffee laden officers has arrived. They keep a close watch on the recent intakes and the resident inmates who are moving about in their blaze orange jumpsuits. I explain my role to the curious for the ninth and tenth times. Chapman retells the earlier foot pursuit. I add details. The camaraderie between fellow officers creates a tight family. When I ask Chapman about the solidarity of riding in a car alone for eight hour frames he denounces experiencing such feelings. “I feel like they are riding with me,” he says, as he points and we listen to the police radio.

4:03 a.m.

Valparaiso Police Department headquarters again. Through double doors we walk past the dispatch hub. Six computer screens blink. Onward to the instructional room where a large meeting table faces a whiteboard, marked up in grid-like fashion. Assignments and patrol boundaries are indicated. The bulk of Chapman’s paperwork now needs to be completed.

Several monitors line one wing of the room and officers diligently enter and crosscheck their report data. A bag of marijuana and a smoking pipe lay across the table from me sealed with an “evidence” sticker.

My head is tired and my buzz is gone. Chapman’s studying eyes disarm me again. He sees me fading. He insists that my company is not necessary but still welcome. I smile and he gets up to see me out.

12:58 a.m.

Jail. Between detainees and officers a game of one-upmanship is played. Slow witted drunks repeatedly fall on the losing end of these verbal jousts.

The florescent lighting is sharp, sanitary and sobering. Buzzes sound before doors open and bolts clank after they close. Chapman is called to administer a Blood

Crossword Solution

Look for more of Chad’s adventures in future issues of The Forum. Chad will attempt to explore other careers with a legal connection — or none at all.

FISHY TALES

| ECHO | ADDELE | SNOB |
| TROD | CRUEL | CODE |
| NOTE | CODOFHONOR |
| APT | ZONE | ALERT |
| OBESE | STUD |
| LETOUT | TURNSPIT |
| EARN | SWEET | IRA |
| AGOG | SLIDE | MAAM |
| FLUCHASE | DANTE |
| SETPOINT | CANOED |
| LUNG | WAIST |
| ADDER | BASS | UFO |
| FRONTPERCH | SNOW |
| RANT | AWOKE | PALE |
| OBEY | RESO | ASKS |
**The Price Schoppe**

**Challengers:**
- Professor Clare Nuechterlein
- Judge Chris Nuechterlein

**Dynamic Duo:**
- Hal Price (The Texas Editor)
- Randen Schoppe (The Sports Writer)

**The Challenge:**
If the Nuechterleins win, Hal and Randen will be Prof. Nuechterlein's personal porters for the rest of the semester.

*When "The Price Schoppe" wins, Prof. and Judge Nuechterlein will wash Hal and Randen's two cars.*

**Next Month's Challengers:**
- Ann Weitgenant/Financial Aid
- Zahra Nwabara/Admissions

<table>
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<tr>
<th>Challenger</th>
<th>Stock List</th>
<th>Price Change</th>
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<td>100 Shares of Google, Inc. (GOOG) @ $113.33 each</td>
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<td>$667.00</td>
</tr>
<tr>
<td>12,000.00</td>
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Losers will each donate $5.00 of canned goods to Spring Valley Homeless Shelter.

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One day, ya'll might be in a position requiring a more in-depth knowledge of money—other than your Personal Identification Number for an Automated Teller Machine. For those of you that are limited only to the fact that the New York Stock Exchange (NYSE) is located somewhere in the Big Apple, "The Price Schoppe" is a fun game in an attempt to broaden your horizons a little to the inner-workings of trading equities (stocks).

Large publicly-held corporations sell shares daily of their companies to anyone willing to pay the current price of the stock. If your knowledge of rumors and speculation is limited to who Jane is dating, watch CNBC while Alan Greenspan (Federal Reserve Chairman) testifies in front of Congress. In some form or another we all will make or break our careers on our mastery of the English language. If Alan Greenspan should misspeak by as little as one word, the various stock/commodity markets could surge up, or these markets could be sent into a violent tailspin. Last Spring, speculation that the Walt Disney Company was going to be acquired shot the price of the stock through the roof. AOL/Time Warner, Inc. felt that after the tech bubble burst, the AOL moniker brought bad sentiment to an otherwise solvent corporation. In response, the AOL portion of the company’s name was dropped from its official listing on the NYSE. AOL/Time Warner, Inc. is now known only as Time Warner, Inc. Often, when Motorola (MOT) is slow to bring to market its new phones, the speculation and rumors about the delay cause the price of the stock to plummet.

