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Annual lecture addressed consent in international law

BY MELISSA DURHAM
Editor in Chief

International Law by Consent of the Governed was the topic of Valparaiso University School of Law’s seventh annual Indiana Supreme Court Lecture, held in Tabor on November 2, 2006. The lecture was delivered by Judge Jose Cabranes of the Second Circuit Court of Appeals and addressed the risks involved in allowing customary international law to govern when it has not been consented to by a particular state.

Judge Cabranes based his lecture on three common misperceptions of international law. First, that international law is more of an aspiration than a reality, which can sometimes be linked to the absence of a world government. Second, that international law is controversial, a misconception brought to the forefront by discussion of the law of war after 9/11 and the decision of the U.S. not to ratify the Rome Statute, which formed the International Criminal Court. Third, that international law is a relatively new phenomenon; we are in an era of globalization, so many are just now starting to hear about international law.

Cabrantes next addressed the controversial nature of international law, explaining why the U.S. has chosen not to ratify some treaties, specifically the Rome Statute and the Kyoto Protocol. Judge Cabranes hypothesized that the reluctance of the U.S. to take on new treaty obligations is based on its desire to exercise care and caution as a result of the importance of the U.S. in the international system.

Cabrantes further explained that inconsequential or totalitarian countries can simply sign a treaty and then neglect their duties, while the U.S. cannot. Also, the U.S. signs many treaties, but see CONSENT page 2.

Parties represent at Conversations Project

BY STEVE EHRMAN
Staff Reporter

The second Conversations Project event of the 2006-2007 academic year was another great success! With the topic being highly debated at this time of year, over fifty undergraduates, law school students and local community members were in attendance to learn and share their views on the subject.

The panel was moderated by Valparaiso University professor Alan Bloom. Professor Bloom invited those in attendance and the panelists to stop the rhetoric, and start talking about the issues.

Speaking first, Professor Albert Trost of the Political Science Department at VU proclaimed that the two-party political system does not represent his views. Professor Trost admitted that the system probably never has represented his point of view. He even has thought about not voting in the two-party election system. He offered that the British have been trying to get a third major party started, but this always gets quashed by the Conservatives of the labor parties. Professor Trost noted that debates are becoming less and less frequent, for which he speculated there is a genuine fear of having to address specific issues.

Next, Valerie M. Jensen, J.D., Valparaiso University Executive Director of Career Planning, stated she was proud of the political system in Minnesota that elected Governor Jesse Ventura because this election brought see PROJECT page 3.
Student forum explores second law journal

BY RYAN MILLIGAN
Staff Reporter

At a November 8th student forum, Professor Steven Probst led a discussion to solicit feedback from students on the topic of adding a new, subject-specific law journal. Among the different issues that were discussed were the process for creating a new publication, varying approaches to the scale of the publication, the timeframe for getting it accomplished, the impact it would have on students and the target audience for the publication.

Probst opened the discussion by explaining the second law journal task force, which was ordered by Dean Jay Conison in May to explore the idea of a second publication. Probst is the chairman of the task force, which includes Professor Laura Dooley and Professor Jeremy Telman, who were also present at the discussion. The task force is entertaining ideas ranging from a more informal newsletter publication to a subject-specific digest or journal.

Probst guided the discussion by outlining some of the main concerns of the task force, which include the integrity of the current law review, the ability to generate end-user and student interest for a subject-specific journal, and the overall impact of a second publication on the school’s reputation. If a second publication is added, Probst cautioned that it should be done in such a way that it does not harm the existing law review by drawing away submissions or notewriters. “The VU Law Review has been our predominant publication for over 40 years,” he said, “and we don’t want to harm that.”

The success of a new venture could well hinge on a subject-specific publication’s ability to attract quality submissions. A topic can tend to “dry up,” explained Probst, unless it has the momentum created by a critical mass of quality submissions plus a driving force of interested students. If these elements are present, then it is possible to have a publication that can succeed and enhance the reputation of VUSL.

After discussing the general concerns of the task force, Probst opened up the discussion between the task force and the students attending the forum. One idea advanced was the prospect of doing a topical digest that would be specific to a certain area of law, maintain a small board of editors, and produce case comments and other content relevant to the subject matter chosen. This publication would then be mailed to regional law firms specializing in that specific practice area. DePaul University College of Law has published similar digests, some of which have failed, and some of which have evolved into full-fledged law journals.

Students and task force members alike expressed a desire to see a publication that would enhance VUSL’s reputation and allow additional writing opportunities for students at the law school. The timeframe for moving forward on the initiative depends on the complexity of the publication and requires approval from the faculty at-large.

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up issues that got people out to vote. Many young people voted for the first time, a phenomena that will be hard to repeat. Jesse Ventura won because he talked to the people and for the people on issues that were not represented before.

Attorney and professor Jacqueline R. Gipson, J.D., a lecturer in Criminal Justice and Political Science at Indiana University Northwest, is concerned about lack of participation and apathy, but more concerned about what can be done. Professor Gipson believes the current two-party-system is the best we can do given all the dynamics of our political system.

VUSL professor Paul Brietzke began the audience discussion by sharing how he decides who to vote for in presidential elections. His decision of who to vote for is based on identifying who he does not want to be president, not deciding who or what party to vote into office. In this regard, Professor Gipson noted that Gore made a big mistake by distinguishing himself from Clinton, who was very popular with the public. In further group discussion, the topic of primary election strategies was raised. The issue is that the candidates run hard left or right in the primary elections, but simply gravitate towards the middle in the general election.

Val Jenson noted that Jesse Ventura won with 37% of the vote. This raises several questions. Is it important to win with a majority? Who is the party if its members aren’t the party? In a representative democracy we, the people, still matter. Views of “the other party” may be the information you use to form views of your own party.

Many other points of discussion were also thought provoking:

The issue of apathy might be that everyone tries to appeal to the masses, but this doesn’t get people excited to vote.

Money can run a political party system and is a vehicle to pursue the goal of more representation towards monetary incentives.

We are now a country of two-second sound bites, and it is difficult to figure out what the candidate really is saying or where they stand.

Political parties are in reality very similar, but the rhetoric is so far apart from each other. They need to either stand for or against a two party system.

We only have two viable parties meant to represent a proportionate view and interests.

Can term limits be an answer? There are carrier politicians, but yet it is hard to gain entry into politics and be successful unless you have a legacy or are publicly recognized. However, lobbyists contribute to the problem of having the same candidate in Congress when there are no term limits.

Minnesota has a “kid vote” where children get to go to the polls with the parents and vote, helping them learn how to vote, and develop an interest in the issues.

Many people don’t realize how difficult it is to be a politician, it is a rough job.

Remember, if you stand for nothing, your represented interest will be nothing.

Our economic system focuses on individualism, and civic communities which are not important, thus we need to be focused on being committed everyday to learning and living our political views and interests.

The objective of the Conversation Project fully came to fruition at this event. The presentations were thought provoking and the group discussion was lively.

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The Docket

CRIMINAL LAW


Illinois Supreme Court holds that quantity requirements in methamphetamine sale and distribution laws include the amount of byproducts for purposes of charging a criminal defendant.

In 2001, the Marion County Sheriff’s department executed a search warrant on the trailer of Roger McCarty for methamphetamine, paraphernalia, U.S. currency and items used for the drug’s manufacture. The sheriffs found six containers of suspected liquid, pseudoephedrine pills, gas masks and over $3,000 in cash, along with some marijuana.

McCarty and his fiancée, Jeanyne Reynolds, were arrested and charged with unlawful manufacture of less than five grams of “a substance containing methamphetamine” and unlawful possession of a methamphetamine manufacturing chemical with intent to manufacture “a substance containing methamphetamine.” Subsequently, the defendants’ informations were amended twice to eventually reflect the same charges as above, but with the quantity amount increased to “more than 900 grams.” These new charges carried the possibility of 15 to 60 years of imprisonment for each charge.

The defendants stipulated to much of the evidence at a bench trial, which included their confessions. They were eventually convicted and received 15-year and 900 grams.

The defendants raised three arguments that the conviction and sentence were improper. They argued that the search warrant was unconstitutional because it did not describe the subject of the search with sufficient particularity. Second, they posited that the sections of the methamphetamine laws concerning penalties violated the proportionate penalties clause of the Illinois constitution. Finally, the defendants challenged that the Illinois legislature did not intend to include the byproducts of methamphetamine production in the definition of “substance containing methamphetamine,” and such an interpretation would violate the Illinois constitution’s due process clause.

