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Professor Lind honored at opening convocation

BY KELLY VANDERWALL
Editor in Chief

On Tuesday, August 23, 2005, Professor JoEllen Lind was honored at this year’s annual opening convocation by receiving Valpo’s Distinguished Faculty Award for the School of Law.

The Distinguished Faculty Award honors professors in the School of Law who are exceptional teachers, scholars, and role models. Lind has been a professor of law since 1991 and teaches civil procedure, UCC commercial paper, remedies and various seminar courses.

Originally from California, Lind received her BA from Stanford University and her JD from UCLA. Lind is also in the process of earning her doctorate in political philosophy from the University of Utah.

Lind commented, “I am really honored to receive the award, as so many of my colleagues are such gifted teachers and scholars. I believe that I have the best job in the world as it allows me to explore ideas that matter with talented young people embarking on one of the most important professions that exists.”

The FORUM would like to congratulate Professor Lind on her accomplishments and well deserved receipt of the Distinguished Faculty Award.

Welcome, Class of 2008

2005 Incoming Class Statistics

Full-Time Students: 172
Part-Time Students: 27
Average LSAT: 153
LSAT Range: 145-167
75th Percentile: 155
25th Percentile: 150
Average GPA: 3.25
GPA Range: 2.23-4.14
75th Percentile: 3.57
25th Percentile: 2.92
Average Age: 25

Age Range: 21-43 (64)
Male: 64%; Female: 36%

Undergraduate Institutions Represented

Adrian College (2)
American University
Appalachian State University
Aquinas College-MI
Auburn University
Austen Peay State University
Azusa Pacific University
Ball State University (4)
Barry University
Baylor University
Belmont University
Brandeis University
Brigham Young University (2)
Brigham Young University-ID
Butler University (4)
Calumet College of Saint Joseph
Calvin College
Carnegie Mellon University
Central Michigan University
Clemson University
Colgate University (2)
College of Charleston
College of William and Mary
Colorado State University
Cornell University-NY
DePauw University (4)
Dordt College
Drake University
Excelsior College
George Washington University
Goshen College
Hamline-Lagrange College
Hanover College
Harvard University

see STATS page 17
NEWS

From the Editors to our loyal readers

Dear Alumnus,

The Forum is a publication of the Valparaiso University School of Law. The newspaper you hold in your hand was written and produced by VUSL students. The purpose of The Forum is to provide a place for thoughts and ideas, and also a source of information on happenings at the Law School and beyond.

The Forum is an independent publication of the Law School. This independent status affords us the freedom to publish articles we may otherwise be unable to. This independent status also requires us to obtain most of our funding from outside the Law School. We rely on advertising and the occasional donation to publish the newspaper each month.

This newspaper is read by students, faculty and alumni. It is published for the students, and sent to alumni as a service. Although The Forum is targeted at students, we enjoy getting feedback from any and all of our readers- you were law students once too, and you may know better than us what we should be reading.

We are asking for your help. If you have any suggestions or comments for improving The Forum, we would like to hear them, both the good and the bad. If you enjoy reading The Forum, we would like to know why. We want to open the lines of communication between The Forum and alumni. We take pride in the work we do here and enjoy the opportunity to send The Forum to you.

During the coming school year we plan to increase our circulation among alumni. Right now we send The Forum to 1200 alumni- we want to double that in the coming year. However, even with those lofty aspirations, that means that not everyone who is reading this month’s edition will receive next months. Yet, we want all alumni of the Law School to have the opportunity to read and enjoy The Forum. Nevertheless, it takes approximately $5 a year to send The Forum to an alumnus. The Forum has no intention of instituting a subscription fee. Instead, we are asking you to consider what The Forum is worth to you. From here on out, we will be recognizing our donors in every issue, with special recognition in the December issue.

As long as you continue reading and enjoying The Forum, we will do everything in our power to continue sending it.

Sincerely,
The Forum Editorial Board
Kelly A. Vanderwall, Editor-in-Chief
Marina Ricci, Managing Editor
Melissa Durham, Production Editor
Heather Montei, Executive Editor

I WOULD LIKE TO DONATE:

--- $5 (Bronze Level) $15 (Silver Level) $30 (Gold Level)

--- $50 (Platinum Level) $100 (Diamond Level) Other

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Indiana Supreme Court Lecture

The 2005 Indiana Supreme Court Lecture will be delivered by Dr. Abdullahi Ahmed An-Na’im of the Emory University School of Law.

International law from an Islamic perspective will be the subject of the annual lecture. Dr. An-Na’im will present “International Law and Human Rights in Islamic and Cross-cultural Perspectives.”

The lecture will address how international law can be defined and implemented while taking into account different religions and cultural perspectives, rather than projecting only the values and ambitions of Western cultures.

Dr. An-Na’im holds the Charles Howard Chandler Professorship at Emory and is the author of numerous scholarly books and articles, including “Toward an Islamic Reformation: Civil Liberties, Human Rights and International Law,” which has been printed in five different languages.

A native of Sudan, he earned law degrees at the University of Cambridge in England and the University of Edinburgh in Scotland and is an expert in human rights, constitutionalism, Islamic law and politics.

Before joining Emory’s law faculty in 1995, he served as executive director of Human Rights Watch/Africa and was a scholar-in-residence at the Ford Foundation’s office in Cairo.

The lecture is co-sponsored by the VU School of Law and the Indiana Supreme Court.

The annual Indiana Supreme Court Lectures are made possible by the generous support of the Indiana Supreme Court. The court’s justices include Robert D. Rucker, a graduate of the VU School of Law.

The lecture will be held on Thursday, Sept. 15, 2005, at 4:00 p.m. in the Tabor Auditorium of Wesemann Hall. The lecture is free and open to the public and will be followed by a reception.

Dean to serve on law school accreditation committee

The dean of Valparaiso University School of Law has been appointed to an influential American Bar Association committee that oversees accreditation of the nation’s law schools.

Jay Conison will serve a two-year term on the ABA Section of Legal Education and Admissions’ Accreditation Committee, which began in August.

Steel, photography, faith prominent in art exhibitions

Valparaiso University’s Brauer Museum of Art will feature exhibitions highlighting Northwest Indiana’s steel heritage, experimental photography and religion and faith in American culture during its 2005-2006 season.

Opening this year’s season on Aug. 26 were the exhibitions “Theodore Prescott and Catherine Prescott: Image and Substance” and Robert Sirko: Digital Prints.” The exhibitions will be on display through Oct. 16.


On Jan. 20 another trio of exhibitions will open, “Steel,” “Susan Carr: Personal Spaces Series” and “Camillo Vergara: Photographs.” The exhibitions will have an opening reception at 7 p.m. Jan. 20 and will be on display at Brauer Museum through March 19.

Astronomy fall open houses scheduled

Individuals and groups with an interest in astronomy are invited to Valparaiso University this fall for a series of public open houses at the Valparaiso University Observatory.

Open houses will be held from 8:30 to 9:30 p.m. Sept. 9 and 23 and Oct. 7 and 28, and from 7:30 to 8:30 p.m. Nov. 11 and Dec. 9. There is no charge to attend the open houses.

The public will enjoy views of the moon, planets, star clusters and galaxies through the University’s computer-controlled telescope. University faculty will provide descriptions of the objects being observed and answer questions.

Groups planning to attend an open house should make advance arrangements by calling (219) 464-5369. All open houses are held weather permitting. People should call (219) 464-5202 after 5 p.m. the day of the open house to confirm the weather is clear enough for the Observatory to open.

If the weather is not clear enough for the Observatory to open, there will be a planetarium presentation at Neils Science Center on campus.

The observatory is located on the southeast corner of campus, between Gellersen Center and U.S. 30.

Annual Popcorn Festival approaches

The 27th Annual Valparaiso Popcorn Festival will be held on Saturday, September 10th. The Times’ readers have named the festival “Best Festival in the Region” for the past ten years. The theme for this year’s festival is “Popcorn’s Hometown Heroes.”

The festival is a salute to past Valparaiso resident Orville Redenbacher.

The festival will take place in downtown Valparaiso from 7:00 a.m. until 6:30 p.m. The Orville Redenbacher Parade is scheduled for 10:00 a.m.

Additional information may be found at www.popcornfest.org.

Indiana receives firefighter assistance grants

Indiana will receive firefighter assistance grants in the amount of $1,894,611 from the Department of Homeland Security. The Assistance to Firefighter Grant Program appropriated $650 million to provide nationwide assistance in improving firefighting operations as well as health and safety programs for firefighters.