Taking all of this into account, "The Price Schoppe" will be an innocent attempt to display the potential volatility of a well-known company’s stock price, as well as some not so well-known. Depending on investment goals, long-term versus short-term, your stock selection will vary greatly. Purchasing a speculative stock might deliver valuable short-term returns. For example, if a drug company is awaiting FDA approval for its new drug that allegedly cures cancer, the rumors and hype will probably push the stock price up in the short-term. BUT, if you held the stock as a long-term investment, and the FDA fails to approve use of the drug, the price will surely drop back down, called a correction. This would erase all of the gains you never had a chance to realize. Purchasing a less-speculative option, like General Electric (GE), your short-term gains will not be noticed. In the long-run, you know GE is not going away soon, therefore the risk is dramatically reduced. Risk is the name of this game. The more you are willing to risk, the greater the potential for gains, as well as losses. This applies to dollar amounts invested as well as the speculative nature of the company.

Each month two challengers will go against "The Price Schoppe" with a hypothetical $12,000.00 investment. The rules of the game are simple. With the $12,000.00, each team will purchase any stock listed on the NYSE or NASDAQ. The price changes in the stock will be the only factor equated with success...or failure. At least one stock must be purchased (in 100 share blocks) and as much of the $12,000.00 as possible must be invested. The little remaining amount left un-invested will remain as cash and will not fluctuate in value. At the end of a particular period of time the stocks will be "sold" and the gains/losses will be realized. The duo who gains the most from the investment, or loses the least, will have the losing duo perform the predetermined challenge.

Any duo who wants to challenge "The Price Schoppe" can e-mail your names and desired challenge to randen.schoppe@valpo.edu. The best duo challenge e-mailed will be selected to play us in an upcoming issue.
PARDON THE INTERPRETATION
By Azra Zaidi and Kimberly Stevens

Azra: I have always admired Kobe Bryant. Sure, he can be an egotistical show-off at times, but he can afford to be. He is one of the best in the NBA and his $136.4 million dollar Lakers contract shows that. However, one thing about athletes with multi-million dollar salaries is that they seem to think of themselves as invincible. Athletes have the idea that because they have fortune and fame, they can do whatever suits their fancy without the idea of anyone telling them "no" or holding them accountable for their actions. On Sept. 2, Kobe Bryant proved that just that as his trial was dismissed due to plaintiff's unwillingness to testify. The move by the court proved what we knew all along, that rich athletes are given free reign to commit rape, adultery and whatever other criminal activities strike their interest.

Kim: I think it is safe to say, at least in some measure, this case caused speculation among Americans from the very beginning. It seemed that some of the facts and allegations were tenuous at best, and it looked as if the case was in danger of turning into a "he said, she said" battle between Bryant and his accuser. The gathering of evidence both lent credibility to the accusations and took away from them as leaks allowed information about the case to surface. Several accusations were made regarding compromised evidence, including the all-important DNA samples. Even a person who believed that Kobe Bryant was indeed guilty of sexual assault would notice the inconsistencies and doubt thrown into the case.

Azra: Many have argued that Bryant's "star status" worked to turn his story into another O.J. Simpson spectacle. The media reported worries from the public both that Bryant would be acquitted simply because he is rich and high-profile, and that he would not be able to get a fair trial because of the high level of attention the case received - hence the multiple gag orders and other measures taken to keep the evidence and information under wraps. Really, though, I think that this case was not decided on Bryant's star power but rather by the sustained inability of the prosecution to keep its ducks in a row. According to reports in the media, the accuser became tired of the inept actions of the prosecution and therefore refused to pursue the case any further.