In an opinion by Judge Garman, the Illinois Supreme Court interpreted the statute to include methamphetamine’s non-narcotic byproducts, a conclusion which the defendants did not necessarily dispute. Instead, the defendants argued that such an interpretation, right or not, would lead to “absurd results,” especially when the state holds first-time, recreational or unskilled manufacturers to such a high felonious standard. Furthermore, the defendants argued, the statute’s preamble appears to only target the amount of usable methamphetamine in its punitive scheme, in accord with federal sentencing guidelines, and such a literal interpretation of the statute would produce more absurdities. Finally, the defendants argued that it was a violation of the two aforementioned portions of the Illinois constitution to treat a manufacturer who makes an unusable amount of methamphetamine the same as someone who is successful.

The court rejected these arguments. The court countered that that a statutes preamble, which has minimal legal weight, cannot be used to create “ambiguity in an otherwise unambiguous statute.” Further, noting that methamphetamine manufacturing is “a dangerous process involving toxic and combustible chemicals,” the court reasoned that products and byproducts of this manufacture still come from the same dangerous process, and the legislature intended to punish this activity from its point of initiation. In that vein, the court was unwilling to interfere with the legislature’s determination of what substance manufacturing activities were to be punished, regardless of the end result of those activities.

RELIGIOUS FREEDOM; LAND USE

Vision Church v. Village of Long Grove, Illinois, Case No. 05-4144 (7th Cir. Nov. 7, 2006).

Seventh Circuit affirms summary judgment for village despite church’s arguments that the municipality’s property annexation, ordinance and denial of a special use permit violated the First and Fourteenth Amendments and the RLUIPA of 2000.

Vision Church, a Korean-American populated Illinois religious group, experienced significant growth in the late 1990s and purchased land in unincorporated Lake County, Illinois, on which it planned to build a new church in order to accommodate this growth. This land was adjacent to the Village of Long Grove, and pursuant to county codes, the church requested annexation of the unincorporated land by the Village as residential property conditioned on a grant of a special use permit for the church. Vision made this request because the growing Korean-American population wanted to foster relations with the Long Grove community.

During subsequent negotiations, the Village required the church to submit to a number of restrictions that were posited ostensibly to maintain Long Grove’s rural, unspoiled character. These restrictions included reduction in parking spaces, agreement to hold only two Sunday services, and to not use adjacent designated lands for any outdoor activities. Vision objected to these restrictions, in part, because it would “necessarily entangle” the Village in the church’s activities. Vision’s petition was eventually denied.

Around this same time, the Village considered a petition for voluntary annexation by a private home developer, who owned all of the lands surrounding Vision. The village accepted this plan. Thereafter, pursuant to Illinois law, the Village passed an ordinance involuntarily annexing Vision’s now-surrounded land into the Village, which passed the Village’s board. The Village subsequently passed an “Assembly Ordinance” which effectively limited the ability of Vision to use its land consistent with the needs of its expanded congregation. Vision reapplied for a special use permit for their 99,000-square foot structure, which was again denied as far in excess of the new ordinance.

In 2002, after this second denial, Vision filed this action in the Northern District of Illinois. Vision challenged both permit denials, the involuntary annexation and the Assembly Ordinance as violations of the First Amendment, the Fourteenth Amendment equal protection clause, the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA) and the Illinois Religious Freedom and Restoration Act (IRFRA). Specifically under its First Amendment Claims, Vision argued that the First Amendment has been read by the U.S. Supreme Court to include claims that it is unconstitutional for land use restrictions to effectively “exclude” churches. The District Court granted summary judgment for the Village on all counts.

On the exclusion claims, the Seventh Circuit, with Judge Ripple authoring the opinion, concluded that insofar as there may be an “exclusion claim,” Supreme Court precedent and RLUIPA only apply to claims where “total exclusion” has occurred. Since churches are permitted as a special use in the Village, and since the land use ordinances passed before Vision’s second petition did not pose unreasonable restrictions on churches, the exclusion claims on both First Amendment and RLUIPA grounds were fatally flawed. The court noted that the ordinance’s facial neutrality and legitimate goals may even protect it from an overly broad grant of discretion to the Village.

On Establishment Clause grounds, Vision argued that the new land use re-
strictions favor existing churches, thereby amounting to government favoritism of one religion over another. Under the Supreme Court’s Lemon v. Kurtzman analysis, the Seventh Circuit held that Vision had not demonstrated that the ordinance had no secular purpose, advanced or inhibited religion, or fostered excessive government entanglement. Rather, the Court opined that the preservation of rural character was “sincere;” that a reasonable person would see the ordinance as a neutral restriction on all development, religious and nonreligious alike; and that there was no active sponsorship, support or restriction that rose to the level of entanglement, although the court did express concerns with the restriction on Sunday services.

With regard to the Free Exercise Clause and its embodiment in RLUIPA, the Seventh Circuit recognized that an ordinance placing a “substantial burden” on religion is subject to strict scrutiny. However, the Court opined that Congress meant RLUIPA’s substantial burden requirement to be interpreted with reference to First Amendment jurisprudence (see “Secondary Authority” nearby). Under this guise, the Court held that the involuntary annexation was not a “regulation” that RLUIPA was enacted to govern. Furthermore, the annexation and the ordinance constituted actions pursuant to neutral, generally applicable laws.

The Court also rejected the Fourteenth Amendment/RLUIPA claims raised by Vision. The Court held that the ordinances did not discriminate on the basis of protected classes, and that the special use permit requirements did not present a situation in which the Village placed Vision on “less than equal terms” with nonreligious organizations.

**INDIAN LAW; ADMINISTRATIVE LAW**


D.C. Circuit affirms summary judgment for Indian Tribe where Commission did not have rulemaking authority to promulgate regulations establishing mandatory procedures for certain Indian gaming operations.

The National Indian Gaming Commission was established under the Indian Gaming Regulatory Act, and has the power to promulgate regulations necessary to carry out the statute. In particular, the commission has the authority to audit Indian Casinos and enforce civil fines for violations. In 1999, pursuant to this statutory mandate, the Commission promulgated regulations on almost every aspect of class II and class III gaming (which includes every type of gaming except for the more traditional games of Native American origin), deemed the “Minimum Internal Control Standards.”

In 2001, the Commission sought to audit the casinos owned and operated by the Colorado River Indians. The tribe interrupted and terminated the audit, saying that the commission had exceeded its rulemaking authority under the Act. The tribe was fined $2,000 for ending the audit.

Thereafter, the tribe initiated this action in federal district court. That court agreed with the tribe that Congress had not granted such broad authority to the commission to promulgate such specific and overarching rules.

The D.C. Circuit agreed with the district court. The court analyzed the statute and determined that authority for regulation over class III gaming (which includes those games found in most casinos, such as slot machines, roulette, and blackjack) resides with compacts between the tribe and the state in which the tribe resides. The statutory scheme, the court determined, was never meant to permit state-tribe-commission regulation. Thus, agencies are... bound, not only by the ultimate purposes Congress has selected, but by the means it has deemed appropriate, and prescribed, for the pursuit of those purposes,” opined the court.

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**SECONDARY AUTHORITY**

**The Anemic Amendment**

BY NICK GAEKE
Staff Reporter

I realize that half of my commentaries have concerned religious issues that the courts take up. This fact is not by design; the courts just seem to keep taking the wrong positions.

My last statement is a little tongue-in-cheek. Anyone who analyzes the scheme of the First Amendment should be able to conclude that, at the very least, governments at all levels sit between the rock of not hindering free religious exercise, and the hard place of not “establishing” a religion. But the solution is a deceptively simple one: governments should engage in an exercise of simple neutrality.

In the case of land use, at the risk of being overly simplistic, this means that local governments should not do anything that favors a specific religious group by showing favoritism in their grant or denial of variances or permits to churches. It also means that they should not adopt policies that hinder a church’s ability to expand its membership or create new facilities that are used primarily for its exercise of religious belief or community.

But ever since Oregon Division of Human Resources v. Smith limited the reach of the Free Exercise Clause, courts have engaged in jurisprudence that has, at the very least, led to inequitable results for churches. At the very most, these decisions have gutted the power of the First Amendment in its entirety to protect the religious freedoms of Americans.

