

# The Justinian

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## The Justinian

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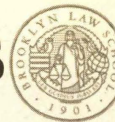
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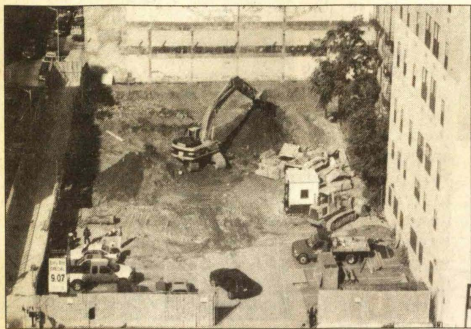
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## Garage Collapse at BLS Construction Site



Just as this issue of the *Brooklyn Law School News* goes to press, construction at Brooklyn Law School's residence hall site came to an immediate halt after the rear section of a neighboring parking garage partially collapsed. Fire trucks rushed to the scene as police cordoned off State and Boerum Streets.

As reported in the October 2002 edition of *Brooklyn Law School News*, Brooklyn Law School obtained city approval to construct a 20-story residence hall on the corner of State and Boerum Streets.

Ground breaking began on October 10th, when work crews, with work permits in hand, removed the last vestiges of what once was a parking lot, reducing its asphalt surface to rubble. In the weeks that followed, huge excavators stood perched atop man-made mounds, scooping up tons of soil and depositing it unto dump trucks that carried it to another location. Ram hoes could be heard hammering steel beams into the ground for the residence hall's foundation.

The cause of the collapse is under investigation. No injuries were reported.

-- Ian J. Gaynor, '03

## Applications boom makes BLS admissions more competitive

by Ian J. Gaynor, '03

An annual ritual among law school applicants is that of feverishly consulting law school reference books, selecting those schools that catch the applicant's eye, comparing each of those schools' LSAT and GPA grids with the student's own numerical qualifications and sorting them according to the applicant's likelihood of being admitted. Applicants using this method last year would have been surprised to find that schools to which they thought they were guaranteed admission – and might have been admitted to in previous years – would now either wait list or outright reject them.

With students applying to graduate schools in record numbers and the number of seats available to them remaining fairly constant, law schools have suddenly found themselves in the enviable recruiting position of having a bountiful crop of highly qualified admission candidates from which to select their first year class. This has caused many

law schools to become more selective.

"The current difficulties in the job market in general – especially for those seeking to enter right out of college – convinced many to delay that entry for several years, to enhance their credentials with a law degree and, at the same time, hope that by the conclusion of their law studies, they would find an improved business climate," said Henry W. Haverstick, BLS' Dean of Admissions and Financial Aid, explaining the dramatic increase in law school applications.

Dean Haverstick added, "The demise of the 'dot coms,' released a large number of bright, well-qualified people into the higher education admissions marketplace and many opted to apply to law school. Less discussed, but nonetheless significant, is the 'baby boomlet' of 1980, which affected college enrollments several years ago and which has now reached graduate schools, too."

BLS has not been immune to this sudden twist

of fortune. The Office of Admissions has reported a whopping 34.3 % increase in applications over the previous year, an increase from 3,509 applications in 2001 to 4,714 applications in 2002. The increase surpassed the 17% national average, the 23% increase among Northeast regional law schools, and the 23% increase for New York State's 15 law schools.

"This was the largest year-to-year increase in application volume since see **ADMISSIONS**, page 7

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## New Health Law Center presents symposium on human subject research in Clinical Trials

by Kristin Harrison '03

If you have ever thought about trying to make extra money by way of participating in a clinical trial or if you have been the subject of experimental medica-

tions, your best interest as the subject may not always be protected. Consider the case of Jesse Gelsinger. Gelsinger was diagnosed with a rare form of cancer called OTC—only 1 in 40,000 infants is diagnosed

with this genetic disorder which prevents the liver from metabolizing ammonia. Already defying the odds of survival, 18-year-old Gelsinger opted to participate in a gene experiment that promised a cure

for his cancer. Although he knew that he would not survive the disease, he hoped that others later diagnosed would subsequently benefit from the trial. Only twenty hours after being injected with the experimental ther-

apy, Gelsinger developed jaundice and sank into coma. Three days later he was declared brain dead. His parents were left with no option but to end life support. Alan Milstein, an attorney with Sherman, Silverstein, Kohl, Rose and Podolsky, represented the Gelsinger family in their suit against the University of Pennsylvania, the institution that administered the test to Jesse and Genovo, the drug company that sponsored the trial. The complaint alleged claims for wrongful death, products liability, intentional assault and battery, lack of informed consent, intentional and negligent infliction of emotional distress, and common law fraud.

Prompted by an increase in this area of litigation, the newly formed Brooklyn Law School Center for Health Law and Policy presented its first program entitled; "Clinical Trials Litigation: A Conversation on Legal and Ethical Issues in Human Subjects

See **Clinical Trials**, page 11

## Introducing leaders of the Center for Health Law

by Penelope Kojima, '05

This year, BLS and its community welcome the introduction of the Center for Health Law and Policy. At the Center's helm are three energetic and committed Health Law specialists.