Azra: Did he rape her? I really don't care. That was for the jury to decide. I only wanted justice to be done and for both sides to be allowed to tell their story. Sure, there were multiple inconsistencies on both sides of the case, but the trial should have gone through to the end for justice to be best served. But alas, justice can't compete with money and fame. Start hire a hotshot attorney, throw money at the cameras to stalk the victim, have a radio talk show host "accidentally" announce her name and do everything they can to make the victim's life hell. Then BAM, she drops the suit and they are allowed to rape again. This sends a message to all the victims out there...next time be more careful about filing charges against a "star." Oh yeah, I'm sure the rapist will be more careful too, making sure the victim signs a contract after he rapes her, attesting to the sex as consensual. That way he will have one more thing on his side if some victim ever has the audacity to accuse him of rape again.

Kim: So what about Kobe? I think this case had a profound impact not only on Bryant, but on his family as well as his fans. I never believed that Bryant was guilty of sexual assault, no matter how much I despised the fact that he acted irresponsibly and cheated on his wife. Maybe cynicism makes me question his accuser in the back of my mind. Perhaps it is the impact of the shots the defense took on the accuser's character. Either way, something about this case just didn't feel right from the beginning. It's not that I have some kind of notion that famous people can't do bad things - I lived in the time of Bobby Brown, Robert Blake and Robert Downey Jr.

Azra: Kobe? What about the victim? Looking at the Bryant trial one cannot help but be dismayed and angered by the inadequacy of our justice system. How can the courts fail in their efforts to do everything to protect the identity of the victim? The victim was violated twice, once by the accused and again by the justice system. The court may as well have told the victim from the beginning, "Dear, we are sorry for what you have had to go through, but your life and your rights are just not as meaningful as that of a "star." Poor people of the world beware, money talks!

Kim: Those of you who thought Kobe should be headed straight for a cell -- don't think he will get off that easily. The accuser maintains that she will seek damages from Bryant in civil court. I think, especially since the more substantial (and arguably more questionable) criminal charges are out of the picture, that a jury will be more likely to slam Bryant with hefty damages. Jury members might feel that Bryant should pay for his indiscretions. The jury might simply be able to take the less drastic measure of charging Bryant money without having to put him behind bars.

Azra: Not getting off easily? Kobe has already gotten off easily by avoiding any sort of jail time or punishment that may have been imposed on him by the courts. For someone with a seven year $136.4 million dollar contract, any amount of money Kobe may be forced to pay will be a nominal punishment. The civil courts can do all the slamming they want, but nothing will really make that much of a difference. Maybe we should adopt a policy of letting all accused rapists pay money instead of taking them to court or sending them to jail.
Business Law Society

BY BRYAN CASKEY
BLS

One of the new organizations around the law school this year is the Business Law Society. The Valparaiso University School of Law Business Law Society is a student-run organization open to all students, faculty and staff at Valpo. The BLS was founded spring term 2004 to meet the demand of students interested in Business Law. The Business Law Society also promotes social and academic interaction among Valpo law students interested in the various aspects of business, corporate and financial law.

Mike Zaradich and Bryan Caskey founded the Business Law Society (BLS) in the spring of 2004 to fill a much-needed gap in the available student organizations. BLS exists to provide networking, educational and career opportunities in an encouraging environment, allowing Valpo law students to gain practical knowledge of areas of business law, to meet other students with similar interests and to gain insight from practicing lawyers in all areas of business law. The BLS sponsors social activities, speakers and roundtable discussions that encourage cultural exchange and academic discussion, and generally provides a forum through which members may pursue their interests in developing a career in business law. Our goal is to enhance the legal education of our members and promote an inter-disciplinary curriculum in business, corporate and financial law that builds upon the resources of the Business Law Society founded at Duke University.

You may have seen that the BLS was recently selling leather resume padfolios with the VUSL 125th logo to raise money during chapel break. The BLS thought that providing the law students with a professional accessory to use in the interviewing process would help raise money for the group while providing a valuable product for students needing a way to hold their resume, writing sample and other papers in their interviews. The money will be used to bring in speakers with legal backgrounds who use their law degree in a business environment.

