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The Forum (Volume 34, Number 8)

Valparaiso University School of Law
Rules not followed in SBA oversight

Candidates are academically ineligible to run

BY JONATHAN PASKY
Editor in chief

The FORUM has uncovered an SBA oversight having major implications on the upcoming SBA Administrative Board elections on March 31 and April 1.

Two students currently holding positions on the SBA were placed on academic probation at the end of the Fall 2004 semester. Yet both the VUSL Bulletin and the SBA Constitution prohibit such student participation in co-curricular activities while on academic probation.

Manny Perez, 1L Student Representative and SBA Treasurer-Elect, and Jamie Druse, 1L Student Representative and a candidate for Vice President, have been allowed, through an oversight on the part of SBA, to continue serving their constituencies, in violation of school policy.

Per SBA rules, both students were required to submit verification to SBA President Paul Mullin that they were not on academic probation at the beginning of the Spring 2005 semester. Failing to do so, per the SBA Constitution, both should have been immediately removed from their positions on SBA.

The rules

The VUSL Bulletin states the policy of the School of Law that, “While on probation, a student cannot participate in any way (including try-outs, entry competitions, etc.) in any co-curricular program, or hold office in any student organization recognized by the University or the School.

Pharmies and Mollycoddles: Watch out! We’re having a parade

Cane Walk tradition continues at VUSL

BY PAUL MULLIN
SBA president

Last Wednesday, a nice addition was added to the hallway of Wesemann Hall. The class of 2005’s composite photo was hung on the wall. The 3Ls have now officially made last year’s class, also known as the 125th year anniversary class, old news. Admiring of the new composite were overheard making comments like “My, aren’t we an attractive bunch?” “They can’t fail me now, my photo is on the wall” and “Isn’t it odd how Al Morrison doesn’t ever age?”

The 3L class is on the verge of becoming part of the history of the law school and with history you inevitably find tradition.

Perhaps the law school’s oldest student organized tradition is the Cane Walk. The walk seems like a silly tradition where the entire school, with 3Ls holding their class of 2005 canes, parade towards the courthouse. Though true, the 104-year-old Cane Walk serves as a symbol of pride and accomplishment for the school.

Back in 1901, Valpo Law students began the tradition of see CANE WALK page 12

see SBA page 12

Yale law prof. to discuss tort reform

VALPARAISO—One of the nation’s foremost legal scholars will present the annual Monsanto Lecture at Valparaiso University’s School of Law on Thurs., March 31.

Robert C. Post, Boies professor of law at Yale Law School, will present “Compelled Commercial Speech” at 4 p.m. in Wesemann Hall. The lecture is free and open to the public.

Post, an expert in First Amendment jurisprudence, has written extensively on constitutional law, theory and history. His most recently books include “Civil Society and Government,” “Prejudicial Appearances: The Logic of American Antidiscrimination Law” and “Human Rights in Political Transitions: Gettysburg to Bosnia.”

The lecture will explore recent developments concerning prohibitions on compelled commercial speech that have the potential to invalidate many forms of common commercial regulation.
Is law school stressing you out?
Controlling good stress, bad stress and eustress

BY MARINA RICCI
Copy editor

Remember the day when there were no parking spaces in the lot, the computer crashed and the appellate brief was due? A typical law school morning.

Most law students experience high levels of stress in one form or another. The secret is to manage stress before it begins to overpower the law school experience. The good news is that there is stress that does not have to be avoided - eustress. Good stress (eustress) can motivate higher performance and is actually a prerequisite to garnering top results.

Eustress as many are not aware is controlled stress that results in top performance at high stress activities such as oral arguments, speeches and sports.

This stress provides the focus and energy needed in order to perform at the highest level of the individual's ability. Nevertheless, too much stress will cause a disruption of performance and may cause both health and mental problems.

Symptoms of short term stress include rapid heartbeat, fast, shallow breathing, rush of blood to the head, difficulty with short term memory, queasy stomach, cold hands and muscle tension. Short term stress may have attributes of eustress and can become a benefit in small amounts at a time.

Although, an accumulation of bad stress is much more dangerous, symptoms including: "on edge" feelings, explosive reactions, unusually reclusive persona, apathetic exhaustion, frequent colds or illness, short tempered or hostility toward others, pessimistic attitude and ultimately depression.

However, relieving bad stress can be as simple as taking a couple minutes out of the day to laugh or do breathing exercises. Deep-breathing exercise done one to two minutes several times a day for five to six weeks can relieve many stressful feelings. Also, muscle relaxation and yoga or meditation is proven to reduce the bad types of stress.

Nevertheless, relieving stress may be as easy as choosing the right desktop background color on a laptop screen. It has been long known that color is not only used to provide for a contrast in everyday things, but is also used as a tool of communication.

The psychology of color has proven that colors are divided into three categories: Warm, neutral and cool. These groups have different attributes that can either contribute to or relieve stress.

Warm colors including red, orange and yellow are great to have in view in the morning. These colors invoke excitement and tend to wake up and energize. However, warm colors should be used sparingly. They can irritate already present stress and although they add optimism to a bland day, they should be used with caution.

The neutral group of colors includes black, white, silver, gray and brown and are known as the unifying colors. This group tends to give focus to other colors and serve as a background. By themselves, this group has a conservative tone; however, such colors as gray and brown may express dullness or moodiness which may also reflect over in a mood.

Thus, the optimum group for relieving stress is the cool colors group including blue, green and turquoise. These are comforting and nurturing colors. Many times these colors are used for walls to provide for a calm and serene environment. Sometimes just looking at a single cool color pallet or background can provide for a stress relieving feeling.

Colors are not the only way to relieve stress. Even though time is not something that is plentiful in law school, there is always time to take a moment and realize that while school is a big part of life right now, it is not everything. There are family, friends and somewhere in the midst of all the court briefs and oral arguments, the law student.

So taking some time out to laugh, play, nap, garden, release, create, listen, move, nurture, and using the right colors can help the law student stay within the eustress zone.
Legal scholar discussed overworked public defenders

VALPARAISO - Legal ethicist Monroe Freedman discussed the underfunding of public defender offices and its effect on clients' representation during the annual Tabor Lecture.

Freedman, former dean of the Hofstra University School of Law and winner of the American Bar Association's highest award for professionalism, presented "Triage by Public Defenders: Gideon's Trumpet Becomes Gideon's Strumpet."

The lecture explored a proposal that lawyers representing indigent criminal defendants engage in "triage," providing some clients with competent representation while entering guilty pleas for the rest after a cursory investigation. Freedman discussed how public defenders should ethically respond to having too large a caseload.

Freedman also presented a lecture "When Should Supreme Court Justices Recuse Themselves?" The lecture explored recent controversies over whether Supreme Court justices should have recused themselves in cases as well as recusal issues relating to all judges.

The lecture was named after Glenn Tabor, a graduate of the VU School of Law and a founder of the Valparaiso law firm of Blanchly, Tabor, Bozik and Hartman.

Professor to discuss tsunami relief trip

A Valparaiso University professor who recently traveled to tsunami-ravaged areas of Sri Lanka to support relief activities will discuss his experiences March 30.

Sri Lanka native Dr. Shirvel Stanislaus, associate professor of physics and astronomy, will present the lecture "Tsunami: A Personal Quest" at 7:30 p.m. in the Valparaiso Union on campus. The lecture is free and open to the public.

Dr. Stanislaus traveled to Sri Lanka during the University's spring break in late February and early March. Prior to leaving, he raised nearly $25,000 from the University's faculty, staff and students, members of St. Paul Catholic Church and other members of the community to purchase basic supplies for tsunami victims.

During the two-week trip, he distributed items such as gas stoves, mattresses, sewing machines and bikes to families who lost all or most of their possessions.

Dr. Stanislaus plans to continue his relief efforts by setting up a nonprofit fund with the assistance of VUSL and creating educational scholarships for children who lost their parents.

Beethoven's 9th Symphony to be performed April 30

Nearly 300 students, faculty and community musicians will perform Beethoven's 9th Symphony April 30 in the Chapel of the Resurrection at Valparaiso University.

The concert will be the first time the University has performed the 9th Symphony in its entirety.

The concert begins at 7:30 p.m. Tickets are $15 for adults and $10 for senior citizens and students, call the VU Box Office at (219) 464-5162 to purchase tickets.

Beethoven's masterpiece will be performed by students in the VU Chorale, Symphony Orchestra, Kantorei and University Singers as well as community members in the Bach Choir and Community Choir. VU music faculty will perform as featured soloists.

The community chorus will also participate in an April 5 performance of the final movement of the 9th Symphony at the Chapel of the Resurrection. The April 5 performance begins at 8 p.m. and is free and open to the public.

Christian Women's Conference set for April 29 - May 1

The 2005 Christian Women's Conference at Valparaiso University April 29 - May 1 will celebrate the diverse roles of women and the challenges they champion every day.

The conference allows Christian women of all denominations to explore and grow in their faith while worshipping with other women. This year's theme is "Grounded in Christ."

This year's keynote speaker is Pat Wilson, director of women's ministry at Cherry Creek Presbyterian Church in Denver. Wilson has taught at a seminary, served as a director of adult education and small groups at a large congregation, and served as a principal and director of children's ministry at a Lutheran school.

She will make two featured presentations at the conference entitled "The Astonishing and Unexpected Kindness of God" at the opening session Friday, April 29, and "A New Way to Live," on Saturday, April 30.

