

# The Justinian

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## The Justinian

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## Georgia edges out Tennessee in BLS' 17th annual Prince Evidence Competition

by Ian J. Gaynor, '03

April 6 - Moot Court teams from around the nation met at the BLS campus April 4-6 to compete in the Seventeenth Annual Jerome Prince Evidence Competition. The event pitted teams from thirty-two law schools against each other in a battle of evidentiary skills to determine who would reign as this year's evidence master. When Prince Coordinator Florrie Chapin announced the results, University of Georgia stood above the rest, defeating perennial winner University of Tennessee in the final round to lay claim to the respected title.

In what turned out to be the 'Battle of the Dixie States,' Stacey Carroll and Tonya Stokes skillfully represented Georgia by steering the school to the Prince title against a highly regarded

Tennessee team. Brent Cobb and Preston Hawkins of Tennessee appreciated their adversary's proficiency.

"They were on their game and they were superb. There was no doubt that they deserved it," conceded Cobb. Hawkins echoed Cobb's sentiments, "We thought we had the best team going up there. They were just superior to us orally tonight, they did a very good job."

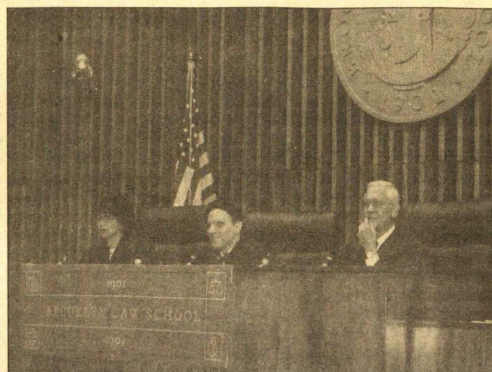
While Georgia's Carroll earned the best final oralist award, it was an amalgam of both members' styles that contributed to the victory.

"We try to counterbalance each other with our styles. I'm rough and Stokes is soft spoken with a smile that kills," Carroll explained with a heavy southern drawl. Stokes added, "When we were partnered with each other, we looked at our strengths and weaknesses, and how we argued. Stacey's

argument was just stupendous and very stoic, and his knowledge of the law and use of legal terms and jargon was beautiful. My style tends to be more conversational, and includes a lot of case law support. It's a nice balance."

Georgia's win extinguished Tennessee's hope of a dynastic run at a third straight championship. Tennessee has dominated Prince in recent years, winning first place honors in each of the last two years (three times within the last ten years), and walked away with the best brief award in both 1997 and 2000. "You can't expect to win this competition every time because a lot of it is subjective as far as the brief writing process and oral arguments go. It depends on who does well at the particular time, and they were just a little bit better than us," said Tennessee's Hawkins.

BLS continued its proud



Kristin Harrison/ BLS News

**Honorable Victoria Graffeo, Honorable Robert Katzman, and Honorable Julio Fuentes preside over the final round.**

tradition of having quality justices preside over Prince's final round. This year, that noble task belonged to the Honorable Victoria A. Graffeo of the New York Court of Appeals, Honorable Julio M. Fuentes of the United States Court of Appeals for the Third

Circuit, and Honorable Robert A. Katzman of the United States Court of Appeals for the Second Circuit. Justice Katzman served as the final round's chief justice.

The competition's prob-

see PRINCE, page 4

## Students, faculty share in celebration, reflection, tips at Passover discussion

by Miri Frankel, '04

BLS hosted a two-part Passover workshop on March 11 and March 19. The series was coordinated by Professor Leitner and first-year student Rachel Freier, who developed the program as a way for students to learn from each other and share their own traditions and experiences with other students and participating faculty. Dean Ziegler, and Professors Leitner, Twerski, and Shapira all shared their stories and experiences and answered questions. Each of the two programs presented a different theme.

The first program, "What Passover means to us as individuals and as a people," was a question and answer session with Dean Ziegler, Professor Shapira, and

Professor Twerski. First, Dean Ziegler described her personal traditions in preparing for Passover each year, from cleaning her home to getting rid of *chametz* (food that is not kosher for Passover). While sharing tips on how to keep everyone at the table involved in the seder, Dean Ziegler described the kid-friendly seders she developed for her own family (complete with Gumby gagadachs).

Professor Shapira, a visiting professor



Robert Vidoni/ BLS News

**Professor Leitner, Dean Ziegler, and Professor Twerski (L to R) shared their thoughts about Passover. Professor Shapira not pictured.**

from Israel, described his Passover expe-

see PASSOVER, page 2

## BLS web site gets long-awaited "Interfacelift"

by Karen Chang, '04

On March 21, BLS launched a new school Web site (<http://www.brooklaw.edu>), giving the school a fresh and vibrant virtual presence. This development effort completely replaced the old site with a new one chock full of information, and fortified by powerful visual images. Brooklaw offers something for everyone: information about BLS for prospective, accepted, and current students; public exposure for professors (and assistance for media seeking legal experts); and continued relationships with alumni.

The new site has been two years in the making. In Spring of 2000, BLS administration began the project of revamping its Web site, recognizing that while our printed publications provided excellent information about BLS, our online presentation remained incomplete. The goal for the new Brooklaw site was not to merely bring it up to date with our print publications, but to present the school from a holistic

perspective, an objective the internet, through its web of links, is uniquely qualified to achieve.

The current site was meticulously planned to ensure that information is not only available, but also easily accessible. Need proof? Click on "Site map" on the side bar, and you will see many of the layers and sub-layers of the site clearly laid out. The Web development staff devoted the first year to the site's design and functionality, while they spent the second year filling out the content — over 12,000 pages of it. The design follows the format of our printed publications, giving BLS a streamlined public image.

Linda Harvey, Director of Public Relations and Publications, and Director of the entire Web project, said that the development process was a tremendous collaborative effort with all the academic departments and administrative offices at BLS, giving each group a sense of ownership over their

## 'Monologues' shares sex issues with Brooklyn Law students at V-day show

by Maxine S. Broderick, '03

If vaginas could talk, what would they say? This is one of the questions posed by Eve Ensler's groundbreaking play, *The Vagina Monologues*, which first debuted in a downtown Manhattan theatre in 1996. In observance of "V-Day," a worldwide movement to stop sexual violence against women, Brooklyn Law Students Against Domestic Violence (BLSADV) showcased its own rendition of the play on March 6. The twelve-part play was performed by an all-female brigade of Brooklyn Law students and professors. And setting all preconceived notions aside - this isn't a show solely for the you-go-girl set.

The Brooklyn Law School performance of *The Vagina Monologues* was at once a war cry and an uproari-

ous celebration of womanhood. The students and professors alike brought Ensler's characters to life with startling precision and artistry much to their credit. This was no small feat, as Ensler's characters range from an icy Upper West Side businesswoman to a seasoned bisexual prostitute to an elderly sexually repressed Irish immigrant.

The hallmark of the play is its candid exegesis of what the darker side of sexuality can mean for some women, whether it be recollections of the onset of puberty and the attending humiliation when not handled properly or one woman's ongoing struggle for emotional intimacy. The earnestness and skill of the players imbued each unflinching portrait with the essence of a live-action documentary;

see V-DAY, page 8

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## Student Bar Association Executive Board

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## Brooklyn Law Students for Prison Awareness: What is Eyespy?

We are a new student organization that focuses on prison awareness and the legal issues surrounding prisons. EyeSpy is about keeping an "eye" out on all of the issues that concern prisons. These issues directly affect us as law students, as future attorneys and as people who are affected by crime.

Prison awareness deals with a variety of issues from pre-trial procedure to the appeals process. Problems occur during arrests and interrogations, as well as at sentencing. Within the prisons themselves, many significant questions arise concerning education, labor, and health. Finally, the potential for repeat crime remains an obstacle to securing a normal life after a prison term.

We have held several successful events this year that have raised awareness about prison conditions and concerns. Events included a field trip to Riker's Island, a book drive, a speaking event featuring Brooklyn District Attorney Charles Hynes, and movie nights, where we showcased documentaries and other films with prison themes, such as "Dead Man Walking."

We look forward to next year when we will continue to explore other criminal justice issues and host prison-related events. Please email us at [eyespy@yahoo.com](mailto:eyespy@yahoo.com) if you are interested in getting involved!

— Dia Lok, Sapna Kapoor,  
 Alyssa Gamliel, and Martine Price

## Questions easier to ask than answer

**PASSOVER**  
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periences from a very different point of view. While this is a holiday of freedom, we are still in exile, he said, referring to the current situation in Israel. He reinforced the need to empathize with the Jews living in Israel. Professor Twerski gave a personal account of the seder's his father led each year when he was growing up. "I am 3,000 years old," Professor Twerski said, explaining that each person should feel personally connected to the story of Passover, as if he were leaving Egypt today.

At the March 19 program, "Next year in Jerusalem," music and food created an atmosphere of celebration. Students and faculty mingled and shared stories while tasting Passover foods and enjoying music performed by Freier's ten-year-old son. Later, Professors Twerski and Leitner each spoke on the meaning of the phrase "Next year in Jerusalem," spoken every year at the close of the seder meal. Professor Twerski explained the spiritual aspect of this phrase, and the importance of the seder meal.

and spiritual goals each year in an effort to reach a spiritual "Jerusalem." He emphasized the significance of incorporating the phrase, "next year in Jerusalem," into the seder this year in light of the current situation in the Middle East. Right now, Professor Twerski believes, "we are at the whim of President Bush and Yasser Arafat."

Professor Leitner also spoke about the spiritual meaning of the seder's closing words. When students tell him they are concerned about their grades, he always asks, "is that all you are worth?" It is important to value every part of life — people are not just grades or professions. "The real question is, what kind of person are you? And where are you on the road to Jerusalem?" Professor Leitner suggests taking little steps toward personal spiritual goals each year to get closer to the "Jerusalem" that each person hopes to reach the following year.

Future programs are being planned. If you would like to participate, or if you have comments, questions or suggestions, Freier can be contacted at [freier@brooklynworks.brooklaw.edu](mailto:freier@brooklynworks.brooklaw.edu).