Keep Valpo 1st on the 1st

The Valparaiso University Alumni Association invites all alumni, students, staff and members of the extended Valpo family to do something to remember Valpo on the first of every month. They are asking you to wear a Valpo shirt, fly a Valpo flag, don a University pin or just chat to friends and co-workers about our school. Share what you’re doing by e-mailing the Alumni Association at alumni@valpo.edu.

— The Forum
EDITORIAL
Only with the past can we travel to the future!

With a little help from our friends... We all know that getting a job doesn’t just mean having the best grades, highest scores or smoothest cover-letter. Sometimes, the best jobs come from those you know or those who have walked in your shoes before. For current VUSL students, there are thousands of others who have walked the path we are currently taking. We need to get to know them, and learn from them.

From Judges, Mayors and Congressmen, to Professors and CEOs, VUSL Alumni span every one of the 50 U.S. States, several foreign countries and almost every industry you can imagine. They have the connections you need to get that first job. They have joined Moot Court, written for The Law Review, sat in your shoes before. For current VUSL students, there are thousands of others who have walked the path we are currently taking. We need to get to know them, and learn from them.

From Judges, Mayors and Congressmen, to Professors and CEOs, VUSL Alumni span every one of the 50 U.S. States, several foreign countries and almost every industry you can imagine. They have the connections you need to get that first job. They have joined Moot Court, written for The Law Review, sat in Professor Berner’s class, and crammed for hours in the VUSL Library. Most importantly, they’ve walked across that stage, received their diplomas, studied for the bar and began life-long careers of applying the law.

It is these alumni who have gone before us who know how to break the barriers. Connecting with them will put you there. But connecting with them doesn’t just mean a simple phone call, e-mail or lunch when you need something. You need to work on those connections every month, checking in, asking for advice and telling them where you’ve been.

The Forum provides a connection for the students of the present with those of the past. We are the only organization that reaches out monthly to thousands of VUSL Alumni. It is our job to bring the news of VUSL today to those who have walked the halls before us.

Likewise, we want to bring those alumni to the present students as well. In the upcoming editions of The Forum you can look for alumni profiles, complete with their suggestions for current VUSL students, including what they say you need to do to get that winning job and how to experience the most VUSL has to offer you. We also hope to provide more news on the happenings of VUSL alumni. It is the connections of the past and present that build the road to the future.

Moot Court prepares to make its point

The Moot Court Society is proud to announce the beginning of its 2005-06 season. We are very excited about our members and are eager to represent VUSL this year.

Moot Court is proud to announce that VUSL has hired Paul Kelly, an associate at Hoeppner Wagner & Evans, LLP and former Moot Court oralist, as its full-time oral advocacy coach. Paul will serve the society as an adjunct professor who will provide members with the instruction and guidance necessary for the society to perform at a high level at its national competitions.

Thus, we would like to take the opportunity to thank Dean Conison and the rest of the VUSL administration for making this happen. Now it is up to us as a society to take the national reputation of Moot Court at Valpo to the next level and with our members for 2005-06, Moot Court is up for the challenge!

In my last article, I spoke about Moot Court’s initiatives of increasing our national competitiveness and elevating national awareness and respect for Valparaiso’s appellate advocacy skills. However, after a long summer of preparation, I feel it important that Moot Court be a full service society. Thus, I encourage the student body to look for events, other than those on Moot Court, to think about careers as appellate litigators. Additionally, I encourage 1Ls and 2Ls to become active in learning about our society, as it is never too early to prepare for your future involvement with Moot Court. Keeping in mind that Moot Court takes legal writing and research grades into consideration when choosing its members, it is important to focus on those subjects early while you are gathering information about becoming a member.

The date for the annual Luther M. Swygert competition has been set for November 2, 2005. It will feature a tremendously dynamic panel of judges as well as a very interesting, controversial and complex First Amendment problem which we guarantee will force the oralists to bring their “A” game or otherwise face the wrath of judges who have been known to be unforgiving to those who are not prepared to their satisfaction. This is definitely an event that you do not want to miss!

Finally, Moot Court would like to thank the VUSL family of deans, professors, faculty, staff and administration who always provide Moot Court with the tools necessary for success. We would also like to send a special thanks to Clare Nuechterlein for serving as our faculty advisor again this year. Once again we welcome Paul Kelly as coach and extend a much deserved congratulations to our new and returning members for 2005-06! We look forward to serving VUSL.

Stephen is the Chief Justice of the Moot Court Society and may be reached at starks30@hotmail.com.
Congratulations to Law Review new members

Law Review
Anna Schumaker

Welcome to another year of law school! This summer has proven to be very busy for members of the law review for several reasons. First, the Valparaiso University Law Review’s hard-working group of editors has been toiling away over the summer to admit a new class of notewriters into the law review. We are very excited to announce the notewriters for Volume 40 of the Valparaiso University Law Review.

Each individual participated in a case comment competition following their final exam. The Editors of the law review evaluated each comment and, through a combination of their writing scores and grades, the top twenty-five submissions have been selected to participate in the law review. Their roles in the law review will be to write a Note throughout the semester and cite check articles and lectures for publication in the review.

Currently they are determining the topic of their Notes, which is a daunting task, given that they will be writing on their chosen topic for at least seven months! These individuals have dedicated themselves to the law review and we congratulate them on their success and commitment to this school.

Second, we have changed the way our office looks by installing wall shelves, cohesive working environment for Editors and note writers. We are very excited about this change because it will create a more cohesive working environment for Editors and notewriters. Also, we received a new computer compliments of LEXIS, which will provide more opportunity for law review members to work within the office.

Finally, we have continued planning for the annual Symposium on Indiana Continuing Legal Education. This event is hosted by the Indiana Committee on Continuing Legal Education and will take place on March 16th, 2005. The speakers include television legal news analyst John Patrick Dolan and University of Oregon Professor and 2005 recipient of an honorary Valparaiso School of Law degree, Rennard Strickland. Remember this event, as it will provide insight on the practice of law in Indiana as well as an opportunity to meet members of the Indiana legal community.

We are preparing for publication of Issue One as well as our symposium issue. The first issue will include three articles, the first authored by Laura Quiqley, which addresses current tax issues, the second by Luke Meier, which comments on the value of the overbreadth doctrine, and the third by Kevin Pybas, which analyzes the establishment clause. This issue will also include three student-written Notes by Kelly Borchers, Theresa Ellis, and Kathryn Peterson.

If you have any questions about the law review or you want to learn more about it, feel free to stop by the law review office or contact Anna Schumaker at anna.schumaker@valpo.edu.

Making the Grade

Student Bar Association
Kristin Nesbitt

A change ’ll do you good.
--Sheryl Crow

This year, SBA is shaking things up. The most visible change that SBA has made thus far is the addition of interactive technology. With the creation of our website (www.valpo.edu/student/sba), bulletin board (http://valposba.blogspot.com), and dedicated email address (ValpoSBA@gmail.com), we hope to increase communication between SBA, its student organizations, and the student body.

One big plus of having the website is that there will be far fewer emails in your inbox. SBA will no longer be sending emails about events or reminders. Everything will be posted online, so read the Wesemann Weekly and check the SBA Bulletin Board at least once every day to make sure you’re getting the most up-to-date news.

As current students and future alumni, it is our responsibility to fully explore any issue that affects our educational and career goals, and one such example already awaits you: log on and comment on how you think Administration should deal with the locker rooms on the Bulletin Board entry called “Space Chase.”

Another example of this concept, and also one of my main focuses for this year, is increasing student marketability to potential employers. There is currently a debate on whether the faculty should normalize—set a mandatory curve for—student grade point averages. As President of the Student Bar Association, I strongly endorse the idea of grade normalization.

First, it is common knowledge that students often select only upper-level courses that have a high median gpa, instead of taking classes that truly interest them, or those that apply to their future practice specialty. In addition, grading disparities across multiple sections of the same class give one set of students an advantage merely because they were lucky enough to have the higher-grading professor. Disparities of this sort are fatal in situations where grades translate into opportunities like Law Review, Moot Court, and the chance to bid on on-campus interviews.

While I understand the noble sentiment behind Valpo’s current “true-grading” policy, there is evidence suggesting that our professors’ individual rubrics are more rigorous than at other schools. That is the only logical conclusion that can be reached in the face of two seemingly incompatible facts: Valpo’s median gpa is lower than that of many other schools, yet Valpo students and alumni continually outperform their top-tier...
SUMMER LAW EXPERIENCE

What did you learn this summer?