Registration for the conference is $95 and must be received by April 15. Groups of four or more may register for $85 a person. The fee includes all sessions as well as lunch and dinner on Saturday.

Those conference attendees may also purchase discount tickets to the University's April 30 Beethoven's 9th Symphony performance.

More information and registration forms are available online at www.valpo.edu/guild/news/cwc.php or by calling (219) 464-5315.

Spring/summer issue of online poetry magazine available

The spring/summer edition of the Valparaiso Poetry Review, Valparaiso University's online literary journal, features award-winning poet Jared Carter. It is available for review at www.valpo.edu/english/vpr/.

Carter, an Indiana poet who grew up in Elwood, received the Walt Whitman Award in 1980 for his first book of poems "Work, For the Night Is Coming." Since then, he has received numerous awards and fellowships, including two grants from the National Endowment for the Arts and the Indiana Governor's Arts Award.

Other poets whose work appears include Walter Baren, Tony Barnstone, Gaylord Brewer, Anne C. Bromley, Patricia Clark, Barbara Crooker, Jan Koenen, Frannie Lindsay, Joel McCollough, Donna Pucciani, Susan Rich, Katherine Riegel, James Rioux, Daniel Saalfeld and Terrence Savoie.

Also in the current issue Dr. Edward Byrne, professor of English, reviews poet William Matthews and Dr. Jeremy Telman, assistant professor of law, reviews works by poet Joshua Meighan.

— Bill Smith

The FORUM
Monthly Photo Contest

A humble abode?

The first person to correctly identify the picture above will win a $10 gift certificate to Jimmy John's.

E-mail your responses to forum@valpo.edu

February answer: The corner of Wacker Drive & LaSalle Street in Chicago.
Introducing the candidates for SBA president

Nick Gonzales, 2L

SBA needs an outsider to come in and help reorganize how student government operates at VUSL. Right now, only members of SBA know what SBA does, and its meetings should be publicized better so to allow everyone a greater opportunity to give his/her input.

My desire is to open the lines of communication between SBA and the student body as a whole. With increased communication, SBA can focus on some of its problems including, but not limited to: increased social events (such as a Bar Night each week), a new Constitution, how to effectively involve the increasing number of student groups, offering more networking opportunities (some non-alcoholic), trying to connect VUSL students with the Valparaiso community (which is why I have decided to accept an invitation to join the United Way’s Emerging Leaders Society which focuses on young person’s involvement in the community in which they reside), and working with the Dean to help improve the quality of life of VUSL students while improving national image.

Although, my opponents will stress their experience with SBA, and the fact that I have not been on SBA, my opponents have not utilized this opportunity to enhance SBA. My opponents did not increase communication with the student body, seek to improve the Constitution or increase the number of social events when they had the chance. Despite their new campaign promises, previous actions and inactions speak louder than words. I hope to work with the entire VUSL community to make SBA as great as it can be. I also would appreciate any input that you may have, as SBA should be led by its constituents.

Thank you for your time in reading this. I am asking for your vote for SBA President on March 31 and April 1 during Chapel Break.

Dan Stahley, 2L

As President of the SBA I guarantee that every penny that is available for spending will be spent. Last year we had a surplus and it appears we will again this year as well. I am not allowed to issue student fee refund checks, so my goal is to spend all of the student fee money that we already paid.

I intend to free up additional money by cutting funds to inactive student groups. Apparently there are some 7,000 student groups on campus that consist of two guys in a basement somewhere smoking squares and playing pinochle. We shouldn’t give money to groups that aren’t active. Conversely, organizations that perennially have popular events should be rewarded with increased funding.

I also intend to plan more events in Chicago. One of the reasons that I came to Valpo was its proximity to Chicago, and I can count on one hand the number of times that I’ve actually gone into the city this year. I would like to schedule events at a Cub’s or Bull’s game. Also, VUSL has a membership at the University Club in Chicago that I feel should get used at least once in my three years here.

Many people do not know that every student at VUSL is a member of SBA. It is supposed to be an inclusive organization, and I think that all of our events this year were a great success and widely attended. However, I perceive that most students do not feel that they play any role in the organization. As your President, I will work to make the SBA more accessible to the entire student body.

Thank you for your time and if you have any questions that require more than 300 words to answer, please stop me in the hallway.

Kristin Nesbitt, 2L

I’m Kristin Nesbitt, your candidate for SBA President. As a two-year SBA veteran, I’ve forged friendships with students and faculty — first as a Faculty Representative, and now as your Secretary. I want to use my experience, balance and relationships to help SBA represent your issues and speak with your voice.

My opponents take a darker view of SBA. They’re entitled to their opinions, but I think SBA is a group that truly cares about you. There’s always room for improvement, however. Three of my ideas for making SBA even better are:

1) Budget Reform: getting you more funding by changing how we allocate money to student organizations.
2) Bringing SBA Back to the Students: helping you retake ownership of SBA by expanding student involvement and getting your opinions.
3) Revamping the SBA Constitution: updating the document that controls how SBA operates by making it reflect our current needs.

These aren’t empty promises — read my specific plans to achieve these goals, and my other ideas, at www.valpovoice.org.

I’d also like to clear up some misinformation. First, it’s ridiculous for my opponents to call SBA elitist. SBA representatives are students you choose to represent you — your own friends.

Second, one opponent is slandering an issue that, ironically, he initially supported: minimum qualifications for presidential candidates. This amendment (it failed) would not keep non-SBA members from running for office — it would require them to attend some of our meetings so they would at least have an idea of what SBA does.

Finally, SBA does communicate with students. Our meetings are open to everyone and listed in the Wesemann Weekly. I personally post our minutes and give them to the Forum, and any SBA member will tell you what we’re doing if you ask.

Raise your voice for experience, ideas, and honesty. Vote Kristin.
Vice presidential candidates

Jamie Druse, 1L

My name is Jamie Druse and I'm running for SBA Vice President. Currently, I am a 1L representative for SBA, and I consider myself a positive, accurate representation of all students. I listen to the concerns of the three classes and voice those concerns fairly and equally. I am devoted to helping to bring SBA closer to the student body.

My leadership experience qualifies me to be the next Vice President. My past positions include Student Senator in college, two years as Treasurer of my sorority, Alpha Phi Omega service fraternity, Past Honored Queen of Job’s Daughters, (a fraternal Masonic organization for young women) and the honor and privilege of serving as Miss Wisconsin Job’s Daughter 2000-2001. In law school, my SBA membership has been my main priority besides academics. Why elect me? I’ve got the experience and motivation to make SBA serve you better. I plan to address the outdated bylaws and budget guidelines, create new events that will actually interest ALL students of the law school, continue SBA’s traditional annual events and even address the vending and coffee machines that don’t seem to ever work right. Organization of SBA needs an overhaul, and with the new President, I strongly believe that I can help bring SBA to the highest level that it can achieve. I am dedicated to my current representative position and if elected, I will show the same perseverance and commitment to the Vice President position. SBA needs some changes, and I am the person to help lead SBA in the right direction. SBA should represent all of the students, not just some. Elect me so that SBA can be a true representation that listens and speaks for you! Your representation should be dedicated to you – I am!

Mahrya Fulfer, 2L

SBA elections are quickly approaching on March 31 and April 1. My name is Mahrya Fulfer and I am running for the position of Vice-President of SBA. Some of you may not know what this position entails. The Vice-President essentially spearheads the event planning for most of the exciting events that SBA sponsors such as the Welcome Back Party and the Cardozo Cup Softball Tournament.

My Public Relations background will be very integral in organizing SBA functions so we can stretch SBA's funds further and get more bang for our bucks. In undergraduate, I was the Public Relations Intern for Millikin University which involved event planning as well as revamping their recruiting image. At VUSL, I have been an active member of SBA serving as the representative for the 2L class. I have also actively endorsed and supported SBA by attending and assisting at most of the SBA functions. Moreover, I have been involved in many other activities such as the school musical, intramural sports, and being the head of the aerobics department at the ARC. I use these outside organizations to gather student reaction to SBA events and the atmosphere in the law school in general, in order to provide the best possible law school experience for my peers.

Through my activities and involvement I have been blessed to have the opportunity to interact with faculty, staff, and students of all classes, including part-time members. By harnessing my experience, fiery spirit, and drive to enhance the good deeds that SBA has already done, I look forward to dedicating myself fully towards the SBA and the demands of our student body. I look forward to receiving your votes and would like to thank you in advance. Remember, good things come in small packages!

Mark Worthley, 1L

Some of you know me, but many of you — upperclassmen, especially — don’t. That’s fine, I’m an SBA outsider. I’ve got 300 words to convince you to vote for me, and I’m going to make each syllable count.

I believe in the Valparaiso School of Law, but I also believe in having fun. Law school is rewarding and stressful, but it sometimes gets very dull. SBA should provide an antidote to the boredom. The current representatives try their very best to foster a sense of community. They host parties, but I believe we could have more interesting social functions. They host parties, but I believe we could have more exciting parties. They host social functions, but I believe we could have more interesting social functions. The simple fact is that the SBA needs to increase participation. I’m the candidate who could bridge the gap between the people who always attend and the people who never show.

I’m going to make sure that everyone has a chance to participate. There’s strength in numbers, and weakness in cliques. I want everyone to feel that he/she is welcome at SBA events. SBA functions aren’t just for SBA regulars, or for ‘friendly faces’ and ‘known quantities’ at the VUSL. Rather, the SBA should strive to serve the needs of all of its constituents. I mean, we are the ones paying for it.