## Moot Court ATLA trial team ranked in top 2.5% of nation for trial advocacy

by Bryan Konoski, '02

On March 3, 2002, the Brooklyn Law School ATLA trial team entered a regional trial competition hosted by the Association of Trial Lawyers of America (ATLA). As luck would have it, the competition was extremely fierce. Brooklyn was elected to compete against all of the top champions from the previous two years. Although tension ran high, Brooklyn stood strong and went undefeated against all of their opponents and came in FIRST PLACE

in the region. As a result of the victory, the Brooklyn team was invited to compete in the national competition, held in Chicago, Illinois.

This Brooklyn Law School victory was savored by the team of hard-nosed future trial lawyers who truly earned this victory. They began preparing their case intensely starting in winter break and lasting for three long and brutal months. Their preparation and dedication paid off immensely. The BLS team faced the toughest, most prepared teams from across

the nation from March 21 - 23.

After battling tooth and nail against their adversaries, the Brooklyn team was ranked "National Quarter-Finalist," which placed them 5th overall (top 2 ½ %) out of the 225 teams that competed across the nation. Congratulations to the BLS students who were victorious in the competition: Sinan Khatib '03, Val Kleyman '03, Zoe Jasper '02 and Kira Treyvus '02. The team's coach was Bryan Konoski '02.

## AALSA etiquette dinner to teach business wining, dining

When is a meal really more than just a meal? When you are meeting with a client or prospective client or future employer. Learning how to conduct yourself during such dining events will likely determine whether you land the client or the job.

AALSA, in conjunction with the Career Center, is proud to present the first "Etiquette Dinner." This event will simulate an actual business dinner, but will include a

step-by-step commentary throughout the meal, facilitated by Joan King and Brett Gilbert. Come and enjoy a three-course meal with your friends while learning the major do's and don'ts of business dining.

This event is open to all students. The dinner will be held on Monday, April 29th from 6-8 pm on the 10th Floor, Subotnick Conference Center. Registration is first-come, first-served, and space is limited.

The registration fee is \$10, with \$5 to be refunded at the end of the dinner (full refunds upon cancellation will be given only before April 22nd).

You must register at the Career Center. For less than the cost of a movie, you will be getting an invaluable experience, a three-course meal complete with wine, and a good time with friends. So hurry and sign up now! For more information, contact [aalsabs@hotmail.com](mailto:aalsabs@hotmail.com).

## New BLS website more functional

### WEBSITE

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content. The development staff then faced the challenge of seamlessly fitting each group's contents and ideas into the uniform organizational structure of the site.

The internet offers a multi-faceted freedom which the new site takes practical advantage of. Freedom from space limitations (as seen in the 12K+ subpages); freedom from physical location constraints (if you misplace your financial aid forms, you can just print out a pdf version; employers can list job openings via an online form); freedom to make an unlimited web of links (each professor's subpage is linked to descriptions of courses they teach); freedom from the problems of obsolescence (the calendar of events presents up-to-date listings of school-related events)...

And of course, freedom to expand and grow. Some of the subpages are still under development (e.g., the alumni page). Other links and features will be added over time and as technology evolves. Down the road, students will be able to register for classes online, and prospective students will be able to take a virtual tour of the school.

The web development team-of-five deserves a special word of appreciation: Linda Harvey; Susanne Reece, who organized masses of content material and numerous modules, and will be responsible for site maintenance;

Jim Kempster, who does in-house coding of the contents; Chief Information Officer Phil Allred, who developed the backend processes allowing the site to run efficiently and securely; and BLS Webmaster Francis Chin, who created database structures, and ensured continuity between the old and new networks. Many other BLS staffers deserve thanks for their work that went into the final product (which is never really "final"). Members of our BLS News staff were keenly aware of the intense atmosphere in which the Web site development staff worked, determined to meet the go-live date. We thank them for the advice and information they

provided to us as we established our student newspaper, even amidst their own deadlines.

I give two thumbs up to the new Web site. In a personal comparison of features and functions between our new site and those of other top notch schools (e.g., NYU, Columbia, Harvard, BC), ours outshines them all in comprehensiveness and elegance. The quality of the school Web site is critically important in a time period deemed "the information age," within a culture where "image is everything." I have a feeling that our li'l space on the internet will be a key asset in reinforcing BLS as a major player among top law schools in the US.

### Web Site highlights and hints:

- \* **Site map:** Presents the essential pages and sub-pages in outline form. A "find" search [Ctrl-F] can help you quickly find the sub-page you want.
- \* **Calendar of events:** Try the filter functions (by type of event (e.g., admissions, academic, alumni), and by month, day, and/or year.  
*Student organizations can submit events through Jeanetta Bailey, [jbailey@brooklaw.edu](mailto:jbailey@brooklaw.edu).*
- \* **Multimedia:** Miss a great lecture event? Many of them are videotaped and archived under the "News, Calendars, and Events" sub-page.
- \* **Search engine:** Use quotation marks to get a more accurate search.
- \* **Professors:** Find out a professor's areas of expertise by looking up his/her publication listing.
- \* **Financial aid:** Forms and publications are now available online.
- \* **Housing:** The Domus housing listings are now available online (Password access required)
- \* **BLS News:** Student and professor achievements, and other BLS headline news.



et al.: The Justinian

# National security vs. civil liberties: Must we choose?

by Rupa Banik, '04

On March 11 at dusk, many New Yorkers witnessed the Tribute In Light Memorial that was lit to mark the six-month anniversary of the World Trade Center attacks. In this memorial, two great beams of light were lit from a site just north of Ground Zero to commemorate those who lost their lives on September 11, and to celebrate the courageous efforts of all New Yorkers who have worked hard to rebuild New York City.

Six months ago, the world as New Yorkers knew it changed forever. Since September 11, not a single day passes where some reference or another isn't made on television and in newspapers to remind us of what we lost and how victimized we all felt that day.

But did the victimization end on 9-11? Our national security has witnessed a major overhaul within the past six months. These major changes were made in order to prevent the devastation of the like that we witnessed in September. Some critics have questioned the direction in which our national security is going, and even contend that our victimization did not end that tragic day. That is, while our national security has improved, it has done so at the expense of compromising many of our cherished individual civil liberties. For Arab-Americans and Muslim immigrant groups, these changes have led to a secondary victimization of sorts: not only did they have to come to grips with the September 11 tragedy, but they have also had to deal with the loss of their basic rights as a result of the national security changes.

On March 14, national security became a hot topic at BLS during a Roundtable Discussion entitled, "National Security vs. Civil Liberties: Must We Choose?" This event was presented by the Edward V. Sparer Public Interest Law Fellowship Program and the Center for the Study of Business Law. Professor Susan N. Herman moderated a distinguished panel of speakers, including Mary Jo White, Former United States Attorney of the Southern District of New York; Christopher A. Ford, Minority Counsel for the United States Senate Select Committee on Intelligence; Professor David Cole, Georgetown University Law Center; and Joshua L. Dratel, Criminal Defense Attorney.

Mary Jo White opened the session by discussing the USA Patriot Act (USAPA). USAPA, passed on Oct. 31, 2001, gave expansive and sweeping powers to domestic law enforcement and international intelligence agencies in directing our country's national security. Today, the FBI and the CIA are working hand in hand to ensure tighter security. White believes that the enhancements made to national security under USAPA are constitutional, but that the real problem intrinsically lies in a choice that must be made between security and liberty. In White's opinion, that choice should be for greater security since the U.S. is threatened and under siege.

Joshua Dratel disagreed, and felt that the choice in

favor of security was instead being abused. He contended that security had not improved, but rather, that the fundamental liberties of immigrants have been seriously harmed by USAPA. Immigrants of Arab descent are being detained for weeks or even months on end. At times, these immigrants are held without any charges being made. Moreover, Dratel claimed that under the Foreign Intelligence Service Act, searches of these immigrants are often done without probable cause. Often, these searches are being done for intelligence, and not criminal purposes, in violation of their fundamental civil liberties. Dratel argued that if these people are detained without reason, then a great miscarriage of justice is being done, leaving little hope for a fair trial under such flawed circumstances.

David Cole said that the INS uses a system similar to ethnic profiling in selecting individuals to

While our national security has improved, it has done so at the expense of compromising many of our cherished individual civil liberties.

undergo the deportation process. However, instead of targeting ethnicity, the INS is unfairly focusing upon those who come from Arab countries. Under this "volunteer interview program," the INS selects immigrants who came to the U.S. after January 2002, and mails them, requesting information on their activities.

Cole agrees with Dratel's claims that detained immigrants are being treated unfairly. He explained that once detained immigrants are placed at trial, these proceedings are held in secret. The proceedings are closed off to the public, and even to the families of these immigrants. Judges are not allowed to list the docket numbers of these cases. Detained immigrants are often tried on the flimsiest of evidence. Even if a

judge determines that there is no evidence to support deportation, prosecutors can override such rulings by appealing, a process which can keep these immigrants in jail for up to a year. Cole argued that the USAPA should not be used as a backstop punitive measure to lock up immigrants. The only times that an immigrant should be detained are if they pose a danger to the community or if there is a real risk that they will flee. Cole argued that the tension between security and civil liberties needs to be re-calibrated, because many members of the targeted immigrant groups are not able to vote, making it nearly impossible for them to assert their rights.

Christopher Ford echoed Cole's point by stating that a balance between liberty and security has been struck in the wrong direction. He contended that this balance can only be fixed if there was a better way for the intelligence and local law enforcement to share information. This would require a shift in use and accountability rules, which regulate how information is used to provide security without denying liberty. However, achieving such a balance is very difficult since record sharing is basically counter to our nation's laws, and there are no clear rules delineating how or how much information may be shared.

During the question and answer session following the speaker's prepared comments, a student asked whether the changes that have occurred in security measures will be permanent. While this discussion revealed that all four panelists had varying and even conflicting views on the current state of national security and civil liberties, all the panelists did agree that the changes will extend beyond the short term. In effect, the changes that we have witnessed in national security and civil liberties are a lasting legacy of September 11. We can never go back to the way things were before the terrorist attacks.