When asked what role the Business Law Society fills here, Mike Zaradich said, "I think the BLS provides VUSL students opportunities to realize how their legal education can benefit them in many exciting areas beyond the courtroom."

While there is much litigation in business law, students interested in the practice may find many exciting areas beyond the courtroom.

The BLS holds monthly meetings during the academic year (typically on the last Thursday of the month at 4:00 p.m.).

Midwest Environmental Law Caucus

BY CRYSTAL RICE
MELC

Are you interested in environmental law? Do you like the outdoors? Do you like being involved with a great resume builder? Do you like to have fun? If you answered "yes" to any of these questions, then MELC is for you! The Midwest Environmental Law Caucus (MELC) provides students with information and access to all facets of the environment and environmental law through membership in the National Association of Environmental Law Societies ("NAELS"), service projects, social events and informational speakers. If you missed the annual canoe trip this year, there are still opportunities for you to get involved with MELC.

Don't miss your chance to bid on dinner with your favorite professor, golf outings and more at the ANNUAL MELC HALLOWEEN AUCTION! MELC is currently seeking students to help organize the auction. This is a great opportunity for you to get to know the professors and help raise money for a great cause! This year, MELC will also be sending students to environmental law conferences, including one in New York City! All interested students are invited to apply!

Come to our next meeting and find out how you can get involved. Our next meeting is on Monday, October 11, 2004. The meeting will be held during chapel break in Benson.

If you have any questions or would like more information about MELC, please email crystal.rice@valpo.edu or swicke@valpo.edu. We look forward to seeing you at the next meeting!
Bad baseball behavior equals more court battles

In baseball, confrontations between fans and players have become all too common. In the early 1980s, Dodger outfielder Reggie Smith, who had been heckled throughout the game, charged into the crowd to take on the persistent heckler. The crowd pulverized Smith, who was saved by his fellow Dodger teammates. In the 1990s, a fan invited Albert "Joey" Belle, notorious baseball bad boy who spent the previous off-season in Alcoholics Anonymous, to a kegger. Infuriated by the comment, Belle intentionally threw a ball and hit a fan square in the chest. In the summer of 2000, a Chicago Cubs fan who was sitting behind the opposing team's bullpen, attempted to steal the hat of Dodgers Catcher Chad Kreuter. Annoyed by the fan's attempt, Kreuter pursued the fan into the stands in which event a brawl ensued.

The list goes on and on.

The most recent altercation occurred in Oakland on Monday, Sept. 13, 2004. All we really know as of now (as of Thursday, Sept. 14, 2004) is that there was an exchange of words between Oakland Athletics fans and Texas Rangers relief pitcher Frank Francisco, in which event Francisco threw a chair into the stands thereby hitting and breaking a woman's nose.

Allegedly Francisco's behavior was not overboard, according to Athletics' Vice President of Stadium Operations. Of course he's going to say that! Strategically speaking, it is in his best interest to redirect all potential liability to the Rangers.

In response, Rangers manager Buck Showalter loosely referenced other previous times where similar heckling occurred while playing on the road in Oakland. Thus, the finger pointing has begun.

I, probably like most of you who have had Business Associations, instantly recalled a potentially similar fact pattern in Manning v. Grimsley. There, Boston Red Sox fan brought an action sounding in negligence and battery to recover damages from the visiting Baltimore Orioles for injuries resulting from an assault by Orioles pitcher Ross Grimsley. Manning v. Grimsley, 643 F.2d 20, 24 (1st Cir. 1981).

The fan, who was sitting behind a wire mesh fence in the right field bleachers, constantly heckled Grimsley. Id. at 22. While warming up in the bullpen, Grimsley pretended to throw to the catcher, but instead threw at a 90 degree angle directly toward the fan. Id. Consequently, the ball passed through the mesh fence and struck the fan. Id.

On appeal, the court declared "where a plaintiff seeks to recover damages from an employer for injuries resulting from an employee's assault ... it must be shown that the employee's assault was in response to the plaintiff's conduct, which was presently interfering with the employee's ability to perform his duties successfully." Id. at 24.