I’m not going to play favorites or cater to special interests. I’m going to work with the other SBA members to ensure that everyone feels welcome at our events. When there’s a party on the horizon, I won’t hesitate to spread the good word. Full-timers or nontraditional students, adjunct professors or tenured lifers, I will guarantee that the SBA continues its mission of providing entertainment for all. A Worthley cause, don’t you think?
EDITORIAL
SBA election endorsements

Kristin Nesbitt to give Valpo a voice again

In this day and age of complacency, a shining star has emerged in this year's race for SBA president. Ms. Nesbitt has run a well-organized campaign, complete with a website, www.valpovoice.org, that should be viewed by anyone voting in this race. Her ideas on changing the way funds are allocated to student organizations as well as her vow to bring SBA back to the students makes her the ideal candidate. She would provide for a more cohesive connection between the real needs of VUSL students as well as the diverse interests they may have in finding jobs, learning about the law as a profession, and simply having a good time outside the classroom.

Outsider Mark Worthley is worth his salt

Mark Worthley is genuinely interested in providing a Student Bar Association for all students regardless of interest or background. His promise to involve all students who may not otherwise become involved in the SBA is a step in the right direction. Under his leadership, there is the most hope for SBA to provide a unified community among all VUSL students that has not existed in recent memory.

Letters to the Editor

Zaidi advocated attacks on American troops

This letter is in response to last month's column by Azra Zaidi titled "The U.S., Iran and the democratic farce." In Ms. Zaidi's column, she criticizes the Bush administration's diplomatic approach to dealing with Iran and Syria, questioning whether or not they were in need of a democratic overhaul. She goes on to write that the United States is the biggest oppressor of democracy in the Middle East and argues this by pointing out America's failure to support democracy in Iran during the Cold War.

I take umbrage to what Ms. Zaidi writes because I feel that 1) her statement of how the U.S. is the biggest oppressor of democracy in the Middle East can be equated to justifying attacks on American troops and 2) her column is so historically skewed that I can only conclude that Ms. Zaidi is either grossly misinformed about the total history of the America's foreign policy in the region or that she is basically an anti-American propagandist and a liar.

Let's start with part one of my response. Whether intentional or not, calling the U.S. "the biggest oppressors of democracy in the Middle East" can be taken as advocating attacks on U.S. and Coalition forces in the region. After all, if the United States is leading this oppressive force, with troops in Iraq, Afghanistan, and a list of other countries in the region, isn't it only appropriate to take arms against such a powerful and oppressive force? Doesn't her argument justify attacks on troops in Iraq, the attack on the USS Cole that killed 16 American sailors, or the bombing of the Air Force barracks in Saudi Arabia back in 1996?

I don't know Ms. Zaidi. And I am not necessarily stating that she is advocating attacks against American troops. But even if she is not, such a statement is wreck-less at best. Furthermore, calling the United States the biggest oppressors of democracy in that region couldn't be further from the truth.

That brings us to part two of my response. The United States IS NOT the biggest oppressors in the Middle East- far from it. And Ms. Zaidi's argument to the contrary is so skewed that it is almost laughable.

Ms. Zaidi points to America's past failures to support democracy in Iran to support her argument. In response I argue that Ms. Zaidi has to look back to the Eisenhower administration and its handling of the Cold War in order to support her claim, then her argument seriously lacks merit. I would argue that we should look to more contemporary examples of US policy before casting judgment. I would submit the free elections held in both Iraq and Afghanistan as more reliable evidence of our support for democracy in the region. So too is the Bush administration's urging for Syria's complete exodus from the Lebanese borders. And since at least the late '70's when President Carter brokered the Camp David Accords between Egypt's Sadat and Israel's Begin, the US has made a sincere (although mostly failed) attempt to help resolve the Arab-Israeli question. Also, I think you could point to Desert Storm as an example of our support for democracy. Okay, Kuwait is a constitutional monarchy, but one could surely argue that the first Gulf war was a stand against Hussein extending his tyrannical rule beyond the Iraqi border.

Finally, Ms. Zaidi argues that Iran is a model of theocratic democracy in the region. I would stipulate that the Iranian people have self-determined this choice in government. Women are allowed to work and hold public office. However, before 9-11, Iran was the second largest financier of Al-Qaeda behind the Taliban's narcotics trade. (See "Al-Qaeda's Revenge: Its Methods and Nation State Allies" David N. Bossie and Christopher M. Gray. http://www.worldthreats.com/al-Qaeda_revenge.htm).

In 1983, Iran helped create Hezbollah (the Party of God). Through the 1980's, Hezbollah leader Imad Fayez Mugniyeh helped orchestrate, among other things, the 1983 bombing of the US Embassy in Beirut that killed 63 Marines, the 1985 hijacking of the TWA Flight 847 from Greece to Beirut, and the 1988 hijacking of a Kuwait Airlines flight to Bangkok. And let's not forget that fact that the Khomeini government held 53 American hostages for...
over 444 days in 1979-80. I am not saying that Iran is an evil country or that theocratic democracy cannot work in the Middle East. However, I would caution Ms. Zaidi from casting stones at America's foreign policy before looking at the bigger historical picture.

Allen Timms, 3L

Zaidi defends own position

To make it easier for me to respond, let me address your concerns on a point-by-point basis.

Point 1: You state that my comments can be equated to justifying attacks on American troops and that I am an anti-American propagandist liar. Mr. Timms, I was not aware that dissent was an indication of hate or justification for attacks on troops. If that is the case then we have a lot of hate in this country against our troops because there are too many proud Americans out there who do not agree with American foreign policy.

Point 2: Five paragraphs later, after your accusations of me supporting the attack on the USS Cole that killed 16 American sailors and the bombing of the Air Force barracks in Saudi Arabia back in 1996, you ask me to look at more contemporary examples. I am glad you bring this up because I would like nothing more than to address the "free elections" held in Afghanistan and Iraq, the Palestine-Israeli issue, and the Kuwait fiasco. You claim these are evidence of U.S. support for democracy in the region. Mr. Timms, I would like to ask that you please rely on something other than FOX News for your international information.

Afghanistan: Christian Parenti, correspondent for the Nation Magazine, gave an interview on Democracy Now reporting that the Afghanistan elections were marked by massive fraud, intimidation and technical errors. In an article by Paul Watson in the LA Times, he documented how "candidates running against American puppet, Hamid Karzai, have been pressured by the US embassy to withdraw from the contest. Zalmay Khalilzad, (US ambassador and former Unocal employee) was said to have confronted a number of candidates and told them to "drop out of the race." The New York Times reported that, "While 1.8 million Afghans registered over the winter months, the number ballooned over the summer to more than 10 million." This means that the registration numbers were "up to 140 per cent of the estimated number of eligible voters;" a sure sign of a vote-rigging scheme. (Seattle Times).

Ah yes Mr. Timms, this must be the great democracy you speak of.

Iraq: It is far too early to speak of what the elections in Iraq result in, but I'm glad that you think free elections can be held in a country occupied and controlled by foreign troops and in the midst of violent warfare. However, let me remind you that despite these elections, the U.S. has no intention of leaving Iraq. We have already established 14 military-bases and defined a program for Iraq that would ensure that the public would have very little control over their economy. Who cares about which puppet comes into power, as long as Iraq is open to U.S. businesses and we are given access to the oil. Some would refer to this as imperialism but I am glad that you see it as the U.S. promoting democracy.

Palestine/Israel: You claim that the US has made a sincere attempt to help resolve the Arab-Israeli issue. Your ignorance, if it was not so frustrating, would be rather humorous. The United States has been the main reason behind the continuance of the Palestinian-Israeli conflict. The U.S. continues to reward Israel with aid despite the fact that Israel has been accused by Amnesty International, Human Rights Watch, Physicians for Human Rights, Public Committee Against Torture, and many others as committing massive human rights violations against Palestinians in the occupied territories.

Somehow, those sincere attempts you speak of are not looking so sincere after all.

Kuwait: I am hesitant to even talk about this issue because I do not have the space to thoroughly explain the nature of the conflict, however, I will address it. In the 1990's Iraq had legitimate concerns that Kuwait was withdrawing more oil than was agreed upon and thus Kuwait's oil policies were having a detrimental effect on Iraq's economy. When Saddam Hussein brought these complaints to the international community, he was ignored and brushed aside. Hussein then took the next step and attempted to invade Kuwait. Instead of taking the diplomatic route as was suggested by the international community at the time, Bush Sr. dispatched hundreds of thousands of U.S. troops and immense firepower to show his might. This was not about a stand against Hussein or making a statement against aggression, this was about keeping the U.S. hand on the pulse of Middle East oil.

For example, if the U.S. was really against aggression then why did we invade Panama and impose a puppet regime? If we really do not like aggression then why didn't we speak out when Turkey invaded northern Cyprus and drove out 200,000 people while killing two thousand of them? Why wasn't the U.S. quick to employ troops when Israel attacked Lebanon and killed about 20,000 people? Why didn't we say anything when Morocco invaded the Western Sahara? Where is the U.S. in these instances? Ah yes, oil was not at stake in these situations.

Point 3: Finally, it is not my contention that Iran is a model for anything. Iran certainly has its problems, none of which concern me in the least. My issues lie only with U.S. international policy.