## Spotlight on the BLSADV event

The Brooklyn Law Students Against Domestic Violence (BLSADV) is a feminist organization committed to mobilizing law students in the fight against domestic violence. BLSADV recently gave its first performance

of Eve Ensler's *The Vagina Monologues* to the BLS community.

Since its inception, the group has provided BLS students with various opportunities to gain legal experience assisting victims/survivors of domestic violence. BLSADV works with domestic violence organizations, including Safe Horizon, Sanctuary for Families/Center for Battered Women's Legal Services, New York Legal Assistance Group, Network for Women's Services, and Brooklyn Bar Association Volunteer Lawyers' Project, to provide unique opportunities for students to advocate on behalf of domestic violence victims/survivors inside and outside the courtroom during their first year, and continuing into their upper-class years.

On April 15, BLSADV sponsored a symposium, "Domestic Violence in Legal Education and Legal Practice: A Dialogue Between Professors and Private Practitioners." Several Brooklyn Law School faculty members participated in the event, including Professors Lisa Smith, Stacy Caplow, Tony Sebok, Elizabeth Schneider and Jennifer Rosato. Invited speakers included: Chantal Thomas, Betty Levinson, Pat Fersch, and Kristin Bebelar. The idea for this symposium came out of a discussion during Co-chair Candace Sady's Spring 2001 Battered Women and the Law, taught by Professor Schneider.

According to Sady, while the class was discussing the

sociological and psychological interpretations, conceptualizations, and explanations for domestic violence, one student expressed dismay at the non-legal contents of the textbook chapters. Another student commented that law school teaches students to be lawyers, not social workers or psychologists, and that he/she went to law school to become a lawyer and not one of the other two professions. Sady admits that she was incredulous and offended by the attitudes underlying their responses. In her view, an effective lawyer needs to incorporate listening and analytical skills into her practice, and understanding how sociology and psychology affect her clients are a critical part of that effectiveness.

To address these assumptions that make law students view their study of law so narrowly, BLSADV decided to organize a symposium that would address the detrimental consequences that a lack of introduction to issues of domestic violence have on a new attorney's clients. This harm is particularly problematic because the reality of domestic violence is not confined to family court or criminal court, and many attorneys, even those in private practice, will encounter its reality.

According to BLSADV organizers, student inexperience and ignorance of domestic violence legal issues persist because gender issues, including the issue of domestic violence, are not consistently incorporated into the law school curriculum. Organizers sought to address their concern that law students will graduate still largely unaware of the wide-ranging impact of domestic violence across all practices of law, leaving the possibility that their future clients' domestic violence pasts (or present) will either be ignored, unacknowledged, misinterpreted or a combination of the three.

— BLS News Staff

Student inexperience and ignorance of domestic violence legal issues persist because gender issues, including domestic violence, are not consistently incorporated into the law school curriculum.

## Student joins support for Israel at rally

by Miri Frankel, '04

When a friend of mine from the Anti-Defamation League (ADL) invited me to join the two busloads of ADL employees and local supporters heading down to Washington, DC for the April 15 rally for Israel, I couldn't pass up the opportunity. I took the day off from school (my apologies to Professors Sebok and Habi) and boarded the bus at 7 a.m. with 59 other New York residents.

As we drove down I-95, it was impossible to ignore the caravans of buses alongside us — some from as far as Montreal and Chicago. The Monday afternoon rally, which was the first in support of Israel since 1967, drew a crowd of up to 200,000 people. "This is a beautiful sight," said one attendant as we finally reached the rally site and the tens of thousands of people already present came into view. The phenomenal turnout was unexpected because the rally was only publicized for one week instead of the typical two (partly because organizers felt that the earlier date was critical considering the unrest in the Middle East, and partly for security reasons). Yet during the day, I met people from many parts of the country, as well as from Israel, Canada, France, and South Africa.

Among the dozens of speakers present were former mayor Rudolph Giuliani, former Israeli Prime Minister Benjamin Netanyahu, House Republican Leader Dick Army and



Courtesy of Miri Frankel/ BLS News  
Frankel and fellow Israel supporter pose in front of the Capitol.

Giuliani, who received thunderous applause, stressed the importance of supporting Israel in the fight against terrorism, especially now that we have experienced terrorism in our own cities.

Towards the end of the afternoon, I ran into a fellow BLS student. After comparing the classes we were missing, he concluded that, "some things are just more important." Looking around the Capitol lawn, it was obvious that 200,000 people and dozens of political leaders all agreed.



# Organizing the September 11 Conversation Series: Interview with Stacey Winograd '02 and Candace Sady '02

Soon after September 11, Candace Sady and Stacy Winograd took the initiative and began planning for an ambitious event series to feature Professors and students having an open discussion on their concerns and thoughts surrounding the tragedy that has touched so many lives.

*Q: At what point in time did you come up with the idea for the conversation series?*

A: Stacey and I had been friends and neighbors in student housing since our first year and often talked about politics and current events with one another. Soon after September 11, we started thinking about getting faculty and students talking about the legal and political issues raised by September 11 and its aftermath.

*Q: What was your original goal for the series?*

A: To provide an intellectual forum for students, faculty and other members of the BLS community to discuss the issues raised by September 11 and beyond.

*Q: Did you approach BLS faculty or administration first?*

A: Candace initially talked with several Professors about the idea. After we developed a written proposal, we made an appointment with Dean

Zonana to discuss getting support from the administration.

*Q: How did you decide on the topics?*

A: We brainstormed a list of possible topics in one sitting, and the series started with the topics that matched Professor interest and availability. When Dean Zonana presented our proposal to the faculty, their positive response and willingness to participate exceeded our expectations, especially considering the time commitment required to prepare a talk on such an unprecedented event.

*Q: Did you get most of the professors who you solicited? Were there any obstacles to obtaining Professor Participation Commitments (PPCs) from professors?*

A: Our success rate was fairly high, especially since both of us created a list with our own former and current professors in mind because we knew most about their scholarly interests. The only problems we ran into were in timing and scheduling.

*Q: Once a professor agreed to participate, what were your next steps?*

A: After Stacey and I worked together on settling on the topics, we discussed our ideas with the professors, and they took it from there. All the professors involved were very respectful of our "vision" and gave talks that they thought students

would be engaged by and want to learn about.

*Q: On average, what was the time period between gaining a PPC and the actual event?*

A: About 3 weeks.

*Q: Do you have any advice for students who are trying to recruit professors to participate in speaking engagements? Any do's and don'ts?*

A: Just ask and make sure to follow through with your idea, and whatever you agree to do in order to put on the engagement. Any speaking request requires some preparation on the part of the professor and this fact should be taken into account.

*Q: Did the administration assist you in promoting professor participation?*

A: Yes, the administration was very helpful. Dean Zonana emailed our proposal to the faculty, and helped us secure professor acceptance for all talks during his tenure as Dean. He also worked with us to schedule the conversations in accordance with the class schedule to ensure maximum participation for day and evening students.

*Q: What tasks accounted for the most time and effort?*

A: Confirming the date and participation.

*Q: Did the fact that you organized the series independent of any student*

*organization affiliation affect the process?*

A: It affected the process slightly, but only because it probably seemed odd that such an initiative was the independent effort of two 3Ls. In retrospect, it may have been easier since all we needed was a consensus of two. Additionally, we both worked really well together and contributed equally to implementing each discussion.

*Q: How do you think September 11 has affected the BLS community's appetite for intellectually stimulating events, and do you think this apparent shift in demand is sustainable?*

A: Many students were eager to discuss the issues raised in the conversations. These students will likely continue to be interested in intellectual events, and their participation in the talks this year has probably demonstrated this fact to all members of the BLS community.

*Q: If younger students wanted to carry on the flame of the conversation series how would they do it?*

A: They should read this article and talk to us if they have any questions.

*Q: How do you want the series remembered?*

A: A forum at BLS for discussing the important issues facing and changing our communities, nation, and world after September 11.

## The ins-and-outs of creating the successful oral argument

PRINCE

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lem, Eugene Ionesco vs. Pina Company, Inc., the brainchild of BLS students Sadie Ishee '02, Elizabeth McOmber '02, Julie Paltrowitz '02, and Sonia Robertson '02, involved a wrongful death action filed by the husband of a woman who had died after taking an FDA-approved drug produced and distributed by the respondent, Cirkulate.

Although Cirkulate is normally used to treat circulatory disorders, the deceased used it as a diet drug after learning through an internet chat room that it was effective as a weight loss drug. The product included warnings for circulatory disorders, but was silent about its dangers when used for dieting. The decedent's doctor prescribed the drug, acting on the belief that the drug only posed a danger to people using it for circulatory problems, and on her knowledge that the decedent had no medical history of circulatory disorders, which ultimately caused her stroke and subsequent death.

Petitioner's complaint alleged that the respondent drug company knew or should have known about the increased risk of stroke to dieters using the drug; was liable for its failure to warn people using it for dietary purposes; and that such failure was the proximate cause of the decedent's death.

Petitioner sought to introduce three items into evidence: the testimony of an expert internet crime specialist who used a computer program to examine the chat room conversation log, showing that a Pina representative recommended the use of Cirkulate for dietary

purposes; an e-mail from a Pina competitor's employee to his supervisor, stating that he had been informed by a Pina employee that Pina was aware that using Cirkulate in diets had caused strokes; and research results from a doctor who discovered possible side effects linked to use of the drug in weight loss diets.

The district court excluded all three items and granted Pina's motion for summary judgment. The Court of Appeals for the Fourteenth Circuit affirmed the district court's decision. The United States Supreme Court granted a petition for a Writ of Certiorari.

Tennessee's Cobb, representing the petitioner, argued that the Supreme Court's opinion in *Daubert v. Merrell Dow Pharmaceuticals, Inc.* did not modify the low standard needed for authentication as prescribed in Rule 901 of the Federal Rules of Evidence and that the e-mail qualified as a business record under Rule 803(6). Cobb sought reversal of the lower court's exclusion of the chat room and e-mail evidence.