Summer days in Valparaiso

BY MARINA RICCI
Managing Editor

The words “summer” and “school” have never gone well together. So when I decided on taking two classes during Valpo’s summer session, I did so with slightly less enthusiasm than most of my classmates who went home to their family and friends for a well-deserved break. If you ever wondered what happens in Valpo when everybody leaves after the school year, the answer is, not really that much. However, summer school proved to be a much less stressful endeavor than the regular semester of law school.

As I took Legal Profession and ADR amid the background of multiple empty parking spaces, I was able to relax and learn some of the most important principles of being a future attorney.

I finally understood why legal profession was a co-requisite for any externship available to students. Even the most basic conflict of interest and confidentiality issues come up in the course of everyday events for an attorney and even a law clerk.

ADR was probably the most beneficial class I have taken, not only for legal purposes, but also for general communication strategies in everyday life situations. While mediation and arbitration provide different alternatives to resolving disputes, negotiation is always useful in any type of transaction in a wide variety of circumstances.

Aside from class, I also had time to have an externship as well as find out some things about Valpo that few students know. I went to Chesterton one day to the Yellow Brick Road Gift Shop and Museum, themed on the Wizard of Oz. There the owner told me that Chesterton holds one of the biggest Wizard of Oz Festivals every year in September, inviting some of the original munchkins to participate in the events.

The old Porter County jail in Valparaiso next to the courthouse also showed me what it was like before the construction of the current jail. The sheriff actually lived in the prison with his family on one side of the house while the prisoners were contained in another part.

Thus, this summer I not only had the opportunity to take some required and very informative classes, but I also discovered some areas of the place we call home (even if only temporarily for some of us) I would have never had the opportunity to experience if it had not been for summer school.

Marina is a 2L and may be reached at marina.ricci@valpo.edu.

A firm disposition

BY ELIZABETH TOSH
Guest Columnist

I spent my summer working for Scarborough, Hill & Rugh in Orlando, Florida. The firm is a boutique firm that handles commercial litigation, with a special emphasis on insurance defense. I was interested in insurance defense before working and now, after working, I know that I definitely want to practice in this area. I was the only “clerk,” as summer associates are called in that area, and was given a lot of independence, along with a lot of responsibility.

I chose to work at a small firm, rather than a large firm, and actually pulled myself out of the candidate pool for larger firms once I got my offer from Scarborough. I was the first clerk they ever had. Working at a smaller firm was the right fit for me because personal relationships are really important to me. Another aspect of working at a small firm was a really flexible schedule. My firm’s motto was work hard while you are here and get what you need done, but enjoy life. As a result of this motto, I was able to take some time off work and go to St. Croix.

The firm relied on me for the usual writing and research, but it was really important to the attorneys that I was able to get out of the office and go to any proceeding that I could and learn by observing. The attorneys at my firm took me to depositions and hearings frequently. On average, I probably went to about one deposition a week. As students, we get so entrenched in what cases stand for, rather than concentrating on how the parties got to the final result. For me, I really thought it was interesting to see how litigation proceeds and how attorneys solve problems that come up along the way.

Three experiences were the highlight of my summer. The first was when a summary judgment motion I wrote in a vendor liquor liability case was filed as I wrote it. I was really excited when I saw the “FILED” stamp on my motion and memorandum of law.

Second, I wrote a Motion in Limine to exclude evidence of attorney-client communications, with a really confusing circle of parties. That motion was filed in federal court, with just a few changes made by one of the partners. While writing that motion, I would bounce ideas off the partner I was working with and then we edited the motion together before filing it. In law school we are not allowed to work with anyone on assignments and it was really fun to talk through issues with someone and strategize about the best way to handle them.

Finally, I was able to go to mediation and I absolutely loved it. Ever since I was a 1L, I have had a special interest in mediation and am in the Mediation Clinic this year. At mediation, I actually was able to participate and worked with my supervising attorney and the insured in coming up with settlement offers to present to the plaintiff.

One of the most surprising and refreshing things that I learned from clerking was that attorneys on both sides of a case cooperate and are generally pretty friendly towards one another. It seems that as law students, we tend to view the relationship that opposing attorneys have
What did you learn this summer?

Cambridge, England: law European style

BY HEATHER MONTEI
Executive Editor

Twenty one students, three professors, two children, and one spouse... all crammed into two houses... and no car. A recipe for disaster, right? Wrong. Try the best experience in law school so far. If you’re wondering if you should go to Cambridge, stop wondering and sign up as soon as possible.

So what’s the difference? For starters, the change of environment led to more camaraderie and cooperation amongst the students. Plus, instead of competing with your classmates, you were working together to get all the work done. And, when you went home at night, you were living with the professors!

Speaking of living with the professors... don’t ever try to run after Professor Gaffney, he WILL win the race! Our first week was in London, dashing across town after Professor Gaffney... man, that man can walk fast. We got our own private tours of Parliament, a meeting with the Egyptian ambassador, and had a sing-a-long in one of London’s most famous cathedrals. It was hot without air conditioning, but that meant more time at the pubs and an open-door policy in the dorm. We also went to Court, had a couple pints and way too many fish and chips.

From London it was off to good old 26 Huntingdon Road, the Cambridge home of Valparaiso Law School. It’s actually two houses, a church, and a classroom. A home away from home of sorts, complete with a library and a computer lab. Professor Gaffney convinced the guys to cook the girls a real British dinner, complete with wine, appetizers, and strawberries and cream. The best part- the girls didn’t even have to clean up. However, we did have to make dinner in return. And by the time we did, we were all hungry for a Mexican fiesta. Do you know how hard it is to find Corona in Britain?

As for Professor Vance, her official duty was program director. Her actual roles ranged from tour guide to Mom away-from-home. She arranged a walking tour of Cambridge, a Shakespeare production in the park, and a bus trip to Dover... all while teaching us Mediation and Negotiations in an abbreviated time.

Professor Telman arranged for some pretty cool experiences of his own. He had a former professor who teaches at Trinity College, one of the most exclusive colleges in Cambridge, who invited us to visit, and came and spoke to the group himself. It was definitely an inside look behind a closed British institution, one we wouldn’t have gotten any other way.

As for Cambridge itself, we were in a pretty great location, about a five to ten minute walk up the hill from downtown... fairly close to the Cam, the shops, and Jesus Green. The answer to the question, “Where is Cambridge University?” The whole town is the university. More than 30 individual colleges make up Cambridge University - and you can apply to the university as an entity - or some of the individual colleges. However, unlike here in the states, the students from one college will attend classes with students from another, in many different location across town.

Okay, so, my question is, is reading the Declaration of Independence on English soil a violation of some kind of treason law? If so, I know about 30 Americans who should be prosecuted for something. We had a 4th of July cel-

see CAMBRIDGE page 10
**VIEWPOINTS**

**Remembering who you are**

**Reality Check**

Marina Ricci

This summer I walked through the doors of Judge David Chidester’s courtroom at the Superior Court of Porter County and I learned that lawyers are much more than just judges, prosecutors and defense attorneys. They are the people who we spend every day with in the classroom or by the water cooler on the job; they are parents, sons, daughters and siblings. They are human beings and even though we all share a common interest in becoming attorneys, most of us are different people who have lives and our own personas that vary drastically from a stereotypical attorney.

As I worked with the Judge and his staff, I found that every person who made the system of justice function at the IV Superior Court added a bit of their own energy and likeness to make the job that could become very impersonal and robotic very interesting and personable.

First, I worked with Becky who was the court reporter and who really made me feel like I belonged there. Her son had an English bulldog that she treated like a grandchild and whose pictures aligned her office. She was the first one in the morning to ease tensions by providing an anecdote of humor for the staff. Lee, the probation officer, greeted me each morning with a smile on her face and an interested outlook on the rest of the day. Diane, who was the Bailiff, always knew the cases on the schedule that would attract the most crowds and made each case sound significant in its own special way. Sandy, the Executive Assistant to the Judge, was one of the nicest people I have ever met. In an empty court room as the day was winding down and people were late to arrive, Sandy even entertained the staff with her dramatic talents. The paralegal Tracy provided the humor for the staff as she would give a foresight of what was to come on the day’s docket.

The Judge himself, David Chidester, was probably one of the softest spoken and kindest people I have ever met. He was always interested in the lives of his “court family” and their well-being, and was always joking around while not on the bench. His calm manner outside of the courtroom translated into a very concerned and meticulous judicial officer when on the bench.

Judge Chidester treated every defendant not merely as a number on a docket sheet but as a human being with a unique situation. He would then speak with a wisdom that left a lasting impression on anyone in his court.