The case of Vision Church is indicative of this trend. Here, the church has needs and wants. It needs a larger space for worship, and it wants to foster good relations with the adjacent suburban community. But Vision faced adversity every step of the way. Under the current judicial scheme of First Amendment application, if a municipality wants to shut a church out under the color of wanting fewer cars or having a pretty sunset at which to look, it appears that a church such as Vision would never have a chance.

One other note: the court expressed some fleeting concern with the chain of events of this case. However, in a footnote, the court essentially said that since no civil rights claims were raised, they would not so opine.

Here’s the translation: the Vision Church has a largely Korean-American congregation. Long Grove is a community that, according to the 2000 census, is 91% Caucasian. The median household income is $148,150. The Seventh Circuit was essentially saying that if Vision were a country club, then the Northern District of Illinois, much less the Seventh Circuit, might have never needed to assign this case a docket number.

Although more evidence would be needed, in my opinion, to even scribble a footnote with such a “concern,” I would offer that the best solution comes in recognition of a higher level of constitutional scrutiny in certain situations. Specifically, where the religious group in question may also qualify as a protected class for purposes an Equal Protection/Due Process claim, the level of constitutional scrutiny that the government must satisfy should be strict. Justice Scalia, in the landmark Smith decision that vitiated the Free Exercise Clause, even recognized a similar possibility.

In sum, protection of even the basic functions of growing religions is disappearing. Courts are becoming ever more hostile to that protection due to a prevailing belief that neutrality equates to adversity. Especially where protected classes may be involved, courts should take another look at how they handle a village, town or city that wants to see the sunset at the expense of a church that may want a bigger building to have church more than twice on Sunday.

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Evaluations

Bruce Berner

THE DEAN’S CORNER

I would like to encourage all students to participate in an on-line evaluation of their professors including both regular and adjunct faculty. Valpo Law has, of course, always done teacher evaluations as have most institutions of higher education. They are helpful to administrators charged with setting salaries, to tenure and promotion committees in making decisions about colleagues, and most importantly to the teachers themselves to learn which approaches are viewed as effective and which are not.

To the extent that you think your professors are effective, you must give some credit for that to students who traveled the road before you and made suggestions which improved that person’s teaching. (By the way, to a teacher, these suggestions may have seemed at the time either encouraging or dismaying.) Consider performing the same favor for future students. In your professional careers, you will often be asked to engage in similar constructive-criticism exercises to improve your law firm, your agency, or your organization. Your views are important to us as teachers—you are, after all, the “consumers” of our “product.”

Starting last spring semester, we moved to a web-based system for collecting this information. This method, which replaced the old system of filling out hard-copy forms in each of your classes during class time, is more efficient. It will, however, only continue to be useful to the institution if the level of participation is high. You will receive a series of initial e-mails about the process of filling out the web-based forms. One will come from Digital Measures, the web vendor whose services we are using. I’ll send one out. Professors will announce it in classes. It will be on the big screens downstairs and, of course, you’re reading it in The FORUM right now. The SBA has indicated support for this effort. To add a bit of fun and underscore the school’s own interest in this endeavor, the law school will give a $2 gift certificate redeemable at our student-lounge coffee vendor, Anneliesje’s, to every student who fills out all of his/her course evaluations and will have a drawing among all such students to give out a $200 gift card to Best Buy.

Once the time period opens for receipt of your evaluations, you navigate to www.digitalmeasures.com/loginval-postudent. You will be prompted for your student e-mail address and your student ID. Then follow the program to complete the evaluation forms which include spaces for textual comments but do not require them. You should be able to do each course in a few minutes and the whole set within a half hour or so. You can fill them all out at one sitting or do them one or two at a time. We will be able to tell which students filled out all the forms but a student’s identity cannot be matched to his or her responses. Thus, it is a completely anonymous evaluation process.

Here are the time periods (any time during any of these days):

Legal Research
Begin Oct 30, End Nov 15

Legal Writing
Begin Nov 13, End Nov 26

All Others
Begin Nov 20, End Dec 5

Please fill out the forms. We view it as important and hope you do as well. And may the Angel of Winning Raffles be with you.

The FORUM

Founded 1971
Melissa Durham, Editor in Chief
Kristen Thompson, Managing Editor
Heather Montei, Executive Editor

EDITORIAL

As we approach Thanksgiving, we are encouraged to give thanks for our blessings and help out those who are in need. Every year the law school has numerous donation opportunities for each and every one of us to take part in, but how many of us do?

Last year, there was a VUSL organization that tried to raise funds for food baskets for the Valparaiso community. However, when it came time to go shopping, there wasn’t even enough money to buy turkeys for those seven families. Yes, we are law students; yes, some of us are short on funds, but couldn’t we forgo that extra beer at the Northside Tap to make sure every child gets to have turkey for Thanksgiving instead of hot dogs?

Giving to others should come as second nature to lawyers. As law students, we are embarking on a career as public servants whose position it is to protect our country’s liberties. Whether we work as in-house counsel for a Big Three, an associate for one of the nation’s largest firms, or felony defense counsel in the middle of Alaska, we have a civic duty to serve. The ABA recommends 50 hours of pro bono every year. Fifty hours... that’s it. How difficult can that really be to meet?

Fifty hours. It is a tradition VUSL is trying to instill in all of us. By requiring 20 hours of pro bono before we graduate, the leaders of our school are hoping those pro bono hours become second nature for us. They are hoping they can teach us not only how to be great lawyers, but great citizens as well.

We all have three years to complete this requirement, yet how many of us wait until the last minute? How many of us struggle to put those hours in during our last semester of our last year? How many of us complain about having to do that time? And ask yourself this - how many of us meet that number, and surpass it?

Last year’s class gave just short of 4,500 hours. This was accomplished by many of the students doing well above the minimum 20 hour recommendation. Ten members of last year’s class gave more than the ABA recommended 50 hours and Manda Clevenger gave 162 hours alone! That’s something we should all strive for as we embark upon our legal careers.

Fifty hours is what is recommended. Not required, but recommended. There is no punishment for not making that requirement and usually no commendation for making and surpassing that number. But, at the end of your career, will you miss those 50 hours in pay a year? Will you really be lacking for giving that time?

We think not. It’s the moments that make up a life, the moments of giving back, of helping others, of working toward a greater cause that will impact your life. When we are done in this lifetime, we cannot take the money with us, but we can leave behind an impression. Help those less fortunate than you, not because you are required to, but because it makes the world a better place to live in.
Free massages and finals

Unfortunately, this means telling your friends back home that you might have to stay locked in your room with your high school awards on most of the days leading up to Thanksgiving. That being said, I suggest you pick one night to let loose. De-stress by enjoying friends on the largest bar night of the year, Wednesday before Thanksgiving. This is a good day to de-stress with friends because there is a good chance that you won’t be studying the following day. Some students say, I suggest you pick one night to let loose.

Second, take advantage of the free resources available at Valparaiso University. There are two resources that you can use to ensure sanity. There is the Counseling Center (located right next to Porter Memorial Hospital) and the VU Health Center (located across from Domino’s on LaPorte). The Counseling Center is a great place to talk to someone who will just listen to your worries without passing judgment. You also don’t have to worry about your counselor spreading outlandish rumors about your troubles around the law school. There is a trend amongst students to turn to alcohol and drugs. This is one of the stupidest mistakes students make on a yearly basis. It is a good way to blow the money that you are not making and cut into your studying time. This also goes for drinking after your first final. Even though you will want to blow off some steam, sit back with a good movie and sleep a bit.

Finally, VU Law has been working hard to help ease students’ stress during this crucial time. There will be six to seven massage therapists throughout the last week of classes and during finals at the law school to give massages. This should help eliminate those sore muscles caused by stress.

Beyond these tips, just remember everything that your parents taught you when you were little. Eat healthy, get exercise, and try to sleep as close to six to eight hours as possible. Use exercise time as study time by getting CDs of lectures in your favorite topic. The bookstore has them for sale or talk to your favorite second or third year student. It is likely they have them on their computer. Coffee is always good, but remember for those late nights in Purgatory (the library, as quoted by Ryan Abresch), tea also has caffeine, but doesn’t usually give you jittery hands and a mind that can’t stop racing. If these don’t work, just think, you only have another month before you get your grades back and SBA’s first second semester party!