Tennessee teammate, Hawkins, maintained that "reason and experience are the hallmark of Rule 501 of the Federal Rules of Evidence," and that the Supreme Court's decision in *Jaffee v. Redmond* did not justify a scientific privilege exception for the purpose of excluding the names and genetic data from the doctor's research study. Hawkins asserted that scientific research is "an important public interest," but that the scientific privilege exception "would not serve its sufficient purpose to overcome the important

Georgia's Stokes attacked both Cobb and Hawkins' arguments, claiming that e-mail could not qualify as a business record, and that the researcher was entitled to a privilege to protect the names and genetic information of study participants. On the first point, the Court appeared to have difficulty accepting Stokes' argument that e-mail differs from other types of business-related messages, such as inter-office memos, and drilled her with a barrage of questions on that point.

Sticking to her guns, Stokes maintained that while an interoffice memo involves "preparation" thereby assuring "reliability," an e-mail is more "instantaneous" and is created on "impulse." Citing Rule 803 (6)'s reliability requirement, Stokes maintained that an e-mail is not reliable because it would be difficult to verify who actually sent it. The Court appeared unconvinced that the same problem could not also occur with other modes of interoffice communication.

In asking the Court to affirm the decision of the Court of Appeals, Carroll maintained that the trial court had discretion to require a *Daubert* hearing "on a novel and unproven technological process used to authenticate evidence."

The final round is the culmination of a systematic and intricate process. First, all three



Kristin Harrison/ BLS News

**Members of the University of Georgia Law School Moot Court team celebrate with their hard-earned trophy.**

ty-two schools pair off and argue in two preliminary rounds held on the first two days of the competition. Teams are then slowly weeded out in three more rounds, leaving two teams to argue in the finals.

The brief score comprises 40% of a school's overall score in each round. A very high brief score can help carry a team to the later rounds, but a low brief score can prove costly. Teams that make it to the later rounds are often also winners of the best brief awards. This year's finalists, Tennessee and Georgia, won second and third place best brief honors, respectively. Still, a great brief alone will not guarantee a team's entry into the final round, as demonstrated by the first place brief award winner University of Hastings' inability to advance beyond the quarter finals.

In addition, top oral advocates are recognized for their excellence in both the preliminary and final rounds. This year, Stacy Schneider from

Tulane Law School won Best Oralist in the Preliminary Rounds. Stacey, Carroll won Best Oralist in the Final Round.

The competition is named for the late preeminent evidence scholar, Jerome Prince, who after graduating from BLS with honors, spent the next four decades serving BLS as a faculty member, vice dean, and eventually dean. Once described as "the outstanding evidentiary authority of his time" by former Chief Judge of the New York Court of Appeals Lawrence H. Cooke, Prince had received much acclaim and commanded great respect throughout the legal community for his expertise in the field of evidentiary law. His credentials were well-established by his numerous publications on evidence and criminal law, including *Cases in Criminal Law and Cases and Materials on Evidence*, and by his tenure as editor of *Richardson on*

see PRINCE, page 5



# Crisis in the music industry: Top players discuss today's biggest changing issues

by Alyson Mathews, '04

For years before successfully breaking into the music business, the biggest concern for current industry leaders was that they were not getting paid. Today, the industry's biggest financial problem is being caused by mp3 technology and peer-to-peer networks that make freely downloading music easy for even technological novices, thereby harming their music sales revenues.

On March 19, six leaders from across the music industry joined the Brooklyn Entertainment Law Society to discuss the crisis facing the music industry, brought on by technological advancements over the last few years. The panelists comprised four record company attorneys, an attorney representing artists, and one attorney from MTV.

Alasdir J. McMullen, Esq., Vice President of Legal Affairs for EMI Recorded Music, set the stage by discussing the impact of the recent technological changes on the music industry. Music industry attorneys must confront the reality of complex and ever-changing technology, and be able to anticipate new ones lurking right around the corner. Today, anyone with the right equipment can download music and burn CDs simultaneously behind a single computer (not to mention all the other functions you can add to the multitask list). The widespread ability to freely download music and recreate perfect copies with the click of a mouse is a major financial drain on the music industry.

Currently, numerous lawsuits are being brought in an attempt to prevent copyright infringement and protect the rights of record companies and artists alike. Their targets? Web sites that allow people to download music for free. To combat these sites, record companies have tried to work cooperatively with former defendants of their lawsuits to design their own Napster-like sites in an attempt to compete. Unfortunately, they have not met with success. And even as they have successfully litigated one site down (e.g., Napster), up spring more (e.g., KaZaA, Morpheus).

Andy Hurwitz, Esq., President of Ropeadope Records, shared how the con-

solidation of record companies has affected music labels. Hurwitz founded Ropeadope Records, an independent label distributed through Atlantic Records. For all those interested in breaking into the music business, be prepared to follow Hurwitz's example. The highly competitive nature of the music industry meant that Hurwitz had to work for years without pay before starting up the ladder to his current success. Unlike big record labels, Hurwitz enjoys the current chaos that he faces as part of the music industry. As head of an independent label, Hurwitz feels most keenly the strain caused by the consolidation of record labels into giant conglomerates. Because several record labels are merged into one conglomerate, the artists have fewer choices when selecting a label. The consolidation and subsequent reduction in choices reduce the artists' chances of having their song played on the radio. Without the freedom to negotiate with multiple companies simultaneously, artists are stuck dealing with a label that may or may not be fulfilling their needs and advancing their career. Apart from this issue, Hurwitz agrees that the burning of CDs presents the biggest challenge right now because it takes little time and money to obtain an entire album.

Dona J. Fraser, Esq., Manager of Business Affairs Administration for RCA Records, followed a path much like Hurwitz', spending years working for free before she landed a full-time position within the music business. Fraser believes that CD burning presents the biggest problem to the music industry. In response, Fraser offered ideas that might help the music industry respond to the decrease in record sales, and affirmatively counter it.

Fraser suggests creating incentives that make purchasing CDs a unique investment from a mere collection of mp3s or burned duplicate. To do so, the CD would need to include something that *cannot* be made available on the internet. The new CD concept will hopefully increase their sales, which will help the artists to return the money "loaned" to them to produce the album, while giving record compa-

nies ownership over the CD enhancement, which safeguards their investment in the artist should he/she decide to sign with a different label in the future.

Jason Stern, Esq., President of Roxwell Records, shed some light on the record companies' own efforts at developing online distribution systems B with the notable difference that they expect payment for downloads. Web sites such as Pressplay and Musicnet charge consumers \$5-\$10 dollars per month to download a limited number of songs. The primary problem, and one that is quickly sounding the death knell for these sites, is the customer's inability to permanently own the music. The consumer cannot download the songs to their hard drives, transfer them to MP3 players, or burn them onto CD. Worse yet, you lose the songs if you cancel your membership. Stern admitted that he was not surprised that these Web sites have not been very successful because they offer little incentives over the free download systems still out there.

To add to the challenges, the anti-trust wing of the government is keeping a close eye on record companies cooperatively working to develop profitable online distribution systems to ensure that monopolies do not result. If companies are not permitted to work together though, each record company will only be able to distribute music from one label, and no single web site will be able to develop the critical mass of music needed for the record companies to remain competitive.

Matthew J. Middleton, Esq., managing partner of Woods & Middleton, LLP, filled in the music artists' perspective, sharing that the constant merging of record companies presents a major challenge to artists. Middleton believes the terms under which artists contract with record companies are often fundamentally unfair to the artist. Requiring an artist to produce a minimum number of albums in a limited amount of time places an enormous burden on the artist. The very nature of an artists' need for inspiration makes it nearly impossible for them to pro-

duce their best work on such strict time schedules. In the long-run, this can inhibit the artist's career advancement.

The chaos that the music industry is currently undergoing is forcing it to learn new ways to creatively promote music and restructure the entire business. Middleton acknowledged that the subscription method of record companies' current online distribution web sites may not actually be the best approach. At the moment, excitement for music has significantly decreased, but Middleton hopes that this will soon change.

Sean A. Joell Johnson, Esq., Vice President of Law and Business Affairs for MTV, concluded the panel on a lighter note by illuminating the issues facing MTV. As part of the Viacom network, MTV's greatest challenge is figuring out whether to categorize itself as a music or lifestyle channel. Music videos, unfortunately, do not generate big ratings, which explains why we only see videos from songs already on

the top of the charts. MTV currently works to tie together music and lifestyle through shows such as the *Osbournes*, a *Real World* type of show that depicts the everyday life of a rock superstar. MTV2, the station solely devoted to playing music videos, has the opportunity to take greater risks, and looks for a wider variety of artists, rather than just replaying the top 40 ad nauseum. Videos receiving many requests soon find their way onto MTV.

Overall, the panel sent a loud and clear message that the music industry is facing an unprecedented crisis, and is desperately looking for new ways to solve its current exigencies. In the face of easy and near costless online distribution and replication, the industry faces some tough competitors. For all creative minds out there: the panel did reach the consensus that the person who is able to solve their online subscription and distribution problems and create a truly workable system will be the next Bill Gates.

Brooklyn Law  
Students for Public  
Interest (BLSPI) will  
be putting together a  
BLS Team for  
AIDS Walk New  
York, scheduled for  
Sunday, May 19th.

Those interested in  
participating, please  
e-mail [blspi@brook-law.edu](mailto:blspi@brook-law.edu).

## Moot Court tournament success result of group's hard work

### PRINCE

continued from page 4

*Evidence*, a treatise hailed as "the bible of New York evidence law." Prince was also a senior consultant to the Law Review Commission in the Preparation of a Code of Evidence for New York, and was Chairman of the Evidence Panel of New York State Judges Conference, where judges often sought him out to discuss evidentiary issues. Prince died in 1988 at the age of 81.

Published by Brooklyn Works, 2002  
Students coming to the tournament hoping to cheer on

a BLS team would have been disheartened to learn that BLS no longer competes in Prince. Years ago when it did, BLS frequently made strong showings. In 1994, BLS won first place and best brief award, and the year before, they made it into the final round. Today, however, many schools like BLS refrain from competing in their own schools' competition to quell other schools' concerns about scoring impropriety by the host school.

The BLS Moot Court Society organized the competition under the leader-

ship and dedication of its president Vicky Andreadis and coordinator Florrie Chapin. In addition to Prince, the Society is constantly busy preparing its own teams for approximately fifteen competitions, organizing trial advocacy moot court contests, and coordinating the first year student selection process.