In my first year of law school, I saw how easy it was to become entrapped in a world of power and money, forgetting about the reality of the life around us. In the courtroom with people who were living that life, I realized that the stereotypical life depends on the attitude of the individual.

Everyone at the Superior Court who I worked with added a personal trait that made this experience very real and one that I will never again see replicated. They were a family and they extended to me the privilege of being a part of that family.

After all, beyond the golf outings and power suits that await some of us, there is a mom who tucks in her child every night, a brother who calls home every week, and a dad who leaves in the middle of the day to pick up his sick daughter from school. There are those who come to law school and maintain their own characteristics and individual human kindness, and then there are those who forget who they were before they walked through the doors into a world filled with stress and all-nighters. Thus, it is important to remember that being an attorney is what we all will do, not who we will become.

Marina is a 2L and may be reached at marina.ricci@valpo.edu.
Kelo v. New London, loosening the bonds of the Takings Clause

The Grey Area

Left of Center

Andrew Smith

Recently, the United States Supreme Court handed down what appears to most as a monumental case that denigrates the personal property rights of the citizenry. Thankfully, that initial response is an inflated concern.

In Kelo v. New London, 545 U.S._, S.Ct. _, 2005 WL 1469529 (2005), the Supreme Court considered a situation where the city of New London, Connecticut, attempted to revitalize a residential area surrounding an abandoned Navy base. The redevelopment aimed to bring more tax revenue and jobs into the area. Unfortunately, this plan required the displacement of 115 private property owners. Under the City's redevelopment plan, the City would condemn the private property through its eminent domain power and a state statute that allowed the City to take private property for redevelopment. The Court majority comprised of Justices Stevens (writing the opinion of the Court), Kennedy, Souter, Ginsburg, and Breyer, concluded that the taking of the private property did not violate the takings clause of the Fifth Amendment of the Constitution.

The initial idea of the Court's holding is repugnant. At first glance, the Court's opinion appears to validate public takings for private benefit. This is the antithesis of the ideal behind the takings clause. Fifth Amendment jurisprudence has always condemned the proposition that government may take the property of private citizen A to give to private citizen B. Rather, for government to take private property, the Constitution requires that the taking satisfy some public purpose. Typically, government projects like building roads, railways, or schools satisfy the intent of the public use doctrine. Kelo, though, aimed to take private property and allow the division of the property for building private office complexes that would house private business, creating 1,500 new jobs in the process. The development would also bring in more tax revenue to the City. Fundamentally, Pfizer's plan to build a new research facility in New London provided the impetus for the taking.

It is important to note that part of the plan included a public Coast Guard Museum. The City conceived the plan after considerable research, planning and organization, expending time and energy to assure that the project would create the benefits to which it aimed. While on these facts it appears the City displaced 115 private landholders for the benefit of only a few other private interests, the Court majority concluded otherwise.

Justice Stevens began by reiterating the history of takings clause jurisprudence. He concluded that the Court and the law had departed from the conservative notion of takings restricted to public use only. Rather, the majority reasoned that a taking must fit a public purpose. This public purpose could include economic redevelopment.

The majority quickly pointed out what was not at stake in this case, stating: "...without a bright-line rule nothing would stop a city from transferring citizen A's property to citizen B for the sole reason that citizen B will put the property to more productive use and thus pay more taxes. Such a one-to-one transfer of property, executed outside the confines of an integrated development plan, is not presented in this case."

Moreover, the Court concluded that this was not the issue presented before the Court; rather, facts supporting this bright line rule would appear more suspect of serving only a private purpose. The Court took great pains to establish the historical definition of public purpose, fitting it to situations that include the benefit of some private parties as well as the public. Similarly, the Court relied on a strict notion of federalism in making its decision. Much of the verbiage points to the extent to which New London prepared the redevelopment plan, and how the judiciary is not in a position to value land like municipalities or state agencies who understand the situation more thoroughly than the courts.

Ultimately, the Court validated takings that are subject to extensive executive or legislative review in the event that the takings satisfy a reasonable public purpose.

The Dissenting opinions make a significant point. It does not take much to swing the balance of reasonableness in favor of a private owner. While the Majority asserts that the factual nature of the holding will limit any possible abuse, specifically the extent to which the City planned the redevelopment along with the projected ubiquitous benefit to the City's constituents, fails to overcome the expansive definition of public purpose upon which the Majority hangs its hat.

Ultimately, the decision denigrates the value of private ownership by lowering the threshold required to permissibly declare eminent domain. This decision is dangerous for two reasons: first, because it reduces the standard applied to government in takings cases by eviscerating the public use doctrine and establishing the public purpose standard; and second, it opens the door to possible abuse by creating an ambiguous standard the Majority admits fits almost all of government action.

For those fearing the loss of their property to tyrannical government, the Majority does offer solace. Kelo presents a very fact specific decision, and does not preclude states from creating strict laws preventing these kinds of takings. Unless the Government goes to great lengths to plan a development where your home sits, the Court will most likely not allow the government to take your home. This means that much of the stories springing up in the news about private business petitioning for eminent domain and condemnation of private homes rely on the erroneous proposition that Kelo gives them that right.

Our homes may be safe at the moment, but the ambiguity of public purpose has yet to be tested...

Our homes may be safe at the moment, but the ambiguity of public purpose has yet to be tested...
Smoking in restaurants a hot topic for Valpo

By Phil Wieland
Times Columnist

Valparaiso: Council appears ready to allow it in separate room

It was a case of where there's smoke, there's a debate over whether it should be allowed in restaurants. The council decided on August 22nd to postpone action on the guidelines for restaurants wanting to receive one of the 10 new licenses granted the downtown historic district by the state legislature earlier this year. The delay followed a lengthy debate on whether the guidelines should require the 10 restaurants to be nonsmoking.

Mayor Jon Costas said he originally suggested the nonsmoking requirement because he felt it was a direction the city should go. Costas recently opened a restaurant in St. Joseph, Mich., in which he is a partner, and he said it is smoke free except for the outdoor seating. The smoke-free issue also fits in with his goals for the Fit City program begun this year, he said.

Economic Development Director Charles McGill said four of the 11 people who have taken out applications for the new licenses have questioned the nonsmoking provision of the guidelines. One asked if it meant smoking wouldn't even be allowed in the restaurant office, and another asked about a separate room for smoking.

Councilman Joey Larr said whether to allow smoking should be up to the restaurant owner and added, “It’s just the tip of the iceberg of government intruding on somebody’s business. Next it will be whether they can serve pasta or steak. To say it has to be nonsmoking is not fair.”

Costas and Councilman Jan Dick said it was a health issue for the employees as well as the patrons. Dick said many laws exist to keep cancer causing agents away from people. One of those bans the pesticide DDT, and Dick asked, “Would you eat in a restaurant where they spread DDT around?”

Councilman Ed Howe said, “There are a lot of things we could legislate for health reasons.”

“I don’t know where we stop with this,” Howe said. “What about people who are overweight? Do we say there has to be more zucchini on the menu?”

Costas said the city is not mandating that all restaurants in the city be smoke free. All it is saying is, to earn one of the 10 new licenses, the owners must keep the restaurant smoke free. During a public hearing, several people, including three brothers who said they had lost relatives to health problems from smoking, urged the council to approve the smoking ban.

Rather than banning smoking, Howe said the city should make the requirements for separate ventilation of the smoking and nonsmoking areas tough enough to make it a financial disincentive to allow smoking. Others supported that idea.

When it became apparent a majority of the council would not support a total ban, Costas asked how they would amend the guidelines. Larr asked that action be delayed to the Sept. 12 meeting to allow time to research laws in other communities on proper ventilation. The action was approved unanimously.

This story ran in The Times on Tuesday, August 23, 2005.
Strummin' my six-string

Jon Rogers

A
s first year law students make their way to VUSL this week, caught in the purgatory that is law school - not the beer bong days of college, and not the 60 hour work weeks of firm life - I thought this space should be devoted to some favorite sing-a-long tunes to help ease the transition. And where would one's mind drift to take their mind off the morass of the real world??? Crawford, Texas, of course!

With help from the infamous iPod One, a list of songs that help our Commander-in-vacation. I'll, just when you Carter's midterm is too much to prepare for, remember, let your mind drift off to that sunny paradise that is Crawford...

“No shoes, no shirt, no problems
Blues what blues...hey I forgot them
The sun and the sand and a drink in my hand with no bottom
And no shoes, no shirt, and no problems!”