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Swygert participants recognized

The Valparaiso University School of Law Moot Court Society congratulates all participants in the 18th Annual Swygert Moot Court Competition! The Final Round of the competition took place on Wednesday, November 1, at 4 pm in the Duesenberg Recital Hall at the Valparaiso University Center for the Arts. Judges for this year’s competition were Judge William Bauer of the Seventh Circuit Court of Appeals, Judge Michael Kanne of the Seventh Circuit, Judge Charles Wilson of the Eleventh Circuit, and Judge Joan Ericksen of the District of Minnesota.

Melanie Scott and Eric Stoegbauer argued for the Petitioner and received the award for Best Team. Alexander Gatzimos and Tesa Zimmerman argued for the Respondents. Tesa Zimmerman received the award for Best Brief in the competition. This year’s final round was the culmination of an intense competition lasting more than two months. Members of the Moot Court Society received the competition problem on August 18, and the briefs were due on September 25. On October 16, the oral argument rounds of the competition began. The preliminary and quarterfinal rounds were judged by members of the Moot Court Board. The semi-final round was judged by Professors Ivan Bodensteiner, Rosalie Levinson and Susan Stuart.

The Swygert competition always concerns an issue of First Amendment Law. This year’s problem involved an Establishment Clause challenge to prayer at public universities. Specifically, the public university in the competition problem had instituted a weeknight dinner prayer and a prayer at its annual graduation ceremony. Two atheist students brought suit against the university, alleging that these practices violated the Establishment Clause.

The Final Round was a lively affair with a very excellent and lively bench. Judges Bauer, Kanne, Wilson, and Ericksen impressed the audience with their attention to detail and interest in the topic. The competitors were noted by the judges for their flexibility, responsiveness to questions and composure while responding to difficult issues raised by the bench. The Final Round participants enjoyed a formal reception at Aberdeen Manor, along with the judges, members of the faculty and other members of the law school community.

The Swygert competition was created as a result of an endowment in memory of the late Judge Luther M. Swygert. Judge Luther Swygert served as Chief District Judge of the Northern District of Indiana, and was then appointed to the Seventh Circuit Court of Appeals. He served as Chief Judge of the Seventh Circuit from 1970 to 1975, and served the Seventh Circuit until 1987.

Judge Swygert had a special interest in legal education, in particular moot court. Hence, the competition was established to commemorate his unique relationship with VUSL and his dedication to the legal education of its students. The Moot Court Society would like to extend our thanks to Mrs. Swygert and Michael Swygert for their continued support of the competition and their interest in the students who participate.

The Moot Court Society would like to express its appreciation to Dean Conison for his assistance with procuring judges and administering the competition. In addition, we thank Professors Bodensteiner, Levinson, Stuart and Nuechterlein for their assistance and dedication to the success of the Society. Finally, we are grateful to all members of the law school community who attended the Swygert competition and who continue to insure its success.

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Mock Trial Team finishes competitive fall season

BY NICK GAEKE
Mock Trial Chairperson

This past Wednesday marked the conclusion of the fall season for Valparaiso University School of Law’s Mock Trial Team. From a national competition featuring participation from 21 different law schools, to the most elaborate and publicized intraschool competition in the School of Law’s history, this semester marked major strides forward for the young Team.

On October 26, 2006, six members of the Mock Trial Team traveled to East Lansing, Michigan, to participate in the Seventh Annual National Trial Advocacy Competition, hosted by Michigan State University. One of the country’s most competitive and popular fall-semester trial advocacy competitions, this year’s tournament featured a criminal fact pattern, in which the defendant, a hockey player, was charged with the murder of his former teammate.

Mock Trial Team members Erin Brady, Nick Gaeke, Jillian Keating, Christine Parry, Vanessa Samano and Michelle Spezia participated in Michigan State’s competition this year. Although they did not advance in the tournament, they were heartily congratulated and complimented by competitors on other teams, and two of the teams that they faced during the preliminary rounds ended up placing second and fourth in the competition.

About two weeks later, on November 6-8, the rest of the Mock Trial Team participated in the Third Annual Intraschool Trial Advocacy Competition (ITAC). Founded in 2004 and run solely by the efforts of team members, the ITAC was originally meant as a teaching tool and as a way to evaluate team members. In just three short years, the competition has evolved into a full-scale tournament in which all of its participants are eligible to win awards and present in the final round to a packed courtroom.

Thanks in large part to the efforts of Membership Chair Jillian Keating, this year’s ITAC was the best public display of trial advocacy competition the School of Law has hosted. In particular, the ITAC had its largest outpouring of outside support, featuring 19 attorneys as preliminary round judges and evaluators. The Final Round was open to students, faculty and administration, and was evaluated by three sitting judges. Judge Christopher Nuechterlein, Magistrate Judge for the Northern District of Indiana, donated his time and services as the presiding Judge in that final round. Judge Bradford from Valparaiso and Judge Avery from Fort Wayne also participated as juror-evaluators for the well-attended round.

The final round featured the efforts of 2Ls Andrew Palmison and John Peluso for the prosecution, and Michael Abel and Kevin Gilmarin for the defense. Palmison and Peluso’s display garnered unanimous agreement from the three-judge evaluation panel as the best of the final round. Additionally, a number of individual competitors received awards for their outstanding performance in individual aspects of the trial. Overall, the Executive Board would like to congratulate all who participated in the ITAC, and thank those members of the student body and faculty for attending.

Next semester, the Mock Trial Team will participate in two national competitions. First, in February, the Team will enter the American College of Trial Lawyers’ National Trial Competition. Next, in the beginning of March, the Team will compete in the Association of Trial Lawyers of America’s Student Trial Advocacy Competition. If you want to know more about the team or these competitions, stop by the Student Advocacy Center. Otherwise, stay tuned for more news about the team.

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Midterm elections are over, the results are in, so what does this mean?

The midterm elections in any given presidential term are typically underreported and barely publicized. This year it seemed the midterm elections were blown to the proportion of a presidential race. More money was funneled into campaigns than in many presidential election years.

Why?
The answer is that this country is more polarized and divided than it has been since (arguably) the Vietnam era. The 2006 midterm elections were a referendum on George W. Bush, his policies, his war in Iraq, and corruption. In a country with historical right leaning tendencies, we saw some very left leaning candidates successful in even the most conservative of districts. Americans have overwhelmingly showed that they have had enough of Iraq, enough of the corruption and enough of the ‘moral minority’ running our country into the ground.

How will this affect us?
By winning the House of Representatives, the Democrats were able to insert presumptive nominee Nancy Pelosi into the Speaker of the House position, putting her third in line of succession for the presidency. This means if George Dubya was to meet an untimely demise, Cheney had a heart attack in the process, President Pelosi would be measuring the West Wing for new curtains.

The Democrats have taken enough Congressional seats to effectively end the Bush agenda. Even if they had not taken the Senate, they could stop any legislation with the threat of filibuster. Given that the Senate has been taken by the Democrats, they also control the agenda. Republicans still have enough sway to filibuster Democrat legislation, and Bush can ultimately still veto the same, but Democrat control prevents the Republican agenda from fruition. This means we should expect a lot of nothing out of our new congress, a perfect deadlock. The Republicans have two months to push as much of their agenda through as they can before they hit their two years of futility- expect them to put in a lot of overtime before the holidays.

What about Iraq, corruption and stem cell research?
The Democrats control the power of the purse, and can use this power to effectuate some change, but it’s not the most efficient or successful use of this power. The majority holding in both houses will allow Dems to launch investigations and keep these issues contested, but their power is limited to effectuate change as long as Bush retains the veto and the 49 Republicans threaten filibuster.

In both houses Democrats will set the agenda, they can push all these issues and more, but the likelihood of passing such legislation is still quite low. Bush will have to learn a new word if he wants to get anything done in these next two years: Concession. Bush will have to give large concessions to receive small favors. Republicans will have to bend on a lot of issues if they want to push any of their agenda forward. Setting the agenda in Senate allows Democrats to block Republicans more than really push their own agenda or make any substantial changes.