This year, the calendar played havoc with the schedule as an early Easter and Passover forced both the Prince and the First-Year Competition to take place at

the same time whereas Prince would normally end before the First-Year Competition begins. Andreadis credits a truly capable staff for averting any difficulties the situation could have created: "Florrie Chapin is a phenomenal Prince coordinator. Janine Cerbone is a phenomenal First-Year Competition coordinator. They both have outstanding committees and dedicated Moot Court members, so it really didn't pose a conflict at all."

Dean Joan Wexler was on hand to congratulate the con-

testants, faculty, judges and other contributors. Wexler triggered mischievous grins from the bench and a chorus of chuckles from the audience when she jokingly characterized the judges' questioning as "needing," yet "fair."

The evening was capped off with BLS' extravagant Tavern on the Green party in Central Park where Moot Court members, faculty, judges, and contestants revelled, rejoiced, and reflected on the success of the 17th Annual Dean Jerome Prince Evidence Competition.



# The Princess of Brooklyn Tells You About: The Seine of Our City: the Gowanus Canal

by Elisabeth Hubbard, '03

Exactly what is the Gowanus Canal? To most Brooklynites, it is a joke—a cesspool of toxic waste, or a dumping ground for mob victims. But the Canal actually has a much more colorful history than most people realize and perhaps a bright (and clean) future.

For those of you who aren't locals, the Gowanus Canal is a waterway that stretches from the harbor to Douglas Street in South Brooklyn. The bridges over the Canal are some of the oldest and most scenic bridges in New York.

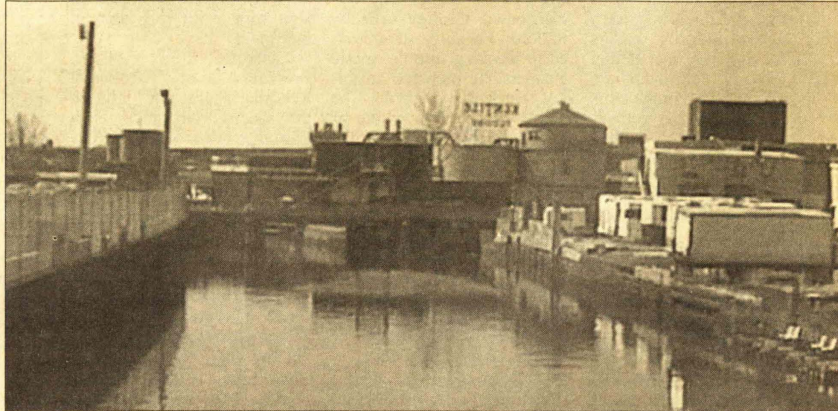
## HISTORY OF THE CANAL

Before the Canal, there was the Gowanus Creek, named after the leader of the Native Americans in the area. Believe it or not, the creek fed a marsh that was full of wildlife, including oysters the size of dinner plates. (Brooklyn's first export!) The creek was also the site of a bloody Revolutionary War battle, where patriot volunteers fought against the largest expedition of British soldiers ever sent to America. People still claim to see the ghosts of the patriot soldiers wandering the area.

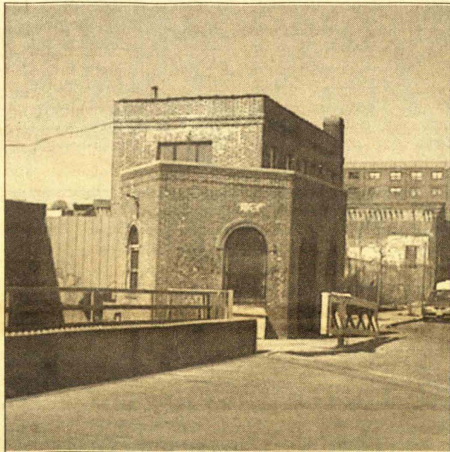
After Brooklyn's population boom in the first

However, after years of economic decline and the construction of the more efficient Brooklyn-Queens Expressway, the canal eventually fell into disuse. In

goals include de-pollution of the waters of the canal, beautification of the area along the canal, and development of new businesses on nearby Smith and



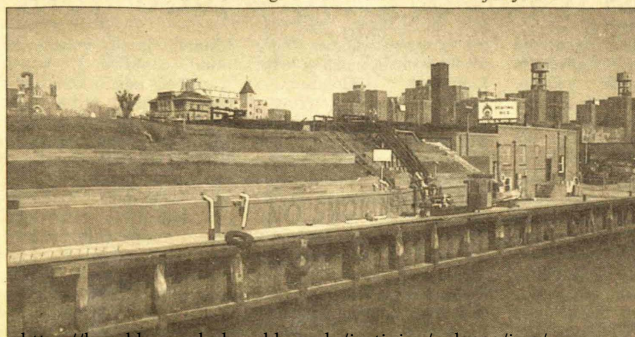
The Union Street Bridge – one of the oldest examples of the retractable style bridge



The Carroll Street (left) and Union Street (right) gatehouses

half of the nineteenth century, city officials relished the need for a system to transport goods in and out of Brooklyn. As a result, the New York state legislature authorized the construction of the Canal in 1849. Construction was completed in the late 1860s. During the glory days of the canal, industries alongside the canal included coal and gas manufacturing plants, oil refineries, machine shops, chemical plants, a cement maker, a sulfur producer, a soap maker, and a tannery. Needless to say, these industries created a large amount of pollution that was allowed to run into the canal, creating a putrid cesspool ironically dubbed Lavender Lake. The rank odors could be smelled as far as Borough Hall on a hot summer day.

It was clear that something had to solve the odorous problem of the canal. The borough decided to build a channel that extended from the canal to the harbor. At the end of the channel they placed an immense ship propeller to pump the polluted waters of the canal into the harbor. On June 21, 1911, city officials turned on the pump in a festive ceremony where a lovely young woman tossed carnations into the waters of the canal as 350 dignitaries looked on.



<https://brooklynworks.brooklaw.edu/justinian/vol2002/iss2/1>  
One of the many businesses along the canal

the 60's, a city employee accidentally dropped a manhole cover on the pump and broke it, but the city never bothered to fix it. The result was that the canal once again became polluted. In a study in 1970, scientists found hepatitis, typhoid and cholera in the waters of the canal. By the end of the decade, the Canal had regained its notorious, toxic reputation.

## REVIVAL OF THE CANAL

Recently, with the gentrification of South Brooklyn, there has been an interest in cleaning up the canal. A group called the Gowanus Canal Community Development Corporation began petitioning the state and local governments to take action to repair the canal. Progress began when the state and city governments gave grants for the repair of the pump. On May 3, 1999, the pump was turned back on. Since that day, the waters of the canal have become significantly cleaner. It is now even clean enough to support life including ducks, fish, crabs, even jellyfish!

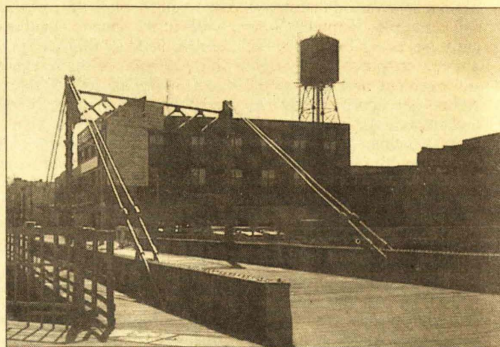
However, there is still a long way to go in cleaning up the canal. There is still quite a bit of pollution in the canal from the years of garbage thrown into it. The canal must be dredged in order to remove the silt and pollution that has accumulated over the years on the bottom of the canal. The Gowanus Canal Community Development Corporation is also committed to the further development and revitalization of the canal. Their

Court Streets. Hopefully, if these good people are able to continue their work, the Canal will become a landmark of Brooklyn's can be proud.

## TAKE A WALK TO THE CANAL

A walk to the canal is a great summertime excursion. From Brooklyn Law School go down either Court Street or Smith Street to Carroll Street (past Atlantic). Turn left and continue on Carroll to Hoyt Street. Take a left and walk up a few steps up to the continuation of Carroll.

You will then see the Carroll Street Bridge. This bridge is one of the oldest in New York. It is also one of the oldest retractable type of bridges in the United States. The bridge is retracted to make room for barges by sliding on wheels set on metal rails. From here, you can see the Union Street Bridge. Walk up Nevins Street to get to this bridge, and cross it to get back home.



The Carroll Street Bridge

For more information about the Gowanus Canal and its development, go to: [www.gowanus.org](http://www.gowanus.org) or [www.gowanuscanal.com](http://www.gowanuscanal.com).





# Law and Television

## Judges and Television: There are just some things we don't want to know

by Sally Woo, '02



March 26, 2002, Tuesday, at 10 p.m. – it was the battle of the prime time television judges. Thanks to the handy-dandy VCR, I sampled the two series to check out the face-off.

*The Court* (ABC, Tuesday, 10 p.m.)

The first episode of *The Court* was interesting for presenting the nomination, confirmation, and the first case of Justice Kate Nolan (played by the still-talented Sally Field). Indeed, it was fascinating to watch the political savvy of Justice Nolan, a former governor of Ohio. It also appears that she's an excellent choice for the president: she's frustratingly moderate (frustrating to me, anyway). It's too hard to tell if she's a moderate conservative or a moderate liberal. I suppose her stance suggests her desire to be fair (which is very admirable), but it felt wishy-washy. That seems to be due to the episode's presentation rather than any fault of Sally Field, who otherwise made the justice a sympathetic but gritty person.

Despite the clunky *West Wing*-esque dialogue, I won't deny that Justice Nolan seems to be a very bright judge (again, I credit Field, not the writers of the show). Her verbose and speedy reference to constitutional law's famous footnote 4 and the levels of judicial scrutiny likely flew over many a layperson's head (and should appeal to law students who can stomach more con law outside class).

Another source of frustration was the way the first episode felt more like *The Court Meets the Press* than just *The Court*. Really, there was too much dramatic license on the press' perspective, which also felt awfully unnecessary. Harlan Brandt (played by Craig Bierko) is the journalist/legal analyst on the Supreme Court beat, chasing his story on Justice Nolan. I thought he had a pretty distasteful zeal about the task. Surely Linda Greenhouse of the *New York Times* or her television news counterparts would not be as obsessive as Brandt? Worse, he seems too smug about being on the Supreme Court beat.