This Kenny Chesney tune is surely blaring from President Bush's Crawford Ranch this week while Cindy Sheehan eagerly waits. But come on, he's clearing brush!!! Clearing brush vs. brushing up on the Erie doctrine? On those cold bleak snowy nights in September (I joke, sort of) remember...no problems!

“Oh but ain't that America for you and me
Ain't that America, we're something to see baby
Ain't that America, home of the free
Little pink houses for you and me”

My favorite John Mellencamp song for my favorite cycling President. This past week was spent cycling with Lance Armstrong, a true American hero. With rising gas prices, I urge all of you to put on your helmet and ride to school. The money you save could come in handy for that 2 a.m. Papa John's when you are hammering out Office Memo #2.

“Yeah, just sitting back trying to recapture a little of the glory of, well time slips away and leaves you with nothing mister but boring stories of glory days”

While sitting on the ranch remembering those days in the Air National Guard, you should learn from the President and realize that those college days are long gone. No more walking home to the fraternity house, dorm room or apartment past blaring Dave Matthews Band tunes and ultimate frisbee games and freshly tapped kegs.

This is law school. You will study 40 hours a week, you will study on Friday and Saturday nights. You will give up your life for the next three years. And do this gladly. You have some of the most brilliant legal minds at your disposal, do not let your money or these three years go to waste. You can always remember those glory days when learning of the glory of online legal research. Trust me, this will be a glorious experience.

And finally,

“Money, get away.
Get a good job with good pay and you're okay.
Money, it's a gas.
Grab that cash with both hands and make a stash.”

Most of you I am sure came to law school with visions of Scrooge McDuck swimming in vaults of gold. And while we may never be able to afford a piece of flat Texas prairie on which to vacation, most of us will have a comfortable life. But this is not the glory of the law. The best aspect of the law is its ability to do good in a world with a lot of bad. While money may have brought you to law school, your heart should keep you in law school and keep you focused on the great privilege we all have of being lawyers.

And maybe someday these three years will pay off, and you too can have a five week vacation.

Jon is a 3L and may be reached at jon.rogers@valpo.edu.
Be reasonably prudent.

Read The FORUM

CONTINUED...

**FIRM**
Continued from page 6

with each other as black and white. We get caught up in the mock litigation of pre-trial and trial practice courses, where we are assigned a side of the story, and we become so attached to that side that we start to think the other party is wrong. I saw that you can represent your client's interests and still be nice to your opposing counsel at the same time. In fact, I learned that being pleasant often makes litigation proceed much smoother.

Coming back to finish my last year of law school after being in the "real world" is a bit of a difficult transition to make. But I am motivated by remembering my summer work experience and by the fact that in about a year, I will be entering a profession that I truly enjoy.

Elizabeth is a 3L and may be reached at ectosh@msn.com.

**BLOGOSPHERE**
Continued from page 11

"Sua Sponte," "Law Dork," and "Your Mom Goes to Law School."

The latter, informational-type student blawgs, while tame by comparison, are perhaps more practical. A prime example of this type is IndyLaw Net (http://iuilaw.blogspot.com/), a blawg that is written and maintained by the law students at the Indiana University School of Law in Indianapolis detailing news and events within the school as well as commenting on developments in the law.

Other blawgs can be located using either blawg.org or netlawblog.com, both indexing tools for law-related blogs that can help you locate a blawg in your favorite practice area or jurisdiction. Such tools can be very useful—particularly given the rate at which new blawgs are appearing on the web.

Professor Steven Probst is a VUSL Law Librarian. He can be reached at steven.probst@valpo.edu.

**GRADES**
Continued from page 5

counterparts in real-life writing, research and practical experiences. In short, normalizing in selected courses will better enable Valpo students to compete in our grade-obsessed legal market while still preserving the faculty’s desire to challenge us all.

Kristin is a 3L and may be reached at kristin.nesbitt@valpo.edu.

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(Not valid w/ other discounts or alcohol)
Professor Clare Nuechterlein:
Newly appointed panelist for the Indiana State Ethics Commission

A role model for dedication to public service.

by Kelly Vanderwall   >> story on page 14
Feature:
Dedication to public service
Professor Clare Nuechterlein is appointed to the Indiana State Ethics Commission

BY KELLY VANDERWALL
Editor in chief

On June 22, 2005, Professor Clare Nuechterlein was appointed by Indiana Governor Mitch Daniels to sit as a panel member on the Indiana Ethics Commission. Nuechterlein is Governor Daniels' first and only appointee thus far in his term.

The Indiana Ethics Commission is comprised of five appointed individuals, each serving a four year staggered term. No more than three individuals from the same political party are allowed to serve on the Commission in order to ensure bipartisanship. The committee members are public servants, working without compensation for the public good.

The Committee bears the burden of maintaining jurisdiction over 37,000 state executive employees, from the Governor himself to the file clerk in every county bureau of motor vehicles department. In addition, the Commission has jurisdiction over the 2,200 special state appointees, the boards and committees the Governor has authority to appoint. Jurisdiction does not exist over the legislative or judiciary branches. In addition, the Committee offers ethics courses for state employees.

Each month a meeting is held in Indianapolis. Meetings are split into a public session and a non-public session. During the public sessions, the members of the Commission issue advisory opinions interpreting the requirements of the various state ethics laws within the jurisdiction of the Commission. Examples of such statutes include conflict of interest laws, anti nepotism law and revolving door statutes.

During the non-public, confidential sessions, the committee is briefed on potential ethics violations by the State Inspector General. Then, the committee must determine if in fact there has been an ethics violation by comparing the statute to the facts discovered by the Inspector General. The committee will then advise on how to proceed.

Nuechterlein has played a role in two monthly committee meetings and stated that her new appointment is very similar to the days she spent as an Assistant United States Attorney in the Federal Prosecutors Office. Nuechterlein spent the first 18 years of her career in public service, mostly in the federal arena, and returns to it once again, this time at the state level, as a member of the Indiana Ethics Commission.

Assistant Professor Nuechterlein received both her BA in English and MA in liberal studies from Valparaiso University. She received her JD from VUSL. Nuechterlein's areas of teaching include legal writing and reasoning, pretrial skills and a seminar class on Shakespeare and the law.

Nuechterlein’s professional experience prior to joining the VUSL faculty includes work for the Assistant United States Attorney for the United States Department of Justice for the Eastern District of California, where she was detailed to the Assistant Secretary for Civil Rights.

In addition to her duties as VUSL professor, Nuechterlein is also the president of the VUSL Alumni Association Board of Directors and is currently the editor of the Federal Forfeiture Guide.

When asked about her dedication to public service, Nuechterlein commented, “Lawyers are in a privileged position in society and with that privilege comes the obligation to give back and serve your community.” Professor Nuechterlein is truly a role model for students and professionals alike and VUSL is proud to claim her as a member of our community. Congratulations on your appointment.

You may visit the Indiana State Ethics Commission on-line at www.ethics.in.gov.

Kelly is a 3L and can be reached at kelly.vanderwall@valpo.edu.
FORUM restaurant review:

Maria Elena’s has been located just a block from the law school on Greenwich since 1999 serving Italian, American, and, in owner Felix Cardenas’ words, a little corner of dishes from Mexico. Cardenas has enjoyed his law student customers and has recently added VIP platinum cards allowing frequent customers to enjoy a free meal after 10 visits. Maria Elena’s also offers a patio for outside dining as well as guitar music on Friday and Saturday and table magic tricks on Wednesday evenings. With its relaxed atmosphere, Maria Elena’s serves as a warm, inviting environment for any occasion.

What better way to start a new semester than to toast with a glass of wine. For all those sommeliers, the Snoqualmie Riesling was crisp and sweet with a slight apple taste that would compliment both a main dish as well as a sweet dessert. The Zonin Lambrusco was a light, fruity, sweet red, making it perfect for a warm summer evening. For those not too fond of the fruit of the vine, there was a varied selection of domestic and imported beers including Miller, Sam Adams, Tecate, Beck’s, and Peroni just to name a few.

The menu offers several pasta dishes for both the carnivore and the herbivore. The penne carbonara had a pleasant light cream sauce with thinly sliced prosciutto and enough fresh garlic to make you reach for your tin of Aloids. The Dreamscicle is a moist, creamy, refreshing kick on a warm day. The tiramisu is another winner with a mild coffee flavor.

Since money is always a concern for debt-ridden law students, Maria Elena’s offers reasonable prices, with sandwiches ranging between $4.99 and $6.25. An entrée with salad or soup and a choice of side vary from $9.99 to $18.95. However, most of the Mexican and pasta dishes cost under $10. Whether you are wanting a quick bite between classes without losing your parking space, a nice leisurely dinner under the stars, or a quick drink after a late-night class, Maria Elena’s is the place to go.