I have painted a historical picture for you on your own issues; however, I cannot help but continue to cast stones at the empire-like nature of American foreign policy.

Azra Zaidi, 1L

LETTERS POLICY:

The FORUM reserves the right to edit or reject any contribution without notice. Letters must be limited to 400 words and columns to either 400 or 800 words. Contributions must be typed and include the author's contact information; law students must include their year in school. Unsigned letters will not be printed. When referring to specific articles, please include the date and title. Contributions can be sent to: The FORUM, 651 S. College Ave., Valparaiso, IN 46383; via e-mail at forum@valpo.edu; or in hard copy to The FORUM's mailbox located in the SBA office.

FROM THE LAW LIBRARY

BY MIKE BUSHBAUM
Associate Dean for Library Services

I'm very disappointed. I wanted to read a 1936 Yale Law Review article on contracts by Lon Fuller, but Lexis and Westlaw don't have it and my allergies won't let me handle the old Law Review itself. Any suggestions?

You're in luck. The library subscribes to a service called HeinOnline. You can find its link on all the computer lab machines. HeinOnline lets you search and print, in either plain text or PDF, almost all law reviews from the very first article they published.

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Join the cream of the crop

First and second year students should consider joining the Valparaiso University Law Review in planning for next year's activities. Law Review is a student run organization that publishes a journal containing articles, lectures and essays, written by professors and practitioners, and notes, written by its Editorial Board.

As any member of Law Review will likely admit, membership involves a large commitment. However, the benefits of participating in Law Review surface well beyond law school. For instance, interviewers inevitably show interest in members' law review note topics, which provide an opportunity to demonstrate their expertise in a current and personally captivating legal issue.

Also, Law Review enables its members to publish their own work and prepare articles written by professors and practitioners for publication, which are rare and rewarding opportunities for students.

Volume 40, which will be published in the 2005-2006 academic year, already offers various compelling legal topics. The symposium issue, addressing Indiana Continuing Legal Education, will commemorate the twentieth anniversary of the Indiana Supreme Court's decision that required continuing legal education for all attorneys.

Katie Peterson, Volume 40's Executive Symposium Editor, will be working with the Indiana Continuing Legal Education Committee to plan this prestigious event. Multiple authors have already agreed to write for the symposium, including Indiana Supreme Court Chief Justice Randall Shepard and Dean Jay Conison.

Volume 40 will publish articles from the Seeger's Lecture, held in January of 2005 in commemoration of the Miranda decision's fortieth anniversary. Also, Professor Robert Post of Yale Law School, the 2005 Monsanto Lecturer, will submit an article for publication in Volume 40. The Monsanto Lecture will take place on March 31st at 4:00 p.m. in Tabor. Finally, Volume 40 will publish an article written by the Indiana Supreme Court Lecturer, Rennard Strickland of the University of Oregon School of Law. This lecture takes place April 7th at 4:00 p.m. in Tabor.

The Volume 40 Editorial Board invites all first and second year students interested in joining Law Review to attend the annual Law Review Open House. Please keep an eye out for details regarding this event. The Volume 40 Executive Board plans to hold a meeting later this spring to explain the process for joining Law Review and the case comment competition.

In the meantime, please contact Anna Schumaker, Editor in Chief, anna.schumaker@valpo.edu, or Theresa Ellis, Executive Editor of Student Writing, theresa.ellis@valpo.edu, for questions about joining the Review. Questions regarding authors to be published should be directed to Amy Levin, Executive Editor of Publication, amy.levin@valpo.edu, and symposium questions can be answered by Executive Symposium Editor Katie Peterson, katie.peterson@valpo.edu.

For subscription information, please contact Executive Managing Editor Kelly Borchers at kelly.borchers@valpo.edu.

Anna Schumaker is a 2L and can be reached at anna.schumaker@valpo.edu. She is the Editor in Chief of the Law Review for 2005-06.

Do you have what it takes?

With the appellate briefs written and 1L oral arguments coming to an end, try-outs for the 2005-2006 Moot Court Honor Society are "just around the bend."

As stated by Garrett Conover, one of the founding fathers of the Valparaiso Moot Court Honor Society, "Moot Court is more than just a resume enhancement. Although that may be what first attracts you to the society, each member soon learns that the skills you take from Moot Court will help you be a step above your competition in any working environment.

Moot Court helps you refine your legal writing and research skills. Each member participates in the Swygert Competition where they have to prepare an appellate brief and participate in oral arguments. Based on each participant's performance in Swygert as well as in try-outs, members are asked to compete at national competitions. Members are paired together as teams and together they prepare an appellate brief and compete in oral argument rounds.

Through these competitions, as well as in the advanced appellate advocacy classes and workshops, members learn to advocate effectively through writing and speaking.

Aside from the skills that members learn, Moot Court also gives its members the chance to belong to something great. Moot Court is founded on a history of excellence which unites the lucky few who are chosen to represent, with honor, our school nationally. We have the opportunity to be a part of a group of driven and successful students that work hard, but still enjoy spending time together as a team.

Try-outs are open to all first and second-year law students. An informational meeting will be held in Tabor on Thursday, April 14th, during Chapel Break. The first round of try-outs this year will be on Sunday, April 24th. The first round scores are based 50% on your first year legal writing and research skills, and 50% on your oral advocacy skills. Competitors will argue on-brief for this first round. A cut will be made, and those remaining competitors will argue the second round on Wednesday, April 27th.

The second round scores are based 50% on your 1L legal writing appellate brief, which will be scored by us, and then 50% on your oral advocacy skills. Competitors will argue off-brief for this second round.

Each round will be judged by the current Moot Court Honor Society Executive Board, as well as the newly elected 2005-2006 board.

Julia Riecken is a 3L and can be reached at julia.riecken@valpo.edu. She is Associate Justice of 1L Oral Arguments on the Moot Court Honor Society.
**I** continue to grow disheartened at this administration’s global message. George Bush’s latest appointment of Mr. Bolton to the United Nations as the U.S. Permanent Representative is just one more “SCREW YOU” from our leadership to the international community.

Mr. Bolton remains a staunch critic who only seeks to undermine and destroy the spirit of global cooperation at the United Nations.

Yet it remains that we all enjoy the fruits and resources of this world with such indifference to the continuing and dehumanizing poverty to which 1/3 of the world continues to exist.

The UN Millennium summit outlines goals and realistic methods for eradicating poverty, proliferating education, and stopping disease. Yet we continue to exploit and “screw” the system, not allowing it to function or attempt to meet its goals.

I continue to be alarmed at such facts such as in the U.S. alone, we spend over $35 Billion annually on our pets. This more than doubles what we spend on international aid.

Now expand it to the rest of the developed world, and it gets even more depressing. One third of the world continues to sketch out a meager existence on less than $1 a day. ONE THIRD of the people in our global community lack adequate food sources and shelter.

I am reminded just how little our administration cares when they add another nail in the coffin in their continued attempts at destroying international mechanisms that provide the hope that this will not continue.

I am disheartened at the energy and efforts we put forward in the minuitia of our gluttonous lives, and that we do not appreciate the fact that we live among the privileged in this world.

We are lucky and fortunate to be in law school and live in the U.S. We are blessed with what we have comparative to those who go hungry and live in desperation. Don’t feel guilty for what you have that others lack, but don’t take it for granted either.

Please take time to look above the drama, the SBA elections, the course assignments and do something to make a difference for those that are less fortunate.

We should not let Mr. Bush continue to treat the rest of the world with such disrespect; it makes us all look bad.

For my part, I volunteer directly for the UN, and am sitting in the Great Hall of the General Assembly writing this article. Do your part, show the rest of the world that we do care and transcend that American greed for just a minute.

Steven Sutow is a 1L. He can be reached at steven.sutow@valpo.edu.

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**One third of the world continues to sketch out a meager existence on less than $1 a day.**

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**What is life really about?**

**BY BENJI FRYMAN**

**Guest columnist**

When did we begin to forget what life is about? I grew up learning that when you meet someone with a handicap you do what you can to help make his or her life easier.

I always thought that our civilization was interested in science that would cure handicaps. However, it seems lately like we are more interested in eliminating them at any cost than we are in fixing them when they occur.

Thursday, March 17th, a British publication called “The Guardian” printed an article about two doctors who performed an abortion on a woman in her third trimester. The reason they were permitted to perform this late term abortion is that they believed in good faith that there “was a substantial risk the child would be seriously handicapped.”

What was the defect? A possible cleft lip and/or pallet.

Having no medical expertise, I looked up what exactly a cleft lip and palate are and contacted a trusted physician to verify my understanding of the condition.

For those of you who are similarly ignorant on the subject, I will share my newfound knowledge. A cleft lip is where the right and left sides of the lip grow into the roof of the mouth and create a separation of the upper lip that can extend into the nose. A cleft pallet occurs when the roof of the mouth fails to grow together.

With this knowledge, the next question must be: what handicap does this create and is it correctable? The handicap is a completely physical defect that creates speech impediments and a deformity that can be seen on the face.

According to the American Society of Plastic Surgeons, the handicap can be reduced or eliminated with surgery. So the major problem with a cleft lip and/or pallet is a physical deformity.

Is this what civilization has come to: killing the babies that won’t look right? What’s next, eliminating people who fail to meet a reasonable minimum pulchritudinal standard?