It turns out that Brandt has a reason for his Nolan slant – he, a former lawyer, was a once a law student of hers. One would think that such a connection (if not a conflict of interest or appearance of conflict) should have been disclosed to his press colleagues and his audience or readers. Considering that real-life legal analysts disclose about their being former law clerks of various justices, so as to avoid losing credibility, it would not hurt Brandt to come clean. Oh, and while Brandt's first name of "Harlan" is a great Supreme Court name for him to have, I didn't think it was that great a double entendre.

I found more interest in seeing the Court than seeing Brandt's exposure of the Court. The justices have flavor to them – a Scalia-like Latino Justice Martinez (played by the character actor, Miguel Sandoval, whose face is familiar even if his name isn't); Diahann Carroll as a glamorous-looking but

tough Justice Desett; Chris Sarandon as Justice Voorhees, a liberal and a law school classmate of Justice Nolan. The rest of the cast is made up of a bunch of stereotypical elderly white males, as the rest of the Court and a mixed bag of young, super bright law clerks.

Generally, I would give *The Court* a barely passing grade. For the moment, Sally Field is its only saving grace.

*Judging Amy* (Tuesdays, CBS, 10 p.m.)

Coincidentally, the actor of *The Court*, Chris Sarandon, was also on *Judging Amy*, on the same night against "The Court." On the CBS show, he played a recurring character, Judge Barry Krumble, who romances Judge Amy Gray, a Connecticut juvenile court judge. He turned out to cut a dashing figure, although I can't comment on how he portrayed a judge – he didn't address any legal issues in the episode of March 26. He resembled his Supreme Court alter ego somewhat – acting very judicial. He also may very well stick with his new job on *The Court* (he does get to be in a higher court, after all).

The episode was principally about Judge Gray's misadventures as she attends her Harvard Law School 10th year reunion. Judge Gray's reunion was pretty much what we would expect of any class reunion, although it was petty of people to put down Judge Gray's job. Yes, children's law is not a happy area and state law is not nearly as exciting as federal law; but, Judge Gray is still a judge, unlike the pack of unseemly corporate lawyers among her classmates. Are the people of the fictitious parallel universe of Harvard Law that silly for not realizing that? Plus, did Judge Gray really need the appearance of Judge Krumble to put her classmates to shame? ("Oh, look, my boyfriend, the judge, who can make stunning put-downs on you!").

Indeed, I won't even address whether *Judging Amy* accurately portrays the law in general or children's law specifically. And, I won't bother wondering if real juvenile court judges have such interesting personal lives. But, *Judging Amy* has a better handle on children's law and related issues than *The Guardian*, as was discussed in last issue's Law & TV. Of course it doesn't hurt that *Judging Amy* is currently in its third season and probably should know what it's doing by now. This can be seen in how Maxine, Judge Gray's mother, has daily quandaries as a social worker – and her adventures forces us to think about The Big Issues.

The series' cast is generally very good – they really make you feel like you're watching them as their characters (and considering that there are major talents like Amy Brenneman – playing the judge herself – and Tyne Daly – playing the judge's mother, what does anyone expect?). The storylines pace well, even if they are soapy at times.

Actually, things do get very soapy in the personal life of Judge Amy Gray, forget in her courtroom – which may or may not appeal to various segments of the legal community interested in legal dramas. After all, there are some things we may prefer not to know about the lives of judges, whether they're real or not.

by Alyson Mathews, '04

## Law Review

With summer approaching faster than you can say final exams, let's take a moment to examine the laws of states known for their warm weather and beautiful beaches, as well as a few from our own New York.

Summer means longer days, swimming pools, baseball, less clothing, heat, and humidity. Don't let that hot weather get you down though because in Arizona it is unlawful to refuse a person a glass of water. There's no such thing as a parched throat and mouth in this Southwestern state!

Let's venture over a bit to the west and take a look at California, famous for its beautiful people and beautiful beaches. First and foremost, keep in mind that in California sunshine by law is guaranteed to the masses. If the sunshine is too warm and you want to take a dip in a swimming pool in Baldwin Park, CA, please park your bicycle first. No one can ride a bike in a pool in this city. Not a fan of swimming? How about a game of baseball? Just make sure that if you are in Burlingame, CA you refrain from spitting on the baseball diamond. It's simply not allowed.

For those who enjoy the outdoors, but prefer not to play sports, there are always beaches or parks. But leave

your percussion instruments at home if you want to visit the beaches of Santa Monica and please do not molest the butterflies of Pacific Grove. The latter may result in a \$500 fine.

In the spirit of being a friend to the animals, also remember that it is illegal to lick toads in Los Angeles. Apparently the toad referred to in this law secretes a poison that creates a heroin-like high in those that ingest it. It's pretty pathetic that some people that will lick a toad for a buzz.

If you would rather spend your summer in New York, keep the following in mind. For sports fans, you may not throw a ball at a person's head for fun. For those who prefer to wear a little less clothing in summertime, women are permitted to be topless in New York City, provided that it is not used as a business. This law originated from an equal rights campaign. Some women felt that it was unfair for men to be permitted to walk around without shirts, while women who did the same would have indecently exposed themselves. This is more clothing than many women are willing to part with, but if you're a thrill-seeker, it may give you a better thrill than licking a toad!

by Alyson Mathews, '04

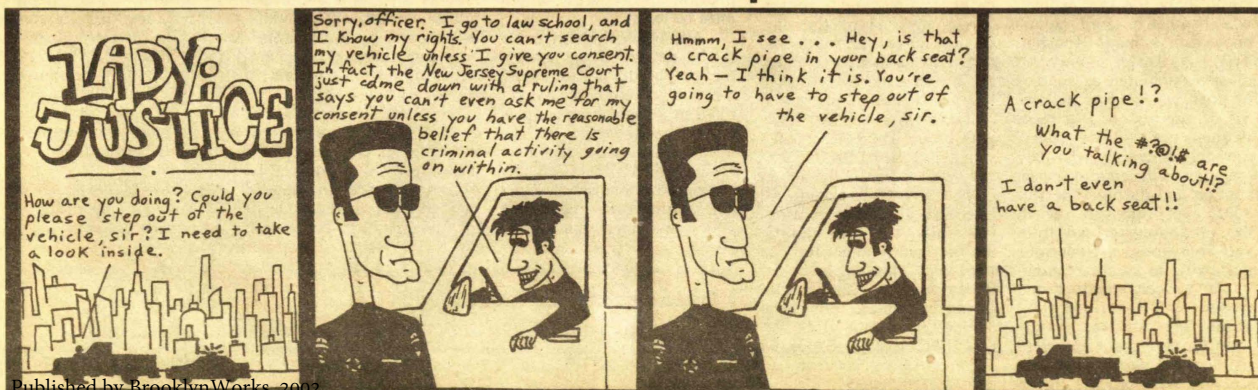
## Bar Review

For those of you who miss that college bar you used to frequent, or just enjoy an unpretentious place to hang out, check out Richters on the Upper East Side. Compared to other bars in Manhattan, Richters might best be described as a dive bar, but that does not mean it is not a great place to go.

The bar (yes, there's only one) is covered with the flags of colleges given to Richters by its customers in order to demonstrate that it truly supports and loves them. The staff is friendly and will even welcome the opportunity to take a shot when offered. Televisions show sports events and the jukebox plays classics...well, classic for us. It's full of fabulous 80s and 90s music that will make you fondly remember your youth. Although Richters is a bit small, it is definitely one of the best home-town, college-type bars I have had the pleasure of visiting here in New York City. If you enjoy the way bars used to be in college and can stand to leave your tight black pants and shirts at home, slip on your blue jeans and head to Richters. You'll be glad you did.

Richters is located on 3rd Avenue between 90 and 91.

**Congratulations to Ryan Thompson, '04, for winning the BLS News comic strip competition.**







# BROOKLYN LAW SCHOOL NEWS

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## From a whisper to a scream: 'The Vagina Monologues'

V-Day  
continued from page 1

Enslers words exhibit a journalistic quality.

The *Vagina Monologues* clearly takes it cues from feminist theory, and does occasionally careen into the oft-traveled and tempting waters of man-bashing. At one point, an orator quips that she is about to present a story about the rare woman who has had a good experience with a man. Rimshot. True, in Enslers universe men are depicted as sources of great woe and as purveyors of aggression. But these women aren't just angry, they tell us exactly why they are angry with great wit, perception and daring. The students and professors rocked the prodigious crowd from self-conscious, licentious guffawing to silent weeping.

In a scene-stealing and tensely emotional moment, graduating student Sauda Johnson portrays a homeless woman as she relays the

first lesbian encounter as a teen. Through Sauda the character comes to the sweeping realization that her vagina had sown nothing but chaos in her life, as the result of repeated childhood molestation. The portrait emphasizes what so many women have felt; that their female sexuality is a liability; it can be the source of great pain and regret.

At the end of the day, Enslers leaves us with the notion that although femininity can be a thorny crown, it too is a laurel of pride and responsibility to be worn with grace. The performance sponsored by BLSADV was very well received; the actors earned a well-deserved and heartfelt standing ovation. Hopefully, this will not be the first and final act for *The Vagina Monologues* at Brooklyn Law School. All proceeds from the show were donated toward the global V-Day fund and to Brooklyn organizations working to

## From the Editors

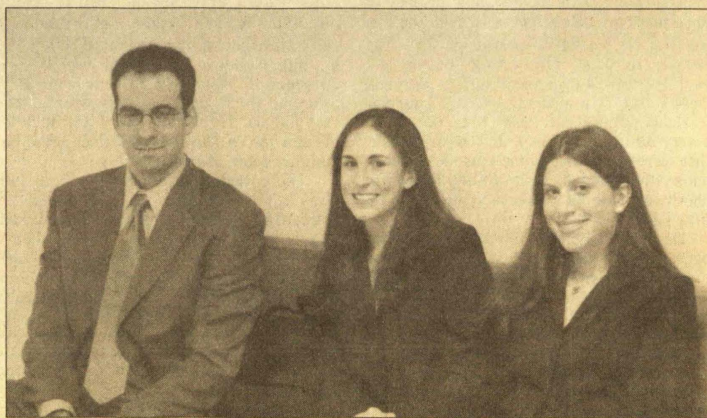
We have come to the end of what has turned out to be an intense, terrifying and tough year for everyone. Although we continue to mourn, we have also begun to recover and are learning to live in a new world. Out of the chaos, individual students have stepped up to facilitate intellectual dialogue that brought students and faculty together to try to make sense of this tragedy. This year we have also seen a resurgence in political discourse with the rise of groups such as the Federalist Society and the American Constitution Society. These groups have brought political debate to the school community with a fervor not seen in many years. Finally, we have a resilient and talented first year class come to age in this disruptive and trying year. The

class as a whole has invigorated the school with its enthusiasm, commitment and drive and will no doubt continue to promote constructive change throughout their time BLS. We would also like to congratulate this year's graduating class on a job well done. Good luck!