The end of the Bush legacy?
Bush labeled himself as ‘the great uniter.’ What we have seen in his presidency is a great divider. He has polarized this country to the political extremes. America is in a worse economic position than it has been in decades. We have historic deficits. Our foreign relations are at an all time low, and there is more resentment and anti-American sentiment in the world than has ever existed. In addition, our failed Middle East intervention has increased the threat of terrorism exponentially; we can expect terrorist style attacks and threats for decades. The midterm elections have effectively ended the Bush reign. Bush remains a lame duck president; his only strong power left is in international negotiations and treaties.

The Democrats winning both houses in Congress cannot fix any of these problems; at best we have halted the destructive path of our country’s leadership. In order to start repairing the damage we will have to see a new presidency, either by a reformist Republican or a Democrat with enough smarts to try to heal some wounds, reform some policies and make some global amends. The American people have spoken, Republicans will have to adapt and reform or they will be destroyed in 2008.

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Campaign 2006: Random notes from the election

Did I miss an important meeting that took place at some point during the last several years? I must have missed it, and everyone in the entire country had to have attended, because that is the only way I can explain my utter sense of confusion. Last Tuesday, I read an article in the Wall Street Journal about the “poll watchers” who had been dispatched to polling precincts all over the country.

“Poll Watchers” commonly known as “losers” consist mainly of people who decided to quit their jobs and devote themselves full-time to observing and reporting problems that occur in polling places. If a Republican candidate wins then these problems are reported to attorneys who try to see if there is enough evidence for a frivolous lawsuit or a trumped-up lawsuit. What in the hell happened to this country? How far down have we sunk when it becomes necessary for a team of attorneys and former high school music teachers to save me from whatever perceived injustice I might face at the voting booth? My only hope is that none of these “attorneys” received their degree from Valpo, otherwise my diploma is going into the darkest recesses of my closet and the “Official Beer Taster” certificate I received at Busch Gardens three years ago is getting that much coveted spot on the wall above my desk.

The biggest missed opportunity that I saw during Campaign 2006 occurred just over the border in Illinois, and big surprise, the Republicans were responsible for it. I’m not the most astute individual when it comes to regional politics, being that I’m not from the area, but I am aware enough to realize that Rod Blagojevich is not a popular governor. In fact, he was roundly criticized and disliked by many people, and not even for the reason that he has “Rod” for a first name. During the summer of 2005 I would listen to talk radio while I worked outside and it seemed like everyday a new Republican would be interviewed on the air because he had thrown his hat into the ring for the 2006 election - a full year and half before the campaign! That’s like a middle school kid buying condoms for his high school prom. The Republicans could have nominated almost anybody and beat Blagojevich, provided that the candidate did not have ties to George Ryan, the only governor more hated than Blagojevich. So who do the Republicans nominate? Logically, they chose Judy Baar-Topinka. Judy Baar-Topinka?! Aside from the fact that she looks like she belongs under a bridge eating billy goats rather than behind a podium, she was Governor Ryan’s Secretary of State and had plenty of corruption charges surrounding her stint in office. Why on Earth did the Illinois Republicans nominate her? Were they high or something? I bet the Illinois Republicans are the same idiots who keep green lighting Wayan’s brothers movies.

I’m not going to harp too long on the Mark Foley scandal, although I would like to point out that it was by far my favorite campaign 2006 scandal. But did anyone notice how Gerry Studds died in the midst of the Foley...
scandal? Gerry Studds was a democratic Congressman from Massachusetts who was eerily similar to Congressman Foley in that they both had a penchant for male congressional pages. Unlike Foley, though, Studds actually buggered one of the pages. As a result he was censured by the House of Representatives in 1983. I don’t like to joke about death, but I just thought it was so weird that he died during the Foley page scandal. It was almost like Studds was hanging on until he could pass torch on to somebody else. It’s kind of like “The Godfather” except Michael and Vito didn’t try to get it on with underage boys. Well, I don’t think they did. I never did see the Director’s Cut.

As everyone is well aware, the worst gaffe by far during the campaign was made by John Kerry while he was campaigning for a candidate out in California. During a speech to a group of college students Kerry said “You know, education - if you make the most of it - you study hard, you do your homework and you make an effort to be smart, you can do well. If you don’t, you get stuck in Iraq” (cue rim-shot). Kerry was indignant at first when he was asked to explain this statement. A couple of days later he claimed that it was a “botched joke”. What kind of a lame-ass excuse is that? He’s a politician, so lying should be nothing new to him. Couldn’t he think up a better lie than that? He should have just tore a page out of the book of his colleague from Massachusetts and told everybody that he was drunk. That would have been a million times better than a “botched joke.” A botched joke is when you forget to mention the part about the priest and the rabbi walking into the bar. A botched joke is not a statement implying that American troops are morons who failed out of college. Being that he’s a Democratic senator from Massachusetts Kerry’s statement shouldn’t hurt him politically. He could probably drown his secretary and he would be re-elected in that state.

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This Never Happened

BY CHAD MONTGOMERY
Guest Writer

Before she spoke she brushed her hair back revealing two sparkling diamond studs received on account of her recent entrance into those formidable teen years. The hood of her sweatshirt cupped her brown curls keeping them from falling over the name printed on the rear, which read "Hail." On the front were two lines in red italics, Ben Franklin Middle School Basketball.

"If you want me to kiss you, if you want me to tell people that I'm your girlfriend."

"I didn't say we had kissed, I said the second part but added you won't kiss me yet."

"You started the rumor? (She blushed more than than.) Listen, I don't date everybody, or anybody who asks. You have to be somebody or do something."

"I'm on the boy's basketball team."

"You keep the statistics!"

"That's Trent Parker's job now. Coach gave me a uniform yesterday. He said that because Trip O'Neil twisted his ankle I'm going to get to be our new "Charge Specialist." But there's more than that. Cami, next Monday will you wear Strawberry ChapStick?"

"Derek hates it."

"That's why he'll be crying."

"Dream on." She kicked me square in the shin. Guess whose leg kept giving out in basketball practice that day? Guess who coach assigned to floor me so I could learn the "Charge Specialist" flop. Guess who was keeping statistics again the following practice?

What I knew was Cami idolized her father. He had "Dream on."

"That's Derek it."

"That's why he'll be crying."

"Dream on." She kicked me square in the shin. Guess whose leg kept giving out in basketball practice that day? Guess who coach assigned to floor me so I could learn the "Charge Specialist" flop. Guess who was keeping statistics again the following practice?

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What I knew was Cami idolized her father. He had
part he called the Loganville Police Department. Aaron called the Warren County Power Supply Company. O'Neil called his uncle who was the Mayor and pretended to be in disbelief. We told them we were calling from near the Davis Bridge to report some suspicious and unidentifiable lights that appeared to be hovering above the Lincoln River. I called the Daily Herald, emphasizing the words unidentifiable and hovering. I hung up before the switchboard operator could ask my name.

Here is what happened on the day everything happened. WDAY ran a mid-morning story about Thanksgiving Day UFOs and how chemicals in turkey meat can cause mild hallucinations if double-dosed with any Italian wine. In the afternoon my dog bit my right hand bad enough, causing it to bleed. (I was monkeying around with the turkey bone my mother had given him.) At 5:42 pm Aaron showed up pushing his sister's pink huffy with his shoelace tangled in its broken chain. I bandaged my hand. We wrote out a bike changeover plan where O'Neil would take my father's bike and Aaron would take his. The excitement was enough to send Trent into nervous laughing fits. We all guzzled two cans of Jolt and Trent puked through his nose before we changed into our black pants. We shuffled into the den where my dad was petting my dog and watching television. He cautioned us to beware of Starfleet Santa Maria during a commercial break. As WDAY began their pre-coverage of the 13th Annual Thanksgiving Night Parade we left.

I described my idea to Trent, Trip and Aaron after I saw Mr. Banks firing my cousin as this: Circling bikes with flashlights and creepy sounds—a real fake UFO. Trent suggested we cut rope into four sections and tie the ends to a bull ring and our bike seats. That way our circle stayed even as we rode, so long as we leaned away from the middle. (It was like tug-o-war on a merry-go-round.)