I have to admit this issue is somewhat personal to me. My wife is deaf and doesn’t speak the same as hearing people. This leaves me wondering where we are headed. Perhaps in another thirty years someone like my wife will be routinely aborted before she is born. Is this what we consider an advancement?

One question for those students of history: how long can a civilization or society last after it starts killing people based upon their outward appearance? And for those unconditional proponents of abortion, where did you think it was going to lead? Anything can be rationalized as long as it is done slowly over a long period of time. We’ve forgotten what life is really about.

Benji Fryman is a 3L. He can be reached at benji.fryman@valpo.edu.
of Law..."

The SBA Constitution, in Art. III, Sec. 1, Subpara. 2, also states that, “[no] S.B.A. member currently on academic probation shall run for or hold a position on the Administrative Board. If a member of the Administrative Board is placed on academic probation or falls below a 2.0 g.p.a., that member shall be automatically & immediately dismissed from the Administrative Board position.”

In the course of the investigation, The FORUM talked to SBA President Paul Mullin, who said that he expected any member of SBA would “come tell him” should a situation like this arise, so that the appropriate action could have been taken. But since the SBA Administrative Board was unaware of these rules until recently, no proceedings were ever instituted to rectify the issue.

Repercussions
Without correction, this oversight has serious implications on the upcoming SBA Administrative Board and Representative elections this and next month. The vice president and treasurer positions wield robust power over the distribution of funds to all student groups at VUSL, including this newspaper.

The treasurer especially has the power to appoint the members of the Budget Committee who, inter alia, confirm the eligibility of all student organizations, approve the budgets, and allocate available funds. The SBA has approximately $100,000 each year to allocate to student organizations and its own budget.

Though regrettable, if Perez is not automatically and immediately removed from his two positions, as the SBA Constitution requires, crucial provisions of that document, as well as school policy, would be subverted.

And without removal of Druse from the current vice-presidential ballot before the election on March 31 and April 1, the results of the election surely will be disputed by one or both of her two challengers.

CANE WALK continued from page 1

walking with wooden canes. In 1916, the students added straw hats in what was known as the “The Lawyers’ Annual Straw Hat Parade.”

In 1916, the law students paraded a goat with a sign around its neck saying “Pharmies,” to mock the Pharmacy students. The 1918-1919 class carried mountains of pride in their status as graduating law students. A law student in that class saw a popular undergraduate enter a drug store with a cane dangling on his arm.

The law student publicity berated him for infringing on what the law students considered their exclusive right to appear near campus with canes. Adding further insult to the undergraduate, another law student wrote a scathing editorial in the April 12, 1918, edition of The Torch stating “it’s an open insult to every respectable [3L], whether he wears a cane or not, to have such an ignorant mollycoddle as HER to wear a cane.” My guess is the undergraduate got the point and put his cane away.

Law students had a special Cane Walk in 1922 when Pathes Weekly News Service, Fox Films and International Film Co. descended on the city to film the she-nanigans. News reels of the parade were shown in theaters locally, in Chicago and across the nation. In 1923, the local paper wrote “to the great entertainment of the city,” the 3Ls “came crashing down from their pedestal of dignity.”

We’ve lost exactly why the parade is held, but if you view the costumes the students wore during the walk, it is apparent that it was a time to have fun. For a short time around 1916, another parade occurred by law students. The Pajama Parade went through the women’s (teachers) dorms. Not surprisingly, this tradition didn’t last long.

Further history and a photo on the Cane Walk are found in Chapter 2 of Michael Swygert’s book “And, We Must Make Them Noble.” An original cane is on the display in Wesemann Hall’s lobby. The cane was donated by Francis see CANE WALK page 17

by Kelly Vanderwall  >> Story on page 14
Spotlight

The jeopardy of justice

Judges face dangers on and off the bench

"BY KELLY VANDERWALL
Executive editor"

As the job of a judge is certainly rewarding, recently, we were reminded of the danger inherent in promoting justice. February 28, 2005, marked an assault on the federal judicial system and "an attack against the rule of law in the United States." Judicial Conference of the United States, March 15, 2005, Resolution.

It was on this day that Bart Ross murdered the mother and husband of U.S. District Court Judge Joan Humphrey Lefkow. Judge Lefkow sits in the Northern District of Illinois, located in Chicago, Illinois.

Ross was before Judge Lefkow last fall as a pro se litigant—a pro se litigant goes before the court without an attorney, as a representative for himself—bringing a claim of medical malpractice for disfigurement to his face and neck resulting from cancer treatment. Judge Lefkow dismissed the case, a ruling that was affirmed by the Seventh Circuit Court of Appeals in January.

With this as his motivation, Ross entered the Lefkow home in the early morning hours on Feb. 28, 2005, and intended to wait for Judge Lefkow's return later that evening. Judge Lefkow's husband, Michael Lefkow, discovered Ross in the basement. With a series of gunshots, Ross killed both Michael Lefkow and Judge Lefkow's 86-year-old mother, Donna Humphrey.

Ross was pulled over for a routine traffic stop on March 9, 2005, and before the officer approached the vehicle, Ross had shot and killed himself. A suicide letter and DNA from a cigarette left at the scene of the Lefkow and Humphrey murders linked Ross to the crime.

Less than two weeks later, in Atlanta, Georgia, Judge Rowland Barnes was killed along with a court reporter and a deputy at a courthouse. The assailant, Brian Nichols, was being escorted into the courtroom for a rape trial when he overpowered the sheriff's deputy and

"Christopher A. Nuechterlein"

obtained her gun. Nichols fled from the courthouse and the following day entered the home of a U.S. Customs and Immigration officer. Nichols killed the officer and stole his badge and gun. Nichols then took a woman hostage as she was entering her apartment. The woman convinced Nichols to release her, after which she was able to contact authorities. Nichols eventually surrendered to authorities.

Danger to judges

These two tragedies have raised awareness in the public and especially in the legal community of the risk of violence to the members of our judicial system. Of particular interest are the reactions of fellow federal court judges and friends of the VUSL community.

U.S. District Court Judge Rebecca Pallmeyer, VU '76, also sits as a judge in the Northern District of Illinois, and calls Judge Joan Lefkow her friend and colleague. Pallmeyer commented to The FORUM that although she feels safe both in the federal courthouse in the Dirksen Building in Chicago, and in her courtroom, she has also been the recipient of threats.

Similarly, Magistrate Judge Christopher Nuechterlein, Northern District of Indiana, South Bend Division, VUSL '76, and Magistrate Judge Andrew Rodovich, Northern District of Indiana, Hammond Division, VUSL '73, also feel secure within their courthouses and courtrooms.

While Judge Nuechterlein is not aware of any threats directed at him, Judge Rodovich suspects that some nighttime hang-up phone calls some time ago were related to a ruling he made on a case.

While safety is always a concern, this concern seems to be more prominent concerning pro se litigants. Judge Rodovich commented that he believes pro se litigants are more of a threat than a criminal defendant. In addition, in a State of the Court address, Chief Judge Charles P. Kocoras, Northern District of Illinois, stated that "It is no longer going to be enough to determine the correct legal answer to a myriad of disputes; it will often be necessary, especially with pro se litigants, to attempt to divine how they may receive our rulings."

While Judges Pallmeyer, Nuechterlein and Rodovich all expressed confidence in the U.S. Marshals Service, it is apparent that further steps need to be taken in order to protect judges outside of the courthouse, where they are most vulnerable.

Fixing the problem

The Judicial Conference of the United States (the Conference), charged with making policy regarding the administration of the U.S. courts, passed a resolution on March 15, 2005, "calling upon all leaders of the U.S. Marshals Service (whose primary responsibility is the security of the federal judiciary and their families) to review fully and expeditiously all aspects of judicial security and, in particular, security at judges' homes and other locations away from the courthouse. The Conference also called for funding from the legislative and executive branches to support this effort.

As Judge Pallmeyer so eloquently states, "The matter of security for federal and state judges and their families is a matter that should be of grave concern to every citizen who values the rule of law."

"A civilized society, a viable economic system, and the guarantees of liberty and fair treatment for all persons are goals that cannot be achieved without an effective judicial system."

The FORUM would like to express sincere thanks to Judges Pallmeyer, Nuechterlein and Rodovich for their candid responses to our request for information. In addition, The FORUM extends genuine condolences to Judge Lefkow and her family and also to the families of the victims of the Atlanta tragedy in their time of grief.
Volunteering for change
Providing kids with better lives and a better tomorrow

The glass is empty and now his whisky temper's swelling. It's only getting worse so here is your chance to stop reading.

Knuckles all white and loaded up with anger, he starts yelling like the devil about that damn bastard boy costing him his lousy paycheck because all he ever does is eat and eat and feed his endless boyhood hunger.

And the boy is hungry again because he is stretching into a young man. But he is smart with fear and knows he must quiet his stomach and become like the darkness to avoid the man's rage.

And he is also smart because he has been struck black and blue before and again when he didn't choose right and hide.

So he understands if he can just pass a few hours hidden beneath his dirty clothes inside his closet, this man his mom claims to love, because she can't leave, will surrender to his stupor. And so it goes.

Kind of the same yet different because her mom loves her but can't stay clean because, oh, how that heroine has shark's teeth and a mouth so large it swallows everything.

So the little girl's favorite pink bow that she loves to wear sits on the floor in a pile of dirty clothes, untied and waiting for the mother to come down again so there will be someone to tie it into the girl's hair. And the little girl sits and waits because she wants to read but is stuck alone in the quiet with no one to help her pronounce "sunshine." And so it goes.