We are so thankful for all the positive feedback and support we have received from the students and faculty after the first issue of the News was released. Next year, as a permanent organization, the BLS news will return, committed to both informing and entertaining you, the student body.

-Kristin Harrison and Robert Vidoni,  
The Editors

## May it please the court...



Robert Vidoni/ BLS News

1L students Lowell Chase, Lisa Kelty, and Michelle Barr (L to R) wait anxiously in the hall before presenting their oral arguments before members of the Moot Court Honors Society as part of this spring's competition.

## Parking tickets' hidden charges part of bureaucratic nightmare

TICKET  
continued from page 9

private industry participant and a government agency difficult to compare, if they can be validly compared at all. For example, both may seek to provide beneficial services to their customers, but the private company's goal is the bottom-line: profit, whereas an agency merely seeks to stay within certain constraints like its annual budget. Moreover, the government imposes more regulatory hurdles than those existent in the free market. The government's procurement process is notoriously long because of requirements like equal competition procedures which must be met.

Another critical difference is the nature of the market they are in: the private industry exists within a free market ruled in general by principles of laissez-faire; the government exists in a political market, in which elected officials determine the agency's internal framework, regulatory policy, and annual funding.

In the end, what benefit inures to the key stakeholders? For the private competitor, it is more profits, stock price inflation, and market leader status. For the elected official? None. Last I checked, electoral campaigns did not run on a platform of shorter DMV lines, better driver's license photos, and free online parking ticket systems. Moreover, since the government agency is a monopoly, there is little incentive to change their structures.

I am not certain that my initial concern—that the online parking ticket payment system is an extraneous burden on the agency unless its long-term benefits and possibilities are actively pushed -- is answered by the non-business bureaucracy argument. After all, the government seems to have gotten the EZPass and subway swipe cards right: the more you buy, the less you pay, and traffic has improved significantly. That difference in success may go back to the issue of low e-commerce penetration

in general, and naturally even less for e-government services.

Since private companies, such as govONE, that specialize in e-government services will always be looking to the bottom line, they have a critical stake in figuring out the best purchase and payment structures that will ensure their maximal profitability. However, they must build into the calculation the fact that certain constraints like equal competition policies that we continue to value in government business more than the bottom line will always make the e-government analysis distinct.

Finding the happiest medium may require companies like govONE to rethink the fundamental "theory of the system." Meanwhile, government will be government as usual, an institution ruled more by compromise than any bottom line.

If you would like to pay more for your parking ticket, visit: <http://www.nyc.gov/>

### Judge Quote of the Moment:

"I know nothing about football except they run around bases."

-Judge Judy Sheindlin



## Editorials

### Reflections on the nature of bureaucracy: Does efficiency fit in?

by Karen Chang, '04

All right, I confess: I am a parking ticket magnet, and the truth is, I usually deserve them, because I neglect to read the street parking signs carefully. But at least I attempt to be a law-abiding citizen: I pay my parking tickets.

Recently, when I was preparing to pay my last parking fine, I noticed that the back of the ticket listed some alternatives to the standard method of mailing in a check or money order. One alternative was to pay online; another was to pay by phone. I've been paying my credit card bills online for over a year without any problems. Plus, I don't mind saving the 34 cents and a walk to the mailbox, so I decided to try the online payment method.

Everything was fine as I clicked through the New York City Department of Finance's web page (listed below) until I read that I would be charged "a \$1.50 convenience fee for processing online payments." Convenience fee?! Appalled, I closed my browser and picked up the phone. After following the prompts to the credit card payment option, a recorded message told me that a \$3.00 telephone payment fee would be assessed. \$3.00?! Isn't it bad enough that I am paying a parking ticket?

My instinctive critique was that technological advancements should benefit

both parties -- the user, who can quickly and conveniently make ticket payments; and the provider, who can reduce the cost and time of manual processing. Seems like a win-win situation to me. In fact, according to the December 2000 issue of Bloomberg's "Markets" magazine, approximately 25,000 tickets were paid by mail or in person per day. In contrast, only 400 people were using the online system. Granted, the system had only been live for four months. But as I saw it, charging more to use the online system than the cost of mailing a check (albeit a small difference), actually constituted a technology penalty, and as such, would retard broad acceptance of the new and better system.

To verify whether my hypothesis was correct or not, I hunted down the company that developed the online system, govONE Solutions, in search of current usage statistics. The manager of New York City's online parking ticket payment system, Ofer Tal, took some time out to speak with me about the project. While the conversation failed to convince me that the system is *not* a technology

penalty, Tal's real-life insights definitely broadened my analysis, and stirred me to question the inherent nature of bureaucracy, and proper social expectations of government administration. The question weighing heavily on my mind was: Must bureaucracy be so inefficient?

First of all, with fifteen more months of online existence under its belt, the online system has now reached daily traffic levels of about 2,300 persons pleading guilty per day. Not a great number, considering the 20,000+ paper tickets still being processed everyday. What is wrong with this picture? \$1.50 isn't really a hefty price to pay for the convenience of instantly taking care of your parking tickets. Moreover, Tal noted that the system was error-free, and online payments are posted to the government database the very next day.

There are obvious weaknesses that are external to the online system itself: the fact that significant segments of the population do not use the internet (e.g., the elderly, the technophobic); lack of trust in the security of the servers used to process credit card payments; the irregular use of the

system (assuming you aren't a parking ticket magnet like myself); the practical convenience of mailing the ticket as we've done for so many years already; and the added incentive and reminder to simply mail a check (ever see a brighter orange envelope?).

The biggest tragedy, though, was to learn that the system is not only not breaking even, but that it runs at a loss. govONE, who continues to maintain the system, pockets the \$1.50, but since it is not enough to cover the actual cost of processing and maintenance, the government must cover that difference, plus some. govONE is a private company, after all, and profit is its bottom line. The truth is, the profit margins for online parking ticket payment systems is extremely small for the system providers. Combined with the fact that the entire affair loses money in serving a mere 2,300 people, and the lack of positive forces pushing to increase that number, one must ask: why even bother having the online service?

Tal endeavored to answer that question from the government's perspective, noting that they are extremely sensitive to customer service concerns. They have chosen to provide this service, despite the fact that it is maintained at an overall financial loss. As further evidence, he cited the fact that city employees can call him 24-7 to have him immedi-

ately respond to a customer's call of distress. Herein lies a striking paradox: if government administration cares so much about customer service, why is it not evident to the great majority of the public?

Consider, for example, a trip to the Department of Motor Vehicles (DMV) to get a driver's license. Even if you got there early and lined up before the opening hour, the line will often still curve around the corner of the building. Once you get in, there are several more long lines to tackle before reaching the end goal: securing the license. And what's up with those awful driver's license photos? They are worse than our IL photo directory pictures. In sharp contrast, just next door, you see McDonald's, with 6 short lines moving along quickly, Egg McMuffins and hot coffee being whisked out the door.

This McDonald's-DMV comparison was given by James Q. Wilson, Professor at Pepperdine University's School of Public Policy, in his book, *Bureaucracy*. Wilson argues that the government will never run like a business, and in fact, should not be expected to. Sorry guys, but the DMV will never sing to the tune of "your way, right away."

The different conceptual and structural realities make a

see TICKET, page 8

As I saw it, charging more to use the online system than the cost of mailing a check... constituted a technology penalty.

### Volumes of modular cartons: A tragedy, a love story, a mess

by Jacob Held, '03

"An Architectural Guidebook to Brooklyn," by Francis Morrone, identifies the slight structure standing on the west side of the law school's courtyard as, "hands down," the finest building in the borough. The best part of this finest building, according to the book, is its "remarkable sensitivity to the urban context." It makes "several bows to the architecture of the Municipal Building" next door, and to the architecture of the greater part of the Joralemon Street environs. These bows help shape the transition from the school's old building, an unusual

design for the area, to the "carefully modulated volumes" across the rest of the block. The color, the cornices, the pediments and the height of the floors and windows all aid the school's integration with its neighborhood.

But the sharp-eyed student who happens to pass by the new building's Joralemon Street facade will notice a feature which further integrates the law school to the burg, a feature unmentioned by the guidebook. The first floor of Brooklyn Law School's cornerstone structure, the part of this palace of learning that the school presents to the public eye, is a dark room full of stacked cardboard boxes—ill-

stacked cardboard boxes.

A too-clever flourish by the building's progenitor? Did the architect take too far his efforts to match the school with the area, perhaps taking a cue from the shuttered storefronts of the rattier end of Court Street? Likely not. The building was designed by celebrity-architect Robert A.M. Stern, whose crowd-pleasing style—think Christmas cardigans, dental work, Celebration, Florida—precludes architectural jokes that don't glow with a Disney Corp. polish.

Surely Stern's plans didn't have "storage" stenciled upon the blueprints for the first floor of the building. So what went wrong? Perhaps the school is spent on good ideas, and low on expendable assets. If so, I offer these few suggestions for that space.