Q: What is Popcorn Fest? --Hillary, IL

B&B: The Popcorn Fest is a great all-day affair in Valparaiso. It all began in 1979 to salute Valparaiso’s own Orville Redenbacher. The festival draws about 60-75,000 people to downtown Valparaiso and offers a variety of events, such as a 5-mile run called the Popcorn Panic, food and craft booths, live entertainment, and the Popcorn Parade. This year’s festival will be held on Saturday, September 10. Also, for some Popcorn Fest nightlife, hit up the Northside Tap, where there is usually a beer-garden type atmosphere with a band and food, and some of Valparaiso’s most colorful characters.

Q: I went to buy my books at the bookstore, and they had tons of study aids, are those worth buying? --Raven, IL

B&B: There are many schools of thought on commercial study aids. The first thing you should remember is that there are no Cliff’s Notes to your classes. Any of these study aids should supplement your assigned readings. That being said, it depends on how you study. Both of us are huge fans of the flash cards. These entertaining hypos and can really help you review for a class. As far as the commercial outlines go, the best way to find out if they are any good is to ask a 2L or 3L if they have used a particular one and what they thought about it. If they liked a particular book-ask them to borrow it, and save a few bucks!

Christi is a 3L and can be reached at christi.klein@valpo.edu. Lora is a 3L and can be reached at lora.nowzaradan@valpo.edu. Please feel free to email us with your inquiries.
How to get a job when you are really trying

BY KRISTIN NESBITT, SBA President, and OLIVER BATEMAN, 2L Faculty Representative

Here goes nothing, by way of the Seinfeldian vignette where nothing stands in for everything:

[Two hiring attorneys, OLIVER and KRISTIN, are seated at a table. On the table rests an imposing stack of resumes, probably 1,000 sheets of extra-heavy-bond paper high. A beat passes. OLIVER glances over at KRISTIN, who points to the stack. OLIVER tentatively withdraws a resume from the pile. Jenga-like, the stack collapses and the other resumes scatter to the winds.]

OLIVER: Ok, this girl’s got a 3.3 from Stanford.
KRISTIN: Can it.
OLIVER: balls the resume up and throws it in the refuse bin. He picks up another resume.]

OLIVER: Here’s a guy with a 3.5 from Cal-Davis. He’s twelfth in his class, too.
KRISTIN (shaking her head): Bye. [OLIVER does his best Larry Bird impression and jump-shoots the crum­pled-up resume at the trashcan, but misses badly. He selects another resume.] OLIVER: Here’s a fellow with a 4.0 from Notre Dame. First in his class, editor-in-chief on law review, on moot court, writes for GQ, played baseball in undergrad as well as for the Saint Louis Cardinals...
KRISTIN (checking her appointment book): I can slot him in for ten minutes on Friday. One more.
[OLIVER selects a final resume.]
OLIVER: Hrm, 2.5 GPA, 93rd in a class of 183...say, don’t you know a Brock Famous?
KRISTIN: Yeah, I went to law school with his dad, Rock. Rock loaned me his Cardigans CD in 1995, and I think it’s high time I return the favor. I need to meet this kid, so clear my schedule for tomorrow.

[End vignette.]

We might have exaggerated this example for comedic effect, but the sad truth goes something like this: in the legal market, it comes down to who you know, not how well you score on curved final examinations. We enjoy making wonderful grades as much as the next pair of resourceful journalism majors, but they’re a foot in the door and nothing more.

The two of us could leave Valparaiso with sterling 4.0s (we won’t, mind you, but that’s not to say we couldn’t, provided we could repeat several core classes) and still lose out in interviews to the alcoholic sons of the nine-figure-earning, golf-loving general counsel for Standard Oil Trust.

What we’re trying to say is that on-campus interviews are wonderful, and we’re glad that Valpo Law strives to schedule as many of those as possible, but they’re not guarantees. So if you find yourself foreclosed from attending the OCI of your dreams, that’s no reason not to pursue the opportunity. For the nearly 77% of mere mortals who won’t find gainful employment through on-campus interviewing, there are other ways to win (or worm) your way into the heart of that baseball-obsessed senior partner.

Valpo Law is one of four or five accredited schools that allows instructors to set personal curves. As a consequence, Valpo’s grade median is lower than the grade medians at, say, Southern Methodist University or California-Davis.

Regrettably, grade-snob OCI employers get nervous. There’s a movement afoot to normalize grading protocols here at VUSL. Regardless of your stance on the issue, this article’s purpose is to provide solutions within the current grading framework, not to take sides and play sides.

By that same token, we’re not here to tell you to quit trying either. We love attending our classes and taking our tests. But if you don’t do well on your tests, or at least not as well as you think you should, that’s no reason to doubt your abilities.

There’s another, better way to win friends and influence people. It’s not Proust’s Way, and it’s not the Third Way, but it’s the best way to get on anyone’s good side: charm. We don’t mean charm in the pejorative sense, as to indicate “brown-nosing,” but charm as synonymous with charisma and personal style.

Valpo Law hosts symposiums, conversations, and other gala events. We recommend you attend these events and talk to the guests. People love to talk, and they enjoy the company of engaged listeners. So if you like the law—and we’re guessing you do, given that you’re in law school—you should talk about what you know, remaining all the while unafraid to confess the things you don’t. And always, ALWAYS ask questions.

Countless times we’ve heard the following story, or a variant thereof:

A Valpo student uses networking skills to obtain an internship or job that, prior to that point, only the ranks of Ivy League, top-tier law school students had ever enjoyed. That same student proceeds to take all of his or her top-tier co-workers to school, running circles around them in professionalism, enthusiasm and practical skill. No matter who the Valpo student was, or where they were working, in every story there remains one constant: the employer was impressed with the Valpo student’s superior writing and reasoning ability.

Legal work boils down to listening carefully, speaking confidently, researching diligently and writing critically. You learn to research and write in the classroom. But maybe you’ll never get an opportunity to learn how to speak. And if you can’t say the right things and ask the smart questions, you’re only handicapping yourself. If you don’t have the grades, or even if you do, you need an edge.

Ladies and gentlemen, that’s it all. We’re as good as, if not better than, the top tier. All we have to do is make employers realize what has been common knowledge in our little corner of the world for quite some time.

To that end, the two of us, with the able assistance of the Student Bar Association and some other extroverted Crusaders, are launching a program called “Charm School” that’ll teach you how to talk better and listen longer. Before you can say Jack Robinson, you’ll be able to rattle off the names of that demanding partner’s kids, favorite beer, drinking buddy and ex-wives.

And when your summer association with a firm becomes the first in a chain of professional opportunities, you can thank us by way of really expensive gifts. Until then, rest assured that this year’s SBA is working on ways to make a difference for its constituents that transcends cheap beer, free pizza and the Cardozo Cup.

Kristin is a 3L and may be reached at Kristin.nesbitt@valpo.edu and Oliver is a 2L and may be reached at oliver.bateman@valpo.edu.
STATS
continued from page 1

Howard University
Illinois State University
Illinois Wesleyan University
Indiana University, Northwest (6)
Indiana University-Bloomington (12)
IUPUI (2)
James Madison University
Lewis University
Louisiana State University- Baton Rouge
Loyola University- Chicago (3)
Madonna University
Manchester College
Marian College, Indianapolis
Marquette University (4)
Marshall University
Michigan State University (2)
Montclair State University
Mount Holyoke College
North Carolina State University - Raleigh (3)
Northeastern University
Northern Arizona University
Northwestern University (2)
Ohio University
Pennsylvania State University- University Park (2)
Pepperdine University- Malibu
Pikeville College
Purdue University- Calumet- Hammond
Purdue University (6)
Rhodes College
Rutgers
Saint Francis College- PA
Saint Louis University
Saint Mary’s College (3)
Shawnee State University
Southern Illinois University- Edwardsville
Southwestern Adventist University
St. Bonaventure University
Syracuse University
The Franciscan University
Tri State University
Truman State University
University of Illinois at Springfield
University of Akron (2)
University of Arizona (2)
University of California- Berkeley (2)
University of California- Irvine
University of California- Los Angeles
University of Central Florida
University of Dayton
University of Evansville
University of Georgia- Athens (2)
University of Illinois at Chicago (2)
University of Illinois- Urbana (5)
University of Iowa (3)
University of Kentucky- Lexington
University of Louisville
University of Michigan- Ann Arbor (2)
University of Missouri- Columbia
University of Nebraska- Lincoln (2)
University of Nevada- Reno
University of North Carolina- Chapel Hill
University of Notre Dame (5)
University of Phoenix
University of Saint Mary
University of St. Francis
University of Texas- Austin
University of Texas- Dallas
University of Texas- Pan American
University of Toronto
University of Utah (2)
University of Washington (2)
University of Wisconsin- Eau Claire
University of Wisconsin- green Bay
University of Wisconsin- Oshkosh
Utah State University
Utah Valley State College
Valparaiso University (12)
Vanderbilt University (2)
Virginia Wesleyan College
Washington University
West Liberty State College
Western Illinois University
Western Kentucky University
Wheaton College- Illinois
Xavier University of Louisiana