We arrived at Washington Park well before anyone was standing or seated street side. Trent wore his whole outfit save for my brother's stocking cap which was in the bag carried by O'Neil who kept switching gears on my father's 3-speed. Washington Street was about a football field and a half away from the butte. On a majority decision, we decided that the elevated landing would give us the best visibility and chance to escape. Everything was quick enough in the growing dark, caps on, ropes tied, flashlights mounted while Aaron burped the ABCs and we fought the giggle fits. People showed and we quieted. The only change in our plan was that we had to ride counterclockwise because I couldn't steer right very well. We rode first without lights. I told O'Neil his light would show my back if he rode that close when we rode for real. Camera flashbulbs below were blinking away as people took pictures of their kids, who were eagerly awaiting the floats and their riders who threw candy. What a sight from a distance. I told my brother to walk the street and write down what people said as soon as the Grand Marshal passed. That was when the show would really begin.

Mayor Skip O'Neil's brown Cadillac looked like a cooked Thanksgiving turkey. He was waving, perched on the collapsed ragtop with his legs dangling down the back seat. He led the pageantry south down Washington Street at 7:34, two minutes ahead of schedule but without consequence because we were ready. As he advanced the cheering grew closer. I could hear him talking through a bullhorn and saying again and again, "Thanks for all your votes and support." That turned monotonous so he started to warble "God Bless America." I looked back at Trip. We said at the same time "He's got such a lousy voice." Jinx.

Trent took out his slide whistle and played something that sounded like it was from Africa. I heard him spit. The next rise sounded like a wounded penguin. He pocketed it and shook his head. (I don't think anybody heard anything.) We flipped on the lights and started to circle. The Mayor's song stopped on our fourth trip around. I could only periodically see what was transpiring in the distance. The first trip after that I saw lots of camera flashes aimed at us. In the growing stir I heard my brother yell, "Holy S---, Aliens!" (That wasn't planned so I felt really proud of his instinctual showmanship.) The next time around the Mayor's car was stopped. I heard the Mayor offer a greeting to us aliens on behalf of the townspeople. Then I saw a very close flashbulb burst. Everything grew white before I was hit with a gut punch. It could have been Trent that yelled, "Go, Go, Go!" I felt my seat jerked from beneath me and then heard my bike being dragged away. Two hands grabbed my shoulders. I stared into a flashlight. I heard a man say "Oh, it's you; you should be doing something better than this." I scrambled to my feet and ran down the hill. I couldn't see anything and tripped over my something. My vision was spotty but well enough to recognize my mangled bike. It was caught against a tree, which must have caused the rope to snap. I could see broken spokes and ripped brake cables. More people were getting closer so I hopped on it and starting riding.

I couldn't find a paper the next morning. My brother had stolen the house copy. The gas station had no copies left. The vendor outside the coffee shop was sold out. The school library issue was already missing. I called the Daily Herald because I wanted to walk up there on my lunch break. All of their copies were being archived. I wished my cousin hadn't been fired. Everybody was talking about it.

Cami Banks came walking down the hall with one hand behind her back. She stopped next to me. "Will you hold this?" She handed me a pristine copy of the Daily Herald. On the front page was a huge photo of what I would agree looked like a lighted circular something or other. In enormous letters was written "THANKSGIVING UFO SIGHTED." I was about to turn the page and begin reading the story when she spoke again. "Oh yeah, I need to give you something. She reached into her purse and pulled out a tube of Strawberry Chapstick. She put it on so slowly that it made me lick my lips. I was spellbound. "Now," she smiled as she replaced it. "My dad said you dropped this last night." She produced my flashlight, leaned close and whispered, "You can keep the paper," and walked away.

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Leaving Valpo...
Money or Ethics?

By Marina Ricci

This past Halloween I decided to become a blood donor for the first time. After all of the paperwork, two nurses working at the donor site could not locate a large enough vein and told me that it probably wouldn't work out. I was about to leave when another nurse came over and decided to make it his mission to make this work.

He found a vein and tried for a while but unfortunately my body was pretty set on not providing a donation at this point. So after about an hour, an ice pack, and an assurance of a very large bruise to come, I was on my way back to work with a sticker for my efforts.

This made me think, is it better to push ahead on an issue knowing that a favorable outcome is extremely slim while undesirable consequences are assured, or is it better to give in and desert the effort, instead avoiding the unfavorable consequences?

This issue is frequent in everyday legal practice as many times the legal costs of representation surpass any realistic possible settlement or judgment. Yet, because an individual may be oblivious or an attorney either has not notified his client or has not researched the case enough to know of the probable outcome, many people end up in litigation that will leave them broke with nothing to show for it but in the best case scenario, a winning principle.

The obvious answer to the question above is every answer in law school, “It depends.” It does really depend on the situation. If the client is extremely wealthy and wants to prove something for a good cause or even a selfish one, and is completely aware that the costs of litigation may outweigh the monetary gain, then this is completely within the realm of legal ethics.

However, if a client is seeking help for a matter where he is looking to gain monetarily for a legal wrong that he suspects has occurred, it is the duty of the attorney to inform him that even the attorneys' best efforts may result in the costs outweighing the monetary benefit. This isn't to say that every issue is clear cut and that attorneys automatically know what the outcome will likely be, but for those cases where it is painfully clear, it is up to the attorney to educate his client about the probable outcome of the case.

So as we approach the season of giving, what is more important to you: money or ethics?... for some this may depend but for most the answer is pretty clear.

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That's Entertainment!
(Quality study breaks for the busy law student)

Marie Antoinette

Sophia Coppola's Marie Antoinette is not a history lesson, nor is it meant to be. Rather, it is about a young teenage girl finding herself in a strange new world that does not understand her. Antoinette was in order to enter the royal world of Versailles and produce an heir. The film begins with Marie traveling to Versailles to marry Louis XVI, literally stripped of her Austrian past, and ends with her leaving it to face the last four years of her life as a prisoner of the French Revolution.

Marie Antoinette is played beautifully by Kirsten Dunst, and we feel her loneliness and vulnerability throughout the entire film. She loves puppies, shoes and clothes. She does crazy things to her hair. She has parties and overindulges in food and drink until sunrise. She does not have an accent (almost no one does), but sounds like one of us. The soundtrack is mostly from the 1980s, but the anachronistic music doesn’t feel out of place because she is, in every sense, a modern girl. We either know her or we were her at one point. We only hear of events outside of Versailles when Marie hears about them, which is not often because she chooses not to listen. Teenagers feel the world revolves around them, and she was no exception.

Yet, as she gets older, she begins hearing and understanding her duties. Marie Antoinette has children and supports her husband until the end. Though her life ended at the guillotine after several years of captivity, we do not see it. At first, it felt like the film lacked closure or even an ending because it did not show her death, or even explain what happened as an angry mob converged on Versailles. However, Marie could hardly have understood it herself, and we are left with the same uncertainty she would have felt as she left Versailles.

Kirsten Dunst was excellent, because she could convincingly portray Marie Antoinette as a young 14 year old and gradually get older as the film progressed. Jason Schwartzman as Louis XVI was equally convincing as an awkward teenage boy, thrust into the marriage bed and ultimately into the role of king before he was ready. Like Coppola's previous films, dialogue was somewhat sparse, used as a catalyst to shift the beautiful images cohesively. Coppola could probably make a film without any dialogue at all, because she is so brilliant at capturing an entire feeling with one shot. Overall, Marie Antoinette was not trying to be historically thorough. Coppola's point was to forgo that feeling of disconnect and allow us to relate to the young queen on her turf.

Grade: A-

Michelle is a 3L and can be reached at michelle.spezia@valpo.edu.
The Best Bang for Your Buck
Surviving the Cold Weather Blues
By Andrea Greene and E.B. Newberry

$Bang on Wheels$
Horse-drawn carriage rides downtown - we know it's not Central Park, but Valpo has its moments! Last year it was free to take a tour of downtown Valpo in a horse-drawn carriage follow up with a warm beverage and call this a magnificent date option!

Banging Body Bang
Take the initiative before the mad rush in January to get in shape! We highly recommend you create and keep routines and workout schedules! Find a gym that is convenient to your apartment or house. It helps with motivation! Not feeling the gym? Pick up a fun workout video! Don't let the cold weather keep you from being active. No one wants to be flabby for spring break!