Consider your good fortune not against those with more, but those with pitifully less. But pitying is a selfish exercise that changes nothing and I want to call you to action and change.

A problem with law school is that it becomes effortlessly simple to focus all of one's attention and energy inwardly. However, this phenomenon is not restricted to law school. It is the pressure of achievement, whether it is attaining high grades, landing a solid job or securing a promotion, bearing down full force which can warp one's ability to act selflessly.

I am convinced selfishness is not necessarily a choice people make but a sidelong symptom that accompanies the improper balancing of personal achievement against the needs of others.

A Court Appointed Special Advocate ("CASA") is a volunteer who has completed a training program and has been court appointed.

In Valparaiso, The Family and Youth Services Bureau offers training programs and the Porter County Juvenile Court System assigns CASA(s).

A CASA acts as an independent advocate for an abused or neglected child, providing the child with a voice in what services are to be afforded for him/her in planning for the family's future.

Because the CASA is able to make completely independent recommendations and concentrate solely on the child, the CASA can help assure that placements of the child are truly in the best interests of the child.

Any adult, age 21 or over, can submit an application to become a CASA. Volunteers should be mature, responsible people with good judgment who have the ability to remain objective, to relate to families and professionals and communicate orally and in writing. Change your focus. Share your good fortune. Speak up for a child.

Chad Montgomery is a 2L and The FORUM's Production Editor. He can be reached at chad.montgomery@valpo.edu

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The Christian thing to do

Katherine Lord

It's the question now being asked in solemn discussions around the country, as a conversation-starter at the dinner table, and as part of serious planning within families and between couples: What would you want if you were in Terri Schiavo's position? Would you want to be kept alive?

In a recent ABC News-Washington Post poll, an overwhelming 87% of respondents said that if they were in Terri Schiavo's situation, they would want their feeding tube removed. Is this attitude "cavalier" toward the life of Terri Schiavo? Do those of us who would choose to die rather than live without cognition, voluntary movement or awareness really believe that the lives of those in such a state are worth less than an active, independent person? Are our attitudes, as suggested by Professor Stith, somehow un-Christian? I don't believe so.

Religious people of good faith do not speak with one voice on the question of Terri Schiavo's fate. It is, in fact, somewhat ironic that much of this spectacle has come to a head during this past Holy Week, a time when devout Christians ponder the relationship between life and death. Catholic theology teaches that the story of Easter is about the triumph of eternal life over death, but that death is not an absolute defeat.

The Reverend John Paris, professor of bioethics, remarked in a recent interview that "Catholics have never believed that biological life is an end in and of itself. We've been created as a gift from God and are ultimately destined to go back to God. And we've been destined in this life to be involved in relationships. And when the capacity from that life is exhausted, there is no obligation to sustain it."

Christian teachings call us to care for the weak and sick among us, and to view life as a blessing that cannot be dimmed by the onset of illness, disability or infirmity. On the other hand, most Christians believe that the everyday miracle that is our body is not the sum total of our existence. We have been created as thinking, feeling beings capable of loving and planning and creating and hurting. If, for a loved one, all of that is gone — those emotions and thoughts that truly made them human and a reflection of God — is it not Christian to release them from their heavy, earthly body to join their God?

God has certainly been a buzzword of this whole tragic situation, and the conservative leaders in government, after a thorough study I'm sure, have determined that God is on their side in this issue as well. "One thing God has brought to us is Terri Schiavo," said House Majority Leader Tom DeLay. "This is exactly the issue that's going on in America, the attacks on the conservative movement against me and many others ... This is a huge nationwide concerted effort to destroy everything we believe in ... and we have to fight back."

see LORD page 18

The other Terris

BY RICHARD STITH
Guest columnist

Defenders of Michael Schiavo's decision to remove the tube supplying food and water to his estranged wife often point to the many courts which have reviewed his action. Terri has indeed been lucky to have had an extensive review of some aspects of her case. But what about the countless patients, in Florida and elsewhere, who die of dehydration with no review whatsoever?

According to dicta in the Florida Supreme Court's 1990 Browning case, unless there is a family dispute, all legally incompetent patients — not only those alleged to be vegetative, but those fully alert and talkative — can be denied artificially-supplied food and water by their guardian or surrogate, without a living will or any prior judicial hearing whatsoever. Although recognizing "that a surrogate might act contrary to the wishes of the patient," the court required in Browning only that the surrogate be able to prove (not actually prove to a judge) what the patient would want with "clear and convincing" evidence and be satisfied that the "evidence of the patient's oral declarations is reliable."

A dissenting judge in Browning pointed out that judicial approval is required before a guardian can even sell property of a ward, and he worried presciently "that, if there is no judicial involvement, those decisions could be made by surrogates who would benefit financially from an early termination of the ward's life." This is just what might have happened to Terri long ago, if she had not had parents ready to fight for her. Have there been other Terris who have died defenseless and unnoticed?

Why is the Florida legal system so cavalier about the lives of most people like Terri? Is it because the fate of minimally communicative people — or even of all incompetents — doesn't matter much to the rest of us? The Browning majority remarks that the only alternative to death for such people is "a bare existence."

Florida is by no means the worst state in terms of its lack of concern for the lives of those with serious disabilities. In many hospitals across the U.S., the prior wish of a patient to be supplied with food and water through a tube can actually be overridden by doctors who think such feeding "futile" because her life is worthless—even if her desire to live has been clearly expressed in a written advance directive.

The leading legal theorist Ronald Dworkin explains more deeply why such a patient would (for him) lack worth, why it could be right for judges and doctors to weigh a wish to die more heavily than a wish to live on in a state of dependency. He writes: "We are distressed by, even disapprove of, someone ... who neglects or sacrifices the independence we think dignity requires." For Dworkin, a person who chooses to live in great dependency denies that she is someone "whose life is important for its own sake." He quotes with approval the nineteenth-century death-of-God philosopher Friedrich Nietzsche on this point: "To go on vegetating in cowardly dependence on physicians and machinations, after the meaning of life, the right to life, has been lost, that ought to prompt a profound contempt in society."

Nietzsche called this philosophy "practical nihilism" and complained that, in his day, Christians stood in the way of its success. "This universal [Christian] love of men is in practice the preference for the suffering, underprivileged, degenerate ... The species requires that the ill-constituted, weak, degenerate perish ... and not [live on in] a feeble, vegetable existence in expectation of a false afterlife."
Defining frivolity, in a legal sense

Much of the media spin and social angst pointed at the legal profession emanates from the euphemistic turn of phrase “frivolous lawsuit.” What, though, does this oft-used insult to professional integrity mean?

Most people who pay little attention to legal news remember the media uproar surrounding a woman who spilled her coffee in her lap. As the story goes, she put the coffee between her legs and drove away from the drive-thru window. She spilled her coffee and suffered terrible burns to the inside of her thighs. A jury of her peers set damages at almost $3 million.

Most consumers of mass media reflect upon this as one of the prime examples of our excessively litigious society. It seems that the amount of litigation drives this conception of the legal profession. This alone, though, does not provide an adequate understanding of what makes a lawsuit frivolous in nature.

Merriam-Webster defines frivolous as of little weight or importance or having no sound basis. Defining excessive litigation as frivolous based on this definition is a misnomer. The legal system, through procedure, will weed out claims that lack a sound legal basis. Federal Rule of Civil Procedure 12(b)(6) allows defendants to move for dismissal when the plaintiff fails to state a claim upon which the court may grant relief. Procedural safeguards render the euphemism less than categorical.

Society has misplaced the focus of its scorn when it comes to frivolous suits because any case that makes it to trial is not, by definition, frivolous. Media sensationalism focuses on the massive remedies handed out by juries. The previously mentioned McDonald’s litigation underscores this point.

Social disquiet with the McDonald’s litigation from 1994 focused on the amount of money the plaintiff recovered for spilling coffee in her lap. Liebeck v. McDonald’s Restaurants, P.T.S., Inc., 1995 WL 360309 (N.M.Dist., 1994); see also http://www.captran.com/ mcdonalds.asp. The judge subsequently reduced the damages in this case for several reasons, but ultimately, the plaintiff did not recover the jury award of $2.9 million.

The checks within the legal system prevent precisely what the media attacks as the fallibility of the system. Other critics comment on the growing number of lawsuits filed in civil courts. The cause is speculative, ranging from an increase in population to an increase in economic transaction. Legislators seem to think that, though the system polices its self, the problem is systemic, but tort reform is not the answer.

This March, Congress passed the Class Action Fairness Act. As the first of possibly many tort reform bills, the act allows defendants to remove class action lawsuits to federal court, provided the case meets the minimum diversity requirement. Ultimately, this and other reform measures will limit the rights of individual litigants by giving defendants greater power while retaining the presumptive balance in their favor.

Rather than limit the rights of plaintiffs, the legislative bodies should see the increase in litigation as an indication of problems that need resolution in other areas of society and the economy. Greater regulation in manufacturing would pass the cost of safety on to consumers rather than the cost of litigation and settlement.

Similarly, insurance regulation could encourage doctors to reenter private practice with the incentive of more manageable malpractice premiums.

The legal system has proved its ability to self regulate. Frivolous lawsuits may still exist, but the term as it’s commonly used now only supports the sophist’s position that the system needs reform, a position equally as frivolous as its tenets.