States Represented
Alabama (3)
Arizona (4)
California (8)
Colorado (2)
Florida
Georgia
Iowa (5)
Illinois (32)
Indiana (70)
Kentucky (3)
Louisiana (2)
Massachusetts (2)
Michigan (8)
Missouri (5)
Mississippi
North Carolina (3)
Nebraska
New Jersey (4)
Nevada
New York (4)
Ohio (7)
Pennsylvania (2)
South Carolina
Tennessee (3)
Texas (9)
Utah (3)
Virginia (3)
Washington
Wisconsin (6)
Canada

Nigeria
South Korea (2)
Saudi Arabia

Religious Denominations
Atheist
Baptist
Buddhist
Christian
Disciples of Christ
Episcopalian
Greek Orthodox
Hindu
Jewish
Latter Day Saints
Lutheran
Mennonite
Methodist
Presbyterian
Protestant
Roman Catholic

Ethnicity (14% Minority Enrollment)
African American
Asian
Caucasian
Chicano
Hispanic
Multi Racial
Other

Majors Represented
Accounting (5)
Biology (9)
Business (22)
Chemical Eng.
Chemistry (2)
Classics (3)
Communications (5)
Computer Eng.
Computer Science (2)
Criminal Justice (6)
Criminology (3)
Economics (6)
Electrical Eng. (3)
Elementary Ed.
English (19)
Film Production
Finance (6)
Foreign Languages
Geography (2)
Health Care Admin.
History (10)
Humanities (3)
International Relations
Journalism (3)
Liberal Arts (6)
Management (2)
Marketing (4)
Mechanical Eng.

Degrees Represented
MA (11)
MBA (12)
MEd
MPA (2)
MS (9)
PBCA
Other (2)

Transfers
18 transferred out
4 transferred in

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Where's Waldo?

Look pretty for the camera!

Oh say can you see...

Remember the joys of recess...swing sets and a slide.
KICKBACK AT DUFFY'S

SBA hosts a night of fun, food, and friends on August 26, 2005 at Duffy's

Meeting up with old friends and making new ones.

Cheers Valpo style.

So what do you think about the latest Supreme Court nomination?

Hmmm... just one more drink. Wasn't it the last one three drinks ago?
Student Profiles

By Danielle Guerra, Photo Editor

3L

Jason M. Smith

Hometown: Seymour, IN

Undergraduate School: Indiana University - Indianapolis

Undergraduate Major: Accounting

Family: My father, Roger, works for Prudential Financial. My mother, Pamela, works for Little Angels Daycare in Seymour. I have one older brother, Nathan, who is a computer technician for the military.

Why law school? I am not exactly sure but I knew I was going to law school at the age of fourteen. I have always been fascinated with expanding my ability to think critically and independently. Law school seemed to be sort of a mental bootcamp that would help accomplish that.

What do you like best about Valparaiso? The close-knit environment. I think it would be safe to say that I have had pretty meaningful conversations with at least 80% of the people in my class. I love people and have had an opportunity to meet many interesting students and professors. I noticed the friendly environment the first time I visited Valpo and have not been let down since.

What do you like to do in your free time? I love to eat and sleep. I usually eat at least four meals a day and take at least a 2 hour nap every day. While in undergrad I once slept 23 hours in a row only waking up for a total of 25 minutes in order to eat. Come to think of it, I don't know if I would even consider eating and sleeping free time. More like a priority.

Any unusual talents? I can sleep 23 hours in a row.

What are you looking forward to most this school year? Going out on the weekends and enjoying all the people that I have met here and just making the most of my final year academically and socially.

Since it's a new school year, do you have any advice for the 1Ls? Try to remember that law school is about more than just the first four letters of the alphabet. It is an opportunity to develop multitasking, organization and people skills which are skills you will definitely need as an attorney. If you keep your concentration on the big picture it will be much easier when you get a grade you're not happy with.

2L

Tim Suha

Hometown: New Berlin, WI

Undergraduate School: University of Wisconsin-La Crosse

Undergraduate Major: Major: Political Science / Minor: Philosophy

Family: Mom, step-dad, younger brother, and two cats (one of whom I miss dearly).

Why law school? I was always pretty good at talking my way out of things, or into things, as it were, just generally pretty persuasive, so I thought I would make a living out of it. Boy, was I wrong. There's a lot of reading involved, too, which sucks.

What do you like best about Valparaiso? What don't I like? Oh wait, the best part is that it's pretty close to Chicago.

What do you like to do in your free time? I love taking naps. Or watching movies. Or just not doing any homework.

Any unusual talents? I can touch my tongue to the tip of my nose. Also, I have an unhealthy knack of making my money disappear.

What are you looking forward to most this school year? Passing more classes, I hope.

Since it's a new school year, do you have any advice for the 1Ls? Good luck, study hard.

1L

Nichola Poe

Hometown: Raleigh, NC

Undergraduate School: North Carolina State University

Undergraduate Major: Major: Mediated Communications / Minor: Film

Family: Mom, dad, younger sister.

Why law school? Because the complexities and the intricacies of the law intrigued me enough to want to learn more about it.

What do you like best about Valparaiso? The size.

What do you like to do in your free time? Read, watch movies, hang out, and sleep.

Any unusual talents? Nothing I know of.

What are you looking forward to most this school year? Getting through it.

Since it's a new school year, do you have any advice for the 1Ls? Miller High Life is a cheap yet satisfying beer, so stock up... and make sure you enjoy yourselves, it's only 3 years till you have to work your ass off for the rest of your life.
They do it for the tips

There is a debate over what is the worst job to have. Some people take the side of a low-end job, such as a one-legged busboy working at the Hooter’s in Jacksonville. However, I contend that this job is bad because of the busboy’s physical ailment requiring him to work with one leg. If he had both his legs, it wouldn’t amount to the worst job. Busboys make more than minimum wage, unlike their counterpart wait staff, and they’re probably privy to free drinks at the bar every now and again.

Others go towards the high-end, such as being the President of the United States. Sure, the job has its bad sides: high stress, long hours, relative low pay, and little privacy. But look at the benefits: full health coverage, round-the-clock security and wait staff, free housing, and you’re neverdeclined for a tee time. Not to mention the fact that the President is permitted as much or as little vacation time as he sees fit.

I think the worst job has to be steroid testing for professional sports. This job requires someone to fly around the country, collect samples from athletes and witness the collection so that no tampering occurs. If there is a job worse than that, I don’t want to hear about it.

For the life of me, I could not figure out why someone would take this job. When I find myself in such a conundrum, I discuss it with Alter Ego, my exact opposite identical twin brother, in hopes of gaining a new perspective.

“It has to be a great job,” Alter Ego said. “They get to travel, meet many interesting and famous people and they probably get room service at the hotel. They have to have great stories to tell, too. If you ever have a chance to talk to a professional sport steroid tester, I’m sure he will entertain you for hours with stories from his job.”

“Come on,” I chided back. “You couldn’t pay me enough to witness sample collection and then test it. They’re doing janitorial work with a master’s degree.”

“True, but I’m sure they’re tipped well,” Alter Ego responded.

As usual, Alter Ego was lacking coherency, but he did make some good points, such as the stories they have.

During this NFL off-season, Minnesota Vikings running back Onterrio Smith was caught trying to board a plane with “The Original Whizzinator,” a kit used to hide fake urine in order to pass a drug test. The kit includes dried urine, fake male genitals, a bladder, and a harness (just in case you have a little trouble keeping it up). Smith told authorities it was for his cousin.

“I would have loved to have been around the testers on that day,” Alter Ego said. “I bet they’ve heard that excuse similarly to elementary school teachers hearing ‘my dog ate my homework.’”

One thing’s for sure, and that is the testers are doing their part to clean up Major League Baseball. After months of grumbling that the program wasn’t working, it was revealed that 19-year veteran Rafael Palmeiro had tested positive for steroids.