Finally, the court held that because a jury could reasonably have found that Grimsley's assault was in response to the continued conduct, the fan's heckling, which was "presently interfering with his ability to pitch in the game if called upon to play, the case should be remanded. Id. at 25.

To take it a step further, in the realm of negligence, a plaintiff must show beyond a preponderance of the evidence that the defendant failed to exercise ordinary care. This is the same care a reasonably prudent person would use under similar circumstances.

How would a reasonable person act in such a situation as the one that occurred on Monday? Was Francisco reasonable? In the unlikely event of a trial, the jurors will decide the degree of care that a reasonable person should have displayed, and what a reasonably prudent pitcher would have done in a similar circumstance.

Moreover, keep in mind the requisite degree of care standard does not vary. However, the degree of care required of defendant is proportional to the danger involved. Thus, the greater the potential danger, the greater the care exercised by the defendant. How potentially dangerous was Francisco's act of throwing the chair into the crowd. Could Francisco have exercised greater care when throwing a chair in the direction of several fans?

Under Manning, the issue is whether Francisco's assault was a response to continued conduct which was "presently interfering" with his ability to pitch in the game if called upon to play.

In the event of a trial, will the jury be able to infer that Francisco intended to throw the chair in the direction of the heckler, to cause him imminent apprehension of being hit, and to respond to conduct presently affecting his ability to warm up and play the game if called upon?

I say yes.
By Danielle Guerra

**Jennifer Marshalek**

**Hometown:** Tinley Park, IL

**Undergraduate School:** University of Illinois-Chicago

**Undergraduate degree:** BA Criminal Justice and Psychology

**MA Criminal Justice**

**Family**

My Dad's name is Don and my mom's name is Judy. I have a younger brother Steven. I have 2 dogs: a black lab named Storm and a golden retriever named Sunny.

**Why did you decide to go on to law school?**

I still don't know the answer to that question.

**Why Valpo law?**

Valpo is a lot smaller than my undergraduate university (UIC has 20,000 undergrads alone) and I liked the fact that Valpo's faculty has an open door policy. Plus it is only an hour from home so I can live at home and commute.

**What are you looking to practice?**

I am leaning towards corporate, but you never know.

**Special or Unique talents?**

None that I can think of.

If you lived in Florida and was fleeing hurricane Ivan, what is the one material thing you would take with you? Why? My Playstation.

**What are you looking forward to this year?**

It's a toss up between graduation and not having to drive in all of the construction everyday when I drive to and from school.

Do you think that Kerry and Bush have overexposed and exploited 9/11 in their recent campaigns?

It has been completely exploited by both parties, just like their military records (or lack thereof). It is completely ridiculous and this campaign has become a campaign of tabloid politics.

**Lia Gucciardi**

**Hometown:** St. Clair Shores, MI

**Undergraduate School:** Wayne State University

**Undergraduate degree:** Political Science

**Family**

Mom: Jamese; Sisters: Katie (age 21), Susan (age 19), and Brother: Pete (age 14).

**Why did you decide to go on to law school?**

I wasn't ready to get a job. Also, I knew it would be hard to get a job with my degree, and I have always been interested in the legal system, So I figured, why not 3 more years of school?

Why Valpo Law?

I ended up picking Valpo Law because I really liked that it was small, private, and how friendly everyone was. I also thought the small town atmosphere would be refreshing after attending school in downtown Detroit (although I must admit, I do miss having classes interrupted by bums picking though the garbage).

**What type of law do you want to practice?**

I'm not too sure as of right now, I'm thinking some kind of property law, or maybe family law.

**Special or Unique talents?**

I've played the violin since I was 9 years old.

If you lived in Florida and was fleeing hurricane Ivan, what is the one material thing you would take with you? Why? My cell phone (so I could keep in contact with everyone!).

**What are you looking forward to this year?**

The reinstatement of free alcohol at all school social events.

Do you think that Kerry and Bush have overexposed and exploited 9/11 in their recent campaigns?