Downhill Bang
Grab a sled and hit the dunes! There are no really big hills around here, so we kind of have to improvise, but the dunes work great! Sleds can be purchased inexpensively at Wal-Mart or at local “dollar” stores. Big black garbage bags are always fun too!

$$Snow Bunny Bang$$
Pines Peak Family Ski Area - We couldn’t believe how cheap the rates were when we looked them up! For about $25-$35 you can get an all-day ski rental and lift-ticket! This is a great way to spend a day outside and show off your skills! Snowboard rentals are something like $5 more. If you’re a snow bunny be sure to bring your gear back after the Holiday Break so that you can hit the slopes at a killer price of $15-$20!

Fiesta Bang
Get people together and throw a small soiree. The holidays and cold weather are a good opportunity to get to know your neighbors and classmates. Get some people together for an afternoon game or evening movie.

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FROM THE LAW LIBRARY
BY STEVEN PROBST
Educational Services Librarian

The Law Library - by the numbers
While you may be aware that once every seven years the ABA conducts a site visit of its accredited law schools to ensure compliance with their standards, you may not realize that the School of Law and the library are required to submit updated statistical information to the ABA on an annual basis. This sometimes requires highly-educated people to wander around counting things or to get out a tape measure and try to figure the square footage of a portion of the library without disrupting a 2L trying to decipher the Federal Rules of Evidence. Inspired by our recently-submitted numbers, and finding myself with no better idea for a column for The FORUM, I spent a lonely Thursday evening in the library making a substantially more detailed list of items around here (many of which the ABA has absolutely no interest in – but you might). So, here it is, your library, by the numbers:

325,971 - Number of volumes held
26,012 - Square footage of common library areas
30,226 - Linear feet of shelf space
25,058 - Linear feet of shelf space currently being used
338 - Total seats available in the library
318,023 - Average number of questions answered by librarians each week that a 1L legal research assignment is due (That's ok - we love it)
113 - Carrels
113 - Hours the library is open during a normal week
6 - Rocking chairs
64 - Windows
51 - Pictures on walls for your enjoyment (plus 1 quilt made by Dean Persyn)
24 - Live plants in the library
3 - Fake plants in the library (you guess which ones they are)
44 - Steps from the basement to the second floor of the library (incidentally, not recommended for the aerobically-challenged)
12 - Clocks (which all have to be changed twice a year – usually by yours truly)
36 - Computers
9 - Book trucks/carts
3 - Photocopiers

see LIBRARY page 18

Top 10: “Theories” why the internet is still not working

BY KRISTEN THOMPSON & GABY GUZMAN
Managing Editor & Guest Columnist

10. An undergrad campus conspiracy to keep the Law School separate from the University.

9. John Obermann’s computer is really an old school Atari game box.

8. Professors’ attempt to prevent students from completing those on-line evaluations that the school decided to use.

7. Was this part of the new and improved Facebook?

6. Al Gore tried to revamp his “invention.”

5. The Popcorn Festival power outage is still plaguing the city, or maybe just the Law School.

4. The Republican Party couldn’t figure out how to fix the problem and decided just to stay the course.

3. The Law School’s way of keeping students off the internet while in class.

2. A new tier is being created by the ABA where Valpo Law will be in the first tier! However, it is for law schools with no internet access.

1. Two words: Chuck Norris.

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**Professor Profiles**

By Oliver Bateman

What was your least favorite law school class?  
Property. Even though we did not have to learn the Rule Against Perpetuities at the University of Wisconsin because it had been abolished in Wisconsin, I didn't care for the class.

What was your favorite law school class?  
Contracts. I took this class with a great professor in a small section of only 20 students.

Do you have any bar examination tips for 3Ls?  
Although I didn't have to take the bar exam to get licensed in Wisconsin, I did take the CPA exam. Since organizations offering review courses have analyzed past exams thoroughly and their students have been highly successful in passing the exams, my main advice is to follow the suggestions given in the review course.

Who is your favorite current or former Supreme Court Justice?  
Thurgood Marshall. I admire Justice Marshall for his accomplishments both as a practicing attorney (he was Chief Counsel for the NAACP and successfully argued for an end to public school segregation in Brown v. Board of Education) and as an outstanding jurist.

What do you think was the most important Supreme Court decision of the last decade?  
This is a tough call as the Court has rendered landmark decisions in several areas of the law in the last decade. However, Hamdan v. Rumsfeld may be the most important, as it deals with limits on executive power in the “war on terror.”

What is your favorite law-related book (no treatises, please)?  
Since treatises are off limits, I’ll go with A Time to Kill by John Grisham.

Canned briefs for 1Ls: Yes or no?  
As I don’t understand what the issue is here, I have no opinion.

Who will win the Big 10 Football Championship this season?  
The big game is in Columbus this year; therefore, I predict Ohio State will be the Big 10 Champ.

What was your favorite law school class?  
A tie: labor law & criminal procedure. I had two dynamic professors who had “walked the walk” and could give their classes real-life experiences with which to relate to the material while still relating a theoretical (and political) side to the analysis of the subject matter.

Do you have any bar examination tips for 3Ls?  
I have several generic tips from when I took the Indiana all-essay bar. Take your UCC courses in law school. Keep up with the outlines during your bar review course. Pace yourself while studying, and reward yourself on the weekends. Don’t spend much time in the bathrooms at the bar exam testing site.

Who is your favorite current or former Supreme Court Justice?  
William J. Brennan, Jr. Although not necessarily agreeing with all the reasoning in each of his decisions, I do agree on his general jurisprudence concerning civil liberties. I also admire him for the fact that he was brave enough to take such controversial positions as the Court became less hospitable and increasingly hostile to the Bill of Rights.

What do you think was the most important Supreme Court decision of the last decade?  
I think I have to agree with Prof. Loebl on this one: Hamdan v. Rumsfeld has stopped (at least temporarily) a steamroller. However, I also split my vote with Lawrence v. Texas, which overturned Bowers v. Hardwick and has come closest to formalizing a constitutional right to privacy.

What is your favorite law-related book (no “Williston on Contracts” or “Prosser on Torts” legal treatises, please)?  
Harper Lee, To Kill a Mockingbird

Canned briefs for 1Ls: Yes or no?  
NO!!!!!!!!!!!!!!!

Who will win the Big 10 Football Championship this season?  
My nephew who is attending the University of Michigan will shoot me for this, but I think the stars are aligned just right for Ohio State to win the Big 10 this year, notwithstanding the scare from the Fightin’ Illini.
Carla: this time, do you have any advice for the 3Ls? "Just do your best. It is all your dad and I ask."

Kate Kaufmann
Hometown: Springfield, IL
Undergraduate School: Taylor University
Undergraduate Major: International Business

Family: husband Kyle, mom Carol, dad Steve, sister Meg, brother David

What made you decide to check the "Law School" box? I always wanted to be a lawyer, and my GMAT score confirmed my decision to go to law school.

What do you see yourself doing after graduating from the "Vale of Paradise"? Worrying about the bar exam. Wait, I'm already worrying about the bar exam...

Are you pleased with the outcome of the recent election? No. I wish that whole map was red, but it is good to see people are voting if they are unhappy with the current administration. Isn't that what makes America great?

Make a prediction... the Presidential Election of 2008 will be between? No one can beat Oprah.

What do you think of Donald Rumsfeld's decision to step down the day after the election? I don't blame him. He has had a tough ride.

What do you think about Arizona voting to make English its official language? I'm ok with that.

From what source do you get most of your news information? Forwarded from my mom. She is a bit of a conspiracy theorist though, so I don't know how credible a source she is.

Have you seen any good movies lately? We watched 12 Angry Men in Crim. Pro. It was a great movie...and educational, of course.

Are you shocked that Britney Spears and K-Fed (Kevin Federline) have decided to call it quits? Nope. It was only a matter of time. I'm looking forward to the Britney comeback.


Neiman Marcus is offering a trip to space as part of their fantasy Christmas package... would you sign up? Sure, as long as they throw in a free tote or lip gloss or something.

Let's turn the tables... usually we ask for 1L advice... but this time, do you have any advice for the 3Ls? "Just do your best. It is all your dad and I ask."

Chad Wade
Hometown: Endeavor, WI
Undergraduate School: University of Wisconsin - Eau Claire
Undergraduate Major: Economics

Family: Dad – Phil; Mom – Linda; Three Sisters – Tammy, Sharon and Kim; Imaginary Brother - Matt

What made you decide to check the "Law School" box? I've wanted to since the second grade.

What do you see yourself doing after graduating from the "Vale of Paradise"? I am planning to move to St. Louis and marry my fiancé. That is, if she doesn't wise up and get rid of me before then.