Andrew Smith is a 2L. He can be reached at richard.smith1@valpo.edu.

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Not surprisingly, some Christians still stand in the way of this philosophy. Pope John Paul II declared last year that even those who, unlike Terri, are terminally ill and exhibit “no evident sign of self-awareness or of awareness of the environment, and seem unable to interact with others or to react to specific stimuli” still “retain their human dignity in all its fullness.” The Pope insisted further that “it is necessary to promote the taking of positive actions as a stand against pressures to withdraw hydration and nutrition as a way to put an end to the lives of these patients.”

Who is right, Dworkin or the Pope? Does someone who does not count equality a thing to be grasped, who accepts the loss of all independence, thereby diminish her dignity and the value of her life?

Richard Stith teaches at the Valparaiso University School of Law. Besides his law degree, he has a Ph.D. in Religious Ethics, both from Yale, and has served as Director of Medical Ethics at the St. Louis University School of Medicine. All capitalization and italicization in quotations presented in the essay were already in the originals.

“Fighting back” in this case apparently means using legislative maneuvers with only a dubious connection to the Constitution to maintain the biological functions of a woman who seems not to have wanted to be kept alive in this way. It means widening the enormous gap within a family and the culture divide of this country. It means building up the hopes of every parent that someday the president will fly back from his ranch to sign emergency bills. Who is right—the President or Dworkin? Does someone who does not count equality a thing to be grasped, who accepts the loss of all independence, thereby diminish her dignity and the value of her life?

Katherine Lord is a 3L. She can be reached at katherine.lord@valpo.edu.

**Crossword Solution**

```
PICNIC FUN
HALO SLOP SCOW
ACID WORE HONE
THREE ELEGGED RACE
SEANAPPELLED
WITH CHARLIE
HEELEER POOL SBA
AXLE EQUAL SOES
PITCH HORSES HOSES
PLOT OUST AORTA
YENTUBE CLASSY
GALLLENCOLLE
MAIL SARC THAD
EGGANDSPOON RACE
MOTA OPEN AURA
OGRE GARY GLEN
```

Q: I keep hearing about the Moot Court Society. What do they do and how does one become a part of the organization? — J.C., 2L

B&B: Well, this took some investigation, because the Moot Court Society is an elite and highly secretive bunch. But we were able to find some things out. First you must ask yourself: did you enjoy the challenge of writing your appellate brief or arguing in your 1L oral argument? If no, then you may want to reconsider Moot Court. Otherwise, continue practicing your oral argument and sign up to try out on April 24th. Both 1Ls and 2Ls can tryout. You will argue your 1L brief again, in front of a panel of current and next year’s Moot Court board members. If you are selected, you will argue again on April 27th. Sometime around midnight, look for the Papal white smoke signal to emerge from the Law School, indicating that the new Society members have been chosen. Full members have the automatic privilege to compete in a national competition and associate members will have an opportunity to earn a chance to compete nationally by doing well in the Swygert Competition next fall. The bottom line is practice as much as possible to make the Society. Practice by yourself, in front of a mirror, or with your peers.

Q: What is the process for joining law review and the advantages of joining? — Lance, 1L

B&B: Again, we went to a person that is actually on Law Review for this one, and he was kind enough to explain the process. Applying to join law review begins towards the end of spring semester. In short, as soon as exams are finished in the spring, all first-year students (or technically since exams are done, second year students) have the chance to write a case comment on a case chosen by those on the Law Review board. After applicants submit the case comments, third-year students on Law Review will review the submissions and determine, based on the quality of the case comment, and in some circumstances a combination of the quality of the comment and grades, who will be invited to join Law Review. Being a member of Law Review has many advantages. Many employers interviewing for clerkships will only interview those on law review, and the topic you choose to write on is often a great conversation topic for those interviews. In addition, writing a note for Law Review provides you with the opportunity to contribute meaningfully to the legal community, on a topic of your choosing. Law review is a lot of hard work, but is a very rewarding experience.

We anxiously await your questions! Please send all questions to forum@valpo.edu, with B&B in the subject line.

**Be reasonably prudent.**

**Read The FORUM**
3L Jenna Rager

Hometown: South Bend, IN
Undergraduate School: Indiana University
Undergraduate Major: Psychology

Family:
Parents, John and Carrie; Sisters, Erika and Brittany

Why Law School?
I thought it was the best way to achieve my career goals. I wanted to be able to help people. Not to mention, my older sister went to medical school, so I had to go to graduate school too.

Why Valpo Law?
I wanted to stay close to home. I liked the size and friendliness of Valpo.

What is your favorite Easter candy?
Brach's chocolate covered marshmallow bunnies.

How long did you believe in the Easter bunny?
Until I was five - I was devastated to learn the truth.

Who do you think has a better case: Michael Jackson or the prosecution?
I think (hope) the prosecution has a better case. However, I wasn't at the Neverland ranch, so I really don't know what happened.

Who is your favorite Supreme Court Justice and why?
Ruth Bader Ginsburg. I respect her efforts to advance women's rights as well as her support of civil liberties. She recognizes that federal courts should be "in touch with the diverse society law exists to serve."

What kind of law do you want to practice?
Employment Law or Healthcare Law, but I'll take anything at this point.

Any advice to 1L students?
Enjoy law school, it will be over before you know it. Also, go to class and/or read your assignments - it makes studying for exams a lot easier and a lot less stressful. Plus your friends won't think you have died or been kicked out if you show up to class regularly.

What is your most interesting class?
Medical Malpractice.

2L Jim Pappas

Hometown: Palatine, IL
Undergraduate School: DePaul University
Undergraduate Major: Finance and Economics

Family:
Mom, Dad, two brothers and two sisters.

Why Law School?
I wanted to know what it felt like to be unemployed and $100,000 in debt.

Why Valpo Law?
Because, "Valpo Law is Real."

What is your favorite Easter candy?
Peep peep peep.

How long did you believe in the Easter bunny?
What's an Easter bunny?

Who do you think has a better case: Michael Jackson or the prosecution?
Yes, yes I do think the Cubs will win the pennant.

Who is your favorite Supreme Court Justice and why?
Oh, I can't choose just one, they're all equally awesome.

What kind of law do you want to practice?
Corporate.

Any advice to 1L students?
The better question is can they give me some advice.

What is your most interesting class?
You could say legal writing was interesting or something like that.

1L Tom Grossman

Hometown: Carmel, IL
Undergraduate School: Indiana University
Undergraduate Major: Psychology

Family:
Dad: Thomas E. Grossman, Jr.; Mother - Deceased; Paternal Grandmother- Dr. Elizabeth Grossman; Maternal Grandmother- Andrea Gambill; Cousin - Joe Bureker (only 2 weeks apart in age and like a brother); Uncle - Scott Gambill. Very close with lots of cousins.

Why Law School?
Oh that's easy. Because my grandmother's solution to all my problems has been "put it in the hands of the Lord" and "Go to law school" Plus, I thought it would be nice to provide a one-stop-shop for clients. You know, do a little counseling and diagnosis and then help them with their legal affairs. Then maybe I can help them with their home financing needs too.

Why Valpo Law?
Well, when Harvard only offered me a partial scholarship instead of a full scholarship I thought I would explore my other options. Actually, I received very positive feedback about VUSL from close family friends who are alumni. I also decided not to be far from my grandmothers in case they needed anything.

What is your favorite Easter candy?
Candy canes! No, wait. That's Christmas isn't it? I'm not a big candy eater, but I'm gonna have to go with anything chocolate. It's an aphrodisiac ya know.

How long did you believe in the Easter bunny?
Well, last year I caught my dad changing into his bunny costume early Easter Sunday morning and began to think perhaps I had been duped all these years. This is still pretty hard for me to talk about. Can we move on to the next question please?

Who do you think has a better case: Michael Jackson or the prosecution?
Michael Jackson. I think his fingerprints may have faded away... I'm not a big Michael Jackson fan, but I'm gonna have to go with anything chocolate. It's an aphrodisiac ya know.

Who is your favorite Supreme Court Justice and why?
Are you serious?! I have no idea. Maybe Justice Thomas because he provides cogent analyses and his opinions seem to be fairly brief.

What kind of law do you want to practice?
I'm keeping my options open at this time. Likely Business Law or Corporate Law. I have many experiences to draw upon and I don't want to pigeonhole myself just yet.

Any advice to 1L students?
Stay positive and keep your eye on the big picture. Eat, drink, and be merry (quoting my favorite artist - Dave Matthews). Oh, and study a lot too.

What is your most interesting class?
The Rule Against Perpetuities is fascinating, but I find the Torts cases to be most enjoyable.
In addition to citing in his new book that current Baltimore Oriole first baseman Rafael Palmeiro used steroids, retired ballplayer Jose Canseco stated on the CBS show 60 Minutes that Canseco personally injected Palmeiro with steroids when Canseco and Palmeiro were teammates for the Texas Rangers in 1992. Since then, Palmeiro has emphatically denied the use of steroids.

As a result of the allegations, Palmeiro has mentioned the possibility of filing suit against Canseco. Although Palmeiro may feel he has sufficient grounds to file suit, he may have a difficult time prevailing depending on which avenue he pursues.

Under these facts, two common claims include defamation and invasion of privacy. Even though these two claims seem logical, each may create substantial problems for Palmeiro. Specifically, it is especially difficult for a plaintiff to overcome the burden of proof in such cases.