Although I haven't been keeping up with the campaigns too well, I do think the candidates have focused too much on 9/11 in their campaigns. The events that occurred on 9/11 were horrible, tragic, and deserve the nation's attention: however, I think it is wrong for Kerry and Bush to refer to the events surrounding 9/11 for the sole reason of gaining votes. There are plenty of other important issues for the candidates to focus on instead.

**Zachary Butler**

**Hometown:** Huntsville, AL

**Undergraduate School:** University of Louisville

**Undergraduate degree:** Physics

**Family**

Mom: Carolyn, Dad: John, Brother: Xavier.

**Why did you decide to go on to law school?**

I decided to attend law school to help increase the opportunities in my career. My exposure to patents as an engineer allowed me to see where I can expand engineering into law without losing the benefit of my experiences.

**Why Valpo law?**

I came to Valpo law because of the writing program. I was also drawn because of the presence of intelligent, friendly faculty and students.

**What are you looking to practice?**

Intellectual Property and Corporate Law.

**Special or Unique talents?**

Student Pilot.

If you lived in Florida and was fleeing hurricane Ivan, what is the one material thing you would take with you? Why? I would probably take my laptop.

**What are you looking forward to this year?**

I am looking forward to next year.

Do you think that Kerry and Bush have overexposed and exploited 9/11 in their recent campaigns?

I think that Kerry and Bush have addressed other issues. However, they have not stressed those issues enough in their recent campaigns.
Fishy Tales Crossword

Across
1 Repeat
5 Confuse
10 Vain person
14 Walked on
15 Heartless
16 Morse, for one
17 Brief written record
18 Nantucket Sound principle?
20 Inclined
21 Kind of defense
22 On one’s toes
23 Rotund
25 __ poker
27 Increase the size: 2 words
29 Pig roast tool
33 Brings in
34 Precedes Caroline: Song
35 IRS deduction
36 Highly excited
37 Playground apparatus
38 Polite address
39 Follows Swine or Asian
40 NY bank for short
41 The Divine Comedy author
42 Tense moment at
Wimbledon
44 Paddled along
45 Air sac
46 Part of the body to watch
47 Diligent First-Grader?
50 Angler’s quarry
51 Extraterrestrial spacecraft, perhaps
54 Pan fried version of a veranda?
57 Weather warning
58 Mouth off
59 Answered the alarm
60 Colorless
61 Conform
62 Spread seeds again
63 Inquires
4 Keats offering
5 Approach aggressively
6 Pilotless airplane
7 City slicker
8 Actor DiCaprio to friends
9 Gremlin
10 Rebukes
11 Zero
12 Sense experience
13 Van Dyke’s Mary Poppins character
19 Frequently visited place
21 Greek god
24 Bell sound
25 Like Elvis’s shoes
26 Family diagram
27 Toronto team, for short
28 Two strokes under par
29 Chubby Checker’s dance creation
30 Upright fixers in Boston?
31 Angry
32 Subdued
34 Casual language
37 Where joggers get splints
38 Suppys with men
40 Basketball playing area
41 Podium
43 Great deal
44 Kidney-shaped nut
46 Crackpot
47 Hair style
48 Dingy
49 Finished
50 Sibs
52 Word before dance or music
53 Is indebted to
55 Tiger’s goal
56 Barnyard resident
57 Health resort

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Quotable Quote

There's a fine line between fishing and just standing on the shore like an idiot.

••• Steven Wright
Students have been able to take advantage of the new VPN and send spam from anywhere on campus.

1L Manny Perez's campaign included endorsements from international celebrities.

Caught in the middle of a heated debate, two VUSL students quickly feign chumminess.

Ruth Cramer, 3L, uses her class status to be the first, and only, one in line for lunch, carefully narrowing her sandwich selection.

This law student is thinking about: a) reconciling the last two cases he read; b) the tedious Socratic method of teaching; or c) whether to opt for the $50 pedicure.

I pity da foo that don’t vote Perez! I ain’t got time fo yo jibba jabba, I gotta vote!