Palmeiro has accumulated hall of fame numbers, becoming just one of four players to have more than 3,000 hits and 550 home runs in his career. Before the season began, Congress subpoenaed him to testify about steroids in sports. Palmeiro went and definitively stated he had never done steroids. After the failed test, he said he had never intentionally done steroids. So you just tripped down the stairs and a needle was awaiting you at the bottom?

It was quite the change of pace for the media because the only story they had covered for the three weeks prior was Texas Rangers pitcher Kenny Rogers’ assault on a cameraman. Rogers felt sorry for the unwanted publicity shifting from him to Palmeiro, and sent him the following note to convey his feelings:

To: Raffy
From: Kenny
Msg: Thanks :)

One might wonder how to avoid such a horrendous job. Fortunately, I was able to get an interview with an employee, and that person gave me some hints to forward on. Due to anonymity issues, the person will be identified as P. Tester.

The first thing P. Tester suggested was to avoid going to college for biochemistry. Aside from the fact that the major is equivalent to ritualistic suicide, all the good jobs have been taken.

If there is failure in the first lesson, then P. next suggests avoiding job descriptions with a semblance to the following:

Physician wanted. Travel required; will meet a lot of people; must be available to work nights and weekends.

“Are there any benefits to the job?” I asked.

“Not many,” P. Tester responded.

“You mostly work for the tips.”

Joey is a 3L and can be reached at joe.favata@valpo.edu. You can also listen to Joey every Thursday night from 8:00-10:00 on Valparaiso University’s radio station, The Source 95.1 FM.
Lineman's death a foreseeable consequence

Bob Marrs

Last week, San Francisco 49ers lineman Thomas Herrion died after a pre-season game in Denver. Since entering the NFL two years ago, Herrion, and all 310 pounds of him, had never tested positive for any banned substance. This incident is seemingly analogous to a death which occurred four years ago when Minnesota Vikings lineman Korey Stringer died of heatstroke after practicing in hot and humid weather.

In addition to the professional level, deaths following practices are not too uncommon for athletes at the collegiate level. Recently, a University of Missouri linebacker died after collapsing during a voluntary workout with teammates. The player struggled with conditioning drills for about 45 minutes when temperatures outside were in the mid to upper 80s.

After practice, the player laid on the turf until he was later dragged off the field by his teammates. Unfortunately, he was not taken directly to the hospital. Instead, some genius at Missouri decided the player would be better served if taken to the team offices to cool down. After wasting 12 minutes in the offices, the player was taken to the hospital where he died.

Similarly, in 2001, a Northwestern University football player collapsed and died after participating in a conditioning drill. The player actually told his teammates during the practice that he thought he was dying and that he could not breathe. After the player collapsed, it took more than 30 minutes for an ambulance to arrive on the scene because the University did not have an emergency phone that worked. In fact, the University had to use another player's cell phone to contact an ambulance.

These deaths should never have occurred. It is common knowledge that medical treatment may be necessary for overweight athletes who are practicing in 90 degree heat. Every summer, television news programs and newspapers inform the public about the dangers of heat. Coaches should know better. I'm not suggesting that coaches should cancel practice because of the heat and humidity. Nor am I suggesting the need to implement a weight limit, although that couldn't hurt. I am merely suggesting that professional and collegiate teams provide the requisite medical equipment on the field in the event of an emergency. Sounds logical.

Many states have a wrongful death statute that would typically apply to the above-mentioned situations. Generally, a wrongful death statute provides that an action may be brought for any wrongful act, neglect or default, which causes death. In Indiana, for example, when the death of a person is caused by the wrongful act or omission of another, the personal representative may bring an action against the alleged wrongdoer if the decedent may have brought an action, had he lived, against the alleged wrongdoer for an injury for such act or omission.

With respect to the death of a student athlete, parents of a deceased student athlete may have a valid wrongful death claim. In Indiana, for example, the Indiana Child Wrongful Death Act (ICWDA) defines a child as an unmarried individual without dependents who is less than 20 years of age and is enrolled in an institution of higher learning. The parent need not be unemancipated either. Like the general wrongful death statute, an action may be brought under the ICWDA against the person whose wrongful act or omission caused the injury or death of a child by both the mother and father.

Under the ICWDA, two specific damages are recoverable: (1) damages recoverable for loss of a child's services; and (2) damages recoverable for a loss of a child's love and companionship. With respect to love and companionship, Indiana authorizes damages to be measured from the time of the child's death until the date of the child's last surviving parent's death. Indiana does not provide, however, for either the recovery of damages for the parent's pain and suffering or punitive damages, which occur as a result of the child's wrongful death.

In situations similar to the ones mentioned above, the parents would allege the university and its coaches and staff were negligent in providing adequate medical treatment and safety precautions. Under a traditional negligence theory, the parents would have to prove the university owed a duty to the student athlete, the university breached that duty, and the breach of such duty proximately caused the student athlete's death.

Proving the University was negligent will not be an easy task. Typically, courts have failed to conclude that a university owes a duty to its students. However, because NCAA regulations do require summer workouts to be supervised by strength and conditioning directors and athletic trainers, courts may accordingly impose a duty in certain circumstances. In the alternative, one would likely argue that because of the financial gain a university receives from its student athletes, a duty exists based on a special relationship.

Concerning proximate cause, it is an egregious failure on the part of the university to not provide medical care or take the student athlete directly to a hospital if medical care is necessary. Also, it is foreseeable that a student athlete, who is working out in brutal conditions, may overheat and quickly need extensive medical services. Thus a university's failure to provide such services within a reasonable time would likely be the proximate cause of the student athlete's death in these circumstances.

As for Herrion, it didn't help that he was obese. But could his obesity be blamed for his death? Could his obesity have contributed to the extent he was contributorily negligent? Will a wrongful death claim be brought against the 49ers organization or the National Football League? No need to put the cart before the horse. These rhetorical questions will resolve themselves in the subsequent weeks as the toxicology reports are performed. As for now, Herrion's death was just a tragic reminder of the foreseeable consequences of an athlete's physical limitations.

Bob is a 3L and may be reached at robert.marrsiii@valpo.edu.
Finally, something right with sports

I can't think of a better way to enjoy my last weekend of freedom than by relaxing and watching sports. Although, in a summer loaded with saddening sports moments, it wasn't until that weekend that I was able to unwind and enjoy being a fan.

This summer was loaded with sickening sports controversy. It started with Kenny Rogers shoving a cameraman. The man was doing his job and shooting tape when Rogers decided he had had enough and shoved the man. Nobody goes onto the mound and pushes Rogers when he pitches terribly.

Shortly after that, Rafael Palmeiro tested positive for steroids after vehemently denying ever using them under oath in front of Congress. His test results add to the witch hunt of children's role models becoming drug users.

Tainting the whole summer as well was Terrell Owens. Here is a man complaining about making millions of dollars because he wants millions more. You can't turn on ESPN without hearing about T.O. I am racking up thousands of dollars in debt and he is complaining about his puny multimillion dollar salary. What a role model these men are and what great examples they are leading for their young followers. Kids are going to grow up to be rich junkies with anger problems.

However, this weekend I was able to enjoy sports in its purest form. There was no violence, no drugs, and no money involved. The Little League World Series is the only way to really enjoy sports today. I didn't have to worry about a 4'10" 12-year-old weighing in at 78 pounds beating up photographers, taking steroids, or demanding more money. It was sports how it ought to be. It's just too bad that the boys of summer have really become the boys.

Nick is a 2L and may be reached at nicholas.schwartz@valpo.edu.
The stress of the first week of school finally got to him. But as he drove away, he realized his problems were still right behind him.

Every time he talked about the one that got away, the fish mysteriously grew larger.

These two are discussing:

a) Pennoyer v. Neff... still.
b) The Post-it note stuck to the case, on which is written the address of the party being held that evening.
c) How the Post-it manages to stick to the page like that.

"The itsy bitsy spider..."

Legal Trivia
Valparaiso Edition

1) What does the Spanish name Valparaiso mean?
2) The Battle of Valparaiso occurred during what war?
3) With whom did the prisoners live in the old Valparaiso Jail?
4) For how many years has the Valparaiso Popcorn Festival been held?
5) In what year was VUSL founded?
6) How many students were in the first class at VUSL?
7) A VUSL graduate was the first American appointed to what court?
8) What was the Chapel of the Resurrection originally called?
9) What local judicial building is believed to be haunted?
10) What is the oldest building on the VU campus?