In a defamation action, courts typically look to the status of the individual being libeled as well as the content of speech. The court would weigh Palmeiro’s need to protect his reputation against Canseco’s First Amendment rights to expression.

First, the court would likely examine state law and inquire whether Palmeiro’s reputation was injured. If so, then the court would likely determine whether Canseco’s First Amendment rights prohibit imposition of liability. Absent an imposition of liability, the court would likely analyze whether Palmeiro is a public figure.

In order to prevail, a public figure bears the actual malice burden in proving the material false. This standard requires substantiated proof that the statement was false or that it was made with reckless disregard of the truth.

Moreover, the court has expressly recognized that because public figures have greater access to the media and that they typically have thrust themselves into the vortex of public issues, they therefore become exposed to an increased risk for defamatory injury.

Palmeiro is likely considered a public figure. In Cepeda v. Cowles Magazines & Broadcasting, Inc., the U.S. Supreme Court held that Cepeda, a professional first baseman who was libeled in a magazine article, was clearly a public figure because he was a prominent team member that had won the National League pennant. He was also one of the best players on the team.

The court concluded the statements in the article would likely create feelings of contempt and ridicule toward Cepeda. These statements injured Cepeda’s career by putting other teams on notice that if they acquired Cepeda, in addition to getting his professional ability to play they would acquire his liabilities alleged in the article.

Here, Palmeiro, by playing professional baseball, has likely thrust himself into the vortex of the public eye. Because he has such widespread access to media he has likely waived his right to protect his reputation.

Analogous to Cepeda, Palmeiro would likely have a difficult time negotiating a contract, for example, or even obtaining the interest of teams around the league because all the organizations are now aware that Palmeiro may have indeed used steroids. Such teams may not want to acquire this liability.

Therefore, to prove falsity of Canseco’s statement or that it was made with reckless disregard of the truth, Palmeiro would need to present evidence showing Canseco was out to get him or was writing such false statements as a vengeful act. Absent a showing of evidence, the burden is too difficult to overcome and in all likelihood Palmeiro would not prevail.

Another avenue exists, however. As mentioned above, a crafty attorney may want to bootstrap an invasion of privacy claim to the defamation action. Invasion of privacy is an unjustified exploitation of one’s personality or intrusion into one’s personal activity.

Unlike the defamation claim where the purpose is to protect one’s reputation, invasion of privacy is used to protect one’s interest in being let alone. The interest is in the individual in not appearing before the public in an objectionable false light.

False light is usually alleged when there is a tremendous misrepresentation of character. The question is whether the statement was objectionable to the ordinary reasonable person under the circumstances.

Here, Palmeiro would need to demonstrate 1) the publication of facts by Canseco places Palmeiro in a false light in the public eye; 2) the false light is of a matter that would be objectionable to a reasonable person under the circumstances; and 3) there was malice on the part of the defendant where the published matter is in the public interest.

Further, Palmeiro will likely be concerned that because he is a baseball player, he voluntarily placed himself in the public eye and thus as a public figure has no right to complain of a publicity that reasonably bears upon his public activity. Palmeiro’s fame and accomplishments (10th most all-time home runs) would likely give rise to a waiver of privacy.

Presumably the court wouldn’t ignore the fact that the public has a legitimate interest in Palmeiro’s affairs, i.e. cheating in baseball.

In fact, Congress recently held a hearing on the matter in which it expressed concerns regarding cheating in baseball, steroid use, and protecting the youth of America. Thus, the court may likely find that Palmeiro has lost his right to privacy merely because he is a public figure.

However, Palmeiro would likely contend that he did not waive his right to privacy based on the extreme falsity of the statement, which may persuade the court to find that Palmeiro does indeed have a right to privacy. But this seems all too unlikely.

Thus, although at first glance defamation and invasion of privacy claims seem favorable for Palmeiro, as a practical matter, it is highly unlikely for Palmeiro to prevail.

Robert L. Marrs, III is a 2L. He can be reached at robert.marrsiii@valpo.edu.
The Evil Empire of Sports, a.k.a. ESPN, has created a new network aimed at college sports. "Creatively" named ESPNU, it launched on March 4, 2005. I sacrificed a Friday night to chronicle this historic event for you, Dear Reader. (Note: I watched this from my home, so I apologize in advance for any entries off point.) And now, the historic launching of ESPNU:

6:01 - Chris Fowler has a remarkable semblance to Jim Nantz. It's already one minute into the telecast and I'm anxiously awaiting a camera scan to the 14th green at Augusta.

6:13 - Did Digger Phelps crack a smile?

6:13.15 - Upon further investigation, I think it may have been gas.

6:13.25 - Jay Bilas' face confirms, it was definitely gas.

6:24 - Martha Stewart was released from prison, how about that. Wait a sec-

ond... Mom, I was watching that, turn it back. I know you love Martha Stewart, but watching her release from prison is lamer than watching the O.J. Bronco chase.

6:37 - Maybe it is just a coincidence, but my dog has howled every time Jay Bilas has spoken.

7:02 - Bill O'Reilly is still on the air after that sexual harassment charge? Wait, Mom! I don't want no-spin analysis of Martha Stewart's release!

7:23 - Did Martha Stewart lose weight? Mom!!! I don't care if you want to learn her new banana flambé dish; she hasn't done a new show yet. No, I won't regret it when you do learn how to make it, I hate bananas anyway.

7:24 - That picture doesn't prove I like bananas, it was taken in 1983. Fine, go find something more recent then.

7:31 - Did a mothball just fall out of Digger Phelps' ear?

7:31.30 - Nope, just earwax.

7:31.35 - Earwax?!? I almost wish it were a mothball!

7:49 - Why does Andy Katz look like Larry King? MOM!!! Larry King is only giving a preview; you can watch him in ten minutes! He's not going to say anything about Martha Stewart's release now that he won't say during his show later! Yes, you have my word.

7:55 - Mike Hall introduces 3 Doors Down. The highlight of a career earned by winning a reality television show.

7:57 - Mom, that picture was taken in 1985, it still doesn't prove I like bananas. By recent, I meant sometime within the last ten years.

8:00 - It's finally over. Moral of the premiere: I should have spent the night at a bar.

Joey Favata is a 2L and can be reached at joefavata@valpo.edu. You can also listen to Joey every Thursday night from 8-10 p.m. on Valparaiso University's radio station, The Source 95.1 FM.
Crossword 101

Across
1 Saintly light
5 Pigswill
9 Barge
13 Comes before rain or rock
14 Comes before off or out
15 Use a whetstone
16 Picnic contest
20 Mediterranean, for one
21 Scruff
22 Skinned
23 Give off
24 Florida 2000 election problem
25 Shoemaker?
28 Share-a-ride
29 Barnyard sound
32 Shafts
33 Twofold
34 Weeps openly
35 Picnic contest
36 Storyline
39 Boot out
40 Main trunk line
41 Hankering
42 London subway
43 Elegant and fashionable
44 Mailed
45 Refrigerate
46 Sent out
49 Gas station name
50 Possessed
53 Picnic contest
56 Law school court
57 Pro-am tournament
58 Atmosphere
59 Monster
60 ____ Player
61 ____ Cove, L.I.

Down
1 Bowlers
2 Pain
3 Euro preclude
4 Keats’ Grecian Urn, e.g.
5 Used a broom
6 Theater area

7 AMA, e.g.
8 Crack in the door, e.g.
9 Tear
10 Iron horse fodder
11 ____ in a while
12 Cigarette:Slang
13 Tangle
18 Resting place
19 Divvy up cards
23 Choose
24 Glide
25 Grumpy’s friend
26 Expel from a country
27 Mr. John
28 Evening bag
29 Mannerless people
30 Assists
31 Estimate
33 Uncertainty
34 Sandbank
36 Basset
37 Speakeasy
40 Adolescent
43 Fashion designer Chanel
44 List of candidates
45 Buddy
46 Written reminder
47 Highly excited
48 Composer Stravinsky
49 Copycat
50 Drag
51 Real estate term
52 Howard of Vermont
54 Saratoga feature
55 Sensationalistic newspaper

Quotable Quote
Sharks are as tough as those football fans who take their shirts off during games in Chicago in January, only more intelligent.

• • • Dave Barry

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Feeling self conscious, the new monitors around campus suddenly turned off to avoid exposure to further student moaning about their cost and placement.

Leo Bonser, 3L, shows an unidentified student the manuscript to his upcoming book, “The Advantages of Uncombed Hair.”

Judging by their composite photograph, the VUSL Class of 2005 proves to be:

a) the youngest graduating class in five years;
b) the largest graduating class in nearly a decade;
c) just another group who spent far too many hours selecting their attire only to find out that in seven years they will look as ridiculous as every other past class.

Legal Trivia
Quotation Edition

Who said the following:

1) “The first thing we do, let’s kill all the lawyers.”
2) “I have sworn upon the altar of God eternal hostility against every form of tyranny over the mind of man.”
4) “We should be eternally vigilant against attempts to check the expression of opinions that we loathe.”
5) “Where there is hunger, law is not regarded; and where the law is not regarded, there will be hunger.”
6) “Wrong must not win by technicalities.”
7) “Distrust all in whom the impulse to punish is powerful.”
8) “Law is mind without reason.”
9) “A jury consists of twelve persons chosen to decide who has the better lawyer.”
10) “Law never is, but is always about to be.”
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