Are you pleased with the outcome of the recent election? Not really. I think it is unfortunate that the election came down to whose party had fewer scandals rather than being about what the candidates' plan for the country's future is.

Make a prediction... the Presidential Election of 2008 will be between? At this point, probably Satan v. Jesus in a surprisingly clean campaign. Satan winning because Jesus is disqualified for not being a U.S. citizen.

What do you think of Donald Rumsfeld's decision to step down the day after the election? At this point, it is hard to tell if he jumped or was pushed judging by the big foot mark on his backside, I'd say pushed. (I stole this joke from Craig Ferguson.)

What do you think about Arizona voting to make English its official language? No hablo ingles.

From what source do you get most of your news information? A lot of it I make up, but otherwise I would say drudgereport.com.

Have you seen any good movies lately? No

Are you shocked that Britney Spears and K-Fed (Kevin Federline) have decided to call it quits? No, but I can't wait until one side mysteriously releases a sex tape.

What internet site are you addicted to? I don't think I can say that in the newspaper, so I guess espn.com.

Baseball is over for the season, so what sport are you watching now? Is there any other sport than football?

What are your plans for Thanksgiving break? I'm going into the woods to kill something.

Neiman Marcus is offering a trip to space as part of their fantasy Christmas package... would you sign up? No

Let's turn the tables... usually we ask for 1L advice... but this time, do you have any advice for the 3Ls? None

Jesse Lorenz
Hometown: Endeavor, WI
Undergraduate School: University of Wisconsin - Eau Claire
Undergraduate Major: Political Science

Family: Father – David; Mother – Georgia; Sister – Carla

What made you decide to check the "Law School" box? It's been my goal since I was a sophomore in college.

What do you think about Arizona voting to make English its official language? What, they think they are France?

From what source do you get most of your news information? CNN

Baseball is over for the season, so what sport are you watching now? College football.

What are your plans for Thanksgiving break? (Left blank. The editors assume this means he'll be going somewhere so great that the rest of us would be jealous if he told us.)

Neiman Marcus is offering a trip to space as part of their fantasy Christmas package... would you sign up? No

Let's turn the tables... usually we ask for 1L advice... but this time, do you have any advice for the 3Ls? None
School Knight

Nick Schwartz

There are a million reasons to hate Bobby Knight. His track record alone speaks volumes. It all started in 1974, while Knight was at Indiana University. That year, in the middle of a game against the Kentucky Wildcats, he slapped then coach, Joe B. Hall, in the back of the head. That was just the beginning of what was to come.

In 1979, Knight was bestowed with the honor of coaching the United States team in the Pan American Games, hosted in Puerto Rico. While representing his country, he became enraged when his players were denied access to the practice gym. Rather than handling the situation like an adult, Knight decided to throw matters into his own hands and was later arrested for assaulting a police officer.

In 1985, Knight's most infamous protest occurred. That year, in a game against rival Purdue, Knight became upset with a call. Rather than complaining or just moving on like most coaches do, Knight decided to throw a chair across the floor.

Arguably the most controversial event occurred in 1992 with then player Calbert Cheaney. Knight became upset with Cheaney and pretended to whip him. Although Cheaney later revealed that the incident was planned and nothing was meant by it, it reached across national headlines and received protest by many civil rights leaders.

In September of 2000, a freshman at Indiana said to Knight, “Hey Knight, what's up?” The student then claimed that Knight forcefully grabbed him by the arm and berated him for not showing respect. This was the last straw for Knight who was fired from Indiana just days later.

This is just a brief history of Bobby Knight. His rap sheet goes on for pages if every incident is accounted for. However, despite his often violent style, there is much to commend Knight for. Knight is praised by the parents of the students he coaches for his focus on education. On October 31, Knight, now with Texas Tech University, suspended Jarrius Jackson indefinitely because of academic ineligibility, despite the fact that he is on track to graduate next year. In Knight's words, Jackson was dismissed “for failure to fulfill academic requirements that we have for our men's basketball team.” Although a week later Jackson was permitted to practice with the team, his status for the beginning of the season is still unknown.

Although it does not appear that Jackson will miss much, if any of the season, you have to admire Knight for being willing to suspend his best player even though he was academically eligible under the NCAA academic standards. It is nice to see a coach focus on education over athletics. If Jackson misses any games, Texas Tech will be without last season's leading scorer. In fact, Jackson led the Big 12 Conference in scoring last year with 20.5 points per game. He also led the conference with 45% three-point shooting. Knight's team would surely take a hit if the suspension extends into the season.

This is not the first time that Knight has stressed education. He has a reputation for cutting players for skipping class or using drugs. From 1996-99, when Knight was at Indiana, the basketball team's graduation rate was 82%, well above the national average of 67%. However, reports have indicated that during that time, Division I basketball programs had a graduation rate as low as 42%. Unlike other coaches that are producing NBA players, Knight is producing some NBA players, but mostly college graduates.

In addition to stressing education to his students, he also contributes to the educations of all the other students at Texas Tech. He has currently donated $10,000 to the school's new library. It is hard to believe that the man once quoted in a 1988 interview with Connie Chung as saying, “I think that if rape is inevitable, relax and let it happen,” puts so much emphasis on education. As much as you may want to hate Bobby Knight, there is one thing that you must love him for.

Nick is a 3L and may be reached at nicholas.schwartz@valpo.edu.
Directional Signals

Across
1 Aide:Abbr.
5 Motorbike
10 E-mail competitor
14 Mystery game
15 Blazing
16 Chicago landmark
17 Cape Cod concern
19 Utter indistinctly
20 Barnyard Mom
21 Ball of fire
22 Corporation, e.g.
24 West German capital 1949 to 1990
25 Piggishness
26 Fleeces
29 Speedboat appendage
32 Tantalize
33 Doled out
34 Sculler's need
35 Additional
36 Passover supper
37 Italian moola
38 Pilot's concern:Abbr.
39 Bucks
40 Relay need
41 Technicity, perhaps
43 In a foolhardy manner
44 Imperfections
45 High altitude habitat
46 New York lake
48 Likewise
49 Tom Brady, e.g.
52 Walk in water
53 Cuba, Jamaica et al
56 At all times
57 _____ flu
58 Gemstone
59 Hideaways
60 2005 and 2006
61 Roman Emperor

Down
1 Skin problem
2 Sluggish
3 Certain
4 Comes before ball or shirt
5 Bricklayers
6 Frequently
7 Dock
8 Stray
9 AWOL soldier, perhaps
10 Northern Ireland
11 Former Democratic electoral stronghold
12 Brood
13 Agile
18 Worship
23 Requirement
24 Foundation
25 Computer entrepreneur
26 Great bargain!
27 Word of welcome
28 Steinbeck novel
29 Golf iron
30 John Paul II to his Mother
31 Sarcasm
33 Restaurant offering
36 Free rider
37 Piece of cake
39 Herring's cousin
40 Nobleman's title
42 Tool box staple
43 Sticky organic substances
45 Church table
46 Still unpaid
47 Church area
48 China container
49 Water carrier
50 Back
51 National capital
54 First mate
55 Comedian Knotts

By Ed Canty

Quotable Quote
People, like nails, lose their effectiveness when they lose direction and begin to bend.

Walter Savage Landor

Visit our web site at www.gfrpuzzles.com

Look for the answer to this puzzle in December's issue of the Forum.
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THE FORUM

NOVEMBER 2006

CLOSING ARGUMENTS

Proof that law school will age you 20 years.

Borat’s cross country introduction to American culture included the annual VUSL Halloween party.

These two are still angry that the WWF changed its name to the WWE.

Legal Trivia

1. What famous document begins: “When in the course of human events...”?

2. What current branch of the U.S. military was a corps of only 50 soldiers when World War I broke out?

3. Who said: “I’m the president of the United States and I’m not going to eat any more broccoli”?

4. What president was shot while walking to California Governor Jerry Brown’s office?

5. What future Soviet dictator was training to be a priest when he got turned on to Marxism?

6. Who was the last president of the Soviet Union?

7. What congressional award was Dr. Mary Edwards Walker the first woman to receive?

8. What modern vehicle was invented to circumvent trench warfare?

9. Who was the first U.S. president to adopt the informal version of his first name?

10. Which State held the first presidential primary in 1905?