How about a real student lounge, a dedicated space for students? The

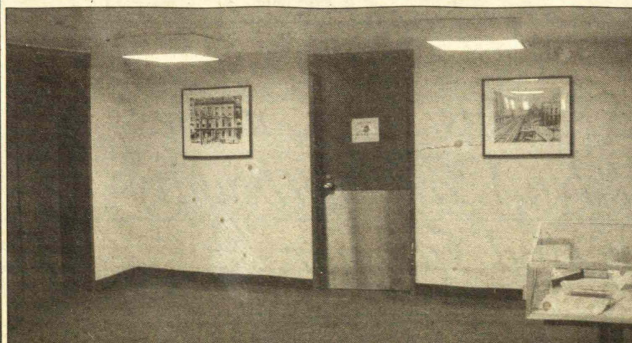
present student lounge is woefully insufficient. It is maxed-out with students when it isn't being conscripted for some symposium. Instead of queuing up for a computer in the library, students wishing to send a few e-mails could do so from one of a row of Internet terminals along one wall. A small corner could be occupied by a café, selling real coffee—real, good coffee—and sundry treats. A ping-pong table could occupy another corner, balm to thought-weary scholars. Artwork could be hung around the room.

Does this sound like an outlandish fantasy? If so, it's only because you've learned to expect little, fellow students. Artwork would be provided at no charge by publicity-hungry local artists. A franchise operator would pay for the café (or café cart). Internet terminals would be given at a discounted rate by corporate sponsors. And I'll donate the ping-pong table myself. (I happen to have an extra one in my apartment.) What else? Fix-up costs for the room? Let's just slap a coat of paint on the wall, and move the boxes to the basement.

And why should you settle for less? Why should the school not offer a bit more to those worn-out folks who work two jobs, commute from Connecticut, slum it through school at night and ask for only a good café au lait to see them through?

Ever ask yourself:  
"What is in that  
room?"

Robert Vidoni/ BLS News





## April Events at the City Bar

by Sally Woo, '02

Association of the Bar  
of the City of New York,  
House of Association  
42 West 44 Street, NY, NY.

The events below are taking place in April, at the City Bar at 42 West 44 Street. Members of the Association, their guests, and all other interested persons are invited to attend. No fee or reservation is required.

**Student Liaison Position Available:** As I am a graduating 3L, my time with the City Bar's Law Students' Perspectives Committee will soon expire. Thus, I am on the lookout for eager BLS students who may be interested in joining the committee as a student liaison/member. To join, you must first be a member of the City Bar - which, even if you are not interested in joining this particular committee, is still a requirement if you are interested in other committees. It's a cheap membership fee for law students (only \$20) - and think of all the networking and resources you'll get.

For further information about committees, membership, or the events below, check out the website at <http://www.abcny.org>. If there are questions about the Law Students' Perspectives Committee, feel free to e-mail me at [swoo@bbs.brooklaw.edu](mailto:swoo@bbs.brooklaw.edu). Good luck and enjoy the spring events.

**Consumer Protection Issues in 2002 and Beyond, April 11, 2002, Thursday, 6 - 8 pm**

Some of the country's top regulators and consumer advocates will bring you up-to-date on today's critical consumer protection issues. Hear about current enforcement priorities, new legislation, and key battles expected to be fought in the near future.

**Moderator:** Jeffrey A. Greenbaum, Esq., Frankfurt Garbus Kurnit Klein & Selz

**Speakers:**

Eliot Spitzer, Attorney General of the State of New York; Gretchen Dykstra, Commissioner, New York

City Department of Consumer Affairs; Barbara Anthony, Director, Northeast Region, Federal Trade Commission; Ronna Brown, President, Better Business Bureau of Metropolitan New York; Jules Polonetsky, Chief Privacy Officer and Special Counsel, DoubleClick Inc.

**Complete Job Search Workshop, April 16, 2002, Tuesday, 6-8pm**

An interactive workshop designed to provide career planning and job search strategies for attorneys at all levels of experience, including recent law school graduates, who are undergoing career transitions.

**Speaker:**

Linda E. Laufer, Private Career Consultant.

*Sponsored by the Committee on Career Advancement and Management.*

**How Do Fathers Figure in Children's Best Interests? Child Development Research Regarding Custody and Parental Access, April 16, 2002, Tuesday, 6:30 - 8:30 pm**

This program addresses the interdisciplinary aspects of child development research as it informs legal practice in child custody and parental access and parenting plans. The panel will cover issues of children's attachment, stability and continuity of care as well as children's needs vis-a-vis two parents who may or may not be embroiled in 'high conflict' dissolution.

**Moderators:**

Hon. Jane Pearl, Family Court Judge, Bronx County; Co-chair, The Interdisciplinary Forum on Mental Health and Family Law; Alex Weintrob, M.D., Private Practice, Child and Adolescent and Forensic Psychiatry; Co-chair, The Interdisciplinary Forum on Mental Health and Family Law

**Speakers:**

Michael Lamb, Ph.D., National Institute of Child Health and Human Development; Harold Mayerson, Mayerson Stutman, LLP; Hon. Jaqueline Silbermann, New York State Supreme Court Justice; Statewide; Administrative Judge for Matrimonial Affairs

*Co-sponsored by: The Interdisciplinary Forum on Mental Health and Family Law*

**Using Networking and Networking Support Groups to Manage Your Job Search and Career, April 30, 2002, Tuesday, 6-8pm**

To effectively use networking in managing your job search and career, you must be able to understand it conceptually and be able to take actions that generate results. This workshop will use networking concepts to create specific search objectives for workshop participants. Strategies to achieve these objectives will be developed, including how to use networking support groups to build and maintain momentum.

**Speaker:**

Gil Allison, Practice Leader, Career Consulting, The Empower Group.

*Sponsored by the Committee on Career Advancement and Management.*

**After 9/11: Unfettered Police Discretion? Have We Gone Too Far?, April 23, 2002, Tuesday, 6 pm**

This forum will present skits by the 100 Black Officers In Law Enforcement Who Care and the Latino Officers Association, and lively discussion from panelists and invited guests about the state of police/community interaction prior to and after September 11, 2001.

**Moderator:**

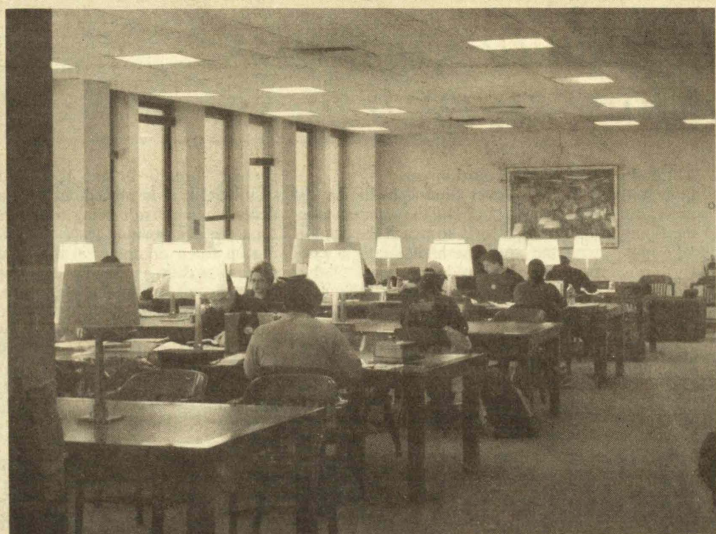
Hon. William C. Thompson, Retired New York State Supreme Court Justice, Appellate Division

Skits performed by: Members of 100 Blacks In Law Enforcement Who Care and the Latino Officers Association

**Speakers:**

Zachary W. Carter, Dorsey & Whitney; Richard Dienst, Queller, Fisher, Dienst, Serrins, Washor & Kool, LLP; Anthony L. Ricco, Criminal Defense Practitioner; Jonathan C. Moore, Human rights and constitutional law practitioner; Founding editor of the Police Misconduct & Civil Rights Law Report Lt. Eric Adams, President, 100 Blacks In Law Enforcement Who Care; Sgt. Tony Miranda, President, Latino Officers Association

## Outlining can be fun...



Robert Vidoni/ BLS News

As the weather heats up, students flock to the library with what remains of their sanity to remain cool and collected as finals approach.

*The BLS News Staff wishes  
the Brooklyn Law community  
a restful summer.*

## Congratulations to the newly elected SBA officers:

**President:**

Robert Vidoni

**Day Vice President:**

Kristin Harrison

**Evening Vice President:**

S'Orell Richards

**Treasurer:**

Diane Yang

**Co-Secretaries:**

Heather Baker

Brady Priest

**3L Delegates:**

Elisabeth Hubbard

Stacy Rotner

**2L Delegates:**

Julie Hardin

Moko Hiriya

Ameet Kabrawala

Christopher Kim

Rebekah Rollo

**ABA Representative:**

Aaron Leonard

**NYS Bar Representative:**

Elisabeth Hubbard

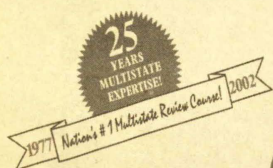


# Summer 2001 Bar Exam Pass Rate (First-Time Takers)

Brooklyn  
Overall Pass Rate: **82%**

Brooklyn Students  
Supplementing With PMBR:  
(203 of 219 Passed) **93%**

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# SPRING & SUMMER 2002 DATES

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BAR REVIEW

[www.nybarbri.com](http://www.nybarbri.com)

## MPRE INFORMATION

TUESDAY, JULY 2— FILING DEADLINE

(apply on-line at [www.ncbex.org](http://www.ncbex.org))

FRIDAY, AUGUST 9 IS THE EXAM

## MPRE COURSES IN NYC

Aug. 2, 3, 4, 5, 6 7 @ 9:30AM

Aug. 6 & 7 @ 5:30PM

Each class is five (5) hours long, and you only need to attend one class.

Stop by the BAR/BRI table to register for a class and for location information.

Classes also offered outside of Manhattan. Visit [www.nybarbri.com](http://www.nybarbri.com).

## REMAINING TABLE DATES FOR SPRING 2002

**APRIL: 4, 8, 16 & 24**

BROOKLYN

Bar review books will be  
distributed to graduating  
students on this day!

The filing  
deadline for  
the  
**NEW YORK  
BAR EXAM is  
MAY 1!**