Jennifer Rosato, Co-Director of the Center, is a popular professor of Civil Procedure and seminars on a variety of subjects, such as Genetics and the Law. She has focused much of her recent research on the ethics of healthcare decisions made on behalf of children. Her interest in Health Law evolved from her undergraduate work in Sociology and her focus on family law.

Nan Hunter, Co-Director of the Center, is a former Deputy General Counsel of the U.S. Department of Health and Human Services, and brings to the center an array of professional experience. Published by Brooklyn Works, 2002

Yet another favorite Civil Procedure professor, she also teaches Health Law and Sexuality and the Law.

Karen Porter, the charismatic Executive Director of the Center, has also taught courses on AIDS and the Law and Law and Medicine while a professor at Washington University Law School. Her work at the National Commission on AIDS, as a Senior Policy Analyst and Deputy Counsel, is complemented by her recent post-doctoral work at the Albert Einstein College of Medicine in Epidemiology and Social Medicine.

Although this is only the Center's first year, it has already hosted its first event: a Theory Practice Seminar on Human Testing. The brainchild of Professor Hunter, the Seminars will take place once a semester and will address a compelling Health Law topic.

The Seminars bridge theory and



Kristin Harrison/ BLS News

### Professor Nan Hunter

practice, seating academics next to attorneys and health professionals in the hopes of promoting discussion, debate, and the sharing of ideals and practical advice. The theoretical and

see **HUNTER**, page 6



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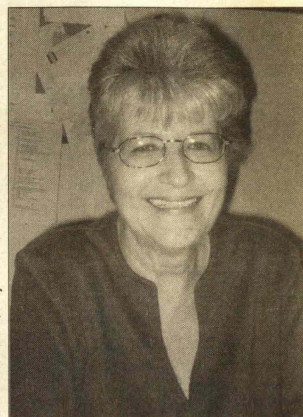
# Familiar Faces June Seddo

by Adam Kramer, '05

Brooklyn Law School is more than just a community, it is a family. A family that is there when you need it; whether it is a hand to guide you, or a shoulder to lean on, or just a place you know you can always go to feel at home. In choosing Brooklyn Law School some of us have had to leave our real families far behind. Others have been lucky enough not to have had traveled too far from home—from our true homes. Yet the one thing we have in common is the home we share, that we have all had a part in building, and that shelters us from a sometimes cold and unforgiving city. Each family has its matriarch, not necessarily guiding, but watching over and caring for her flock. That matriarch, our very own Brooklyn Law School "Mother", as she likes to be referred to, and familiar face is June Seddo.

June Seddo is our Director of Administrative and Student Services, organizing all the everyday workings of our school that we take for granted. Sometimes when we are grabbing at the free cookies and coffee set up in the student lounge, or seeing

how much beer and pizza we can ingest between 3:00 and 3:30 outside in the courtyard, we tend to forget that there was someone who had to make sure there was food and drink in the first place for us to either stuff down our throats, or hoard in our bags on the way into the library. We forget that there is someone who ensures that the dining hall runs smoothly, or that there are rooms for lecturers and club meetings. June Seddo coordinates all the activities between the faculty and students, making life easier for all of us. Most importantly, however, is the open door that she has shared with me and with the rest of the student body that makes her office such an integral part of our school.



A. D. Kramer/ BLS News

## Annual First Monday Lecture discusses 9/11, US PATRIOT Act

by Brian Pleban, '05

Imprisonment without due process, snooping around private information without judicial review, and a general dwindling of basic freedoms were some of the topics addressed at the First Monday lecture on October 7. A national event, the annual First Monday lecture and discussion, which is titled "Civil Liberties in a New America," addressed the effects of the attacks of 9/11 on our civil liberties. Whether clear to the naked eye or under the radar, the attacks have had a drastic effect on everyone's lives and our liberties granted under the law.

Founded in 1994, First Monday began as an annual event designed to support law students who were considering a career in public interest law. It was held on the first Monday in October to coincide with the opening of the U.S. Supreme Court term. Over time, First Monday has grown to become a rallying point for the entire public interest community. This nationwide program is organized by the Alliance for Justice and sponsored at BLS by various groups, including the Public Services Program Office and ACLU.

The BLS First Monday discussion was led by Professor Susan Herman, a widely regarded expert on Supreme Court decisions. Within the comforting confines of the student lounge, Professor Herman brought to the table some very heavy issues.

Although the United States acted swiftly and vigorously following the terrorist attacks, it is difficult to see what Congress actually did after 9/11 and whether those actions were in the best interest of Americans' https://brooklynworks.brooklaw.edu/justician/vol2002/iss4/1

Herman first pointed out the major issues that have arisen from US action against terrorism. Beyond the debates about sending U.S. forces to Afghanistan and the US PATRIOT Act (Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism), there have been infringements on constitutional and First Amendment rights and acts of unchecked governmental power.

After introducing these broad topics, Professor Herman played a video provided by the Alliance for Justice, which pinpointed exactly what has happened to some of our liberties in the wake of terrorism. The video opened with the question of whether it is necessary or even constitutional for the government to be allowed to administer web-based snooping, look into library and book store records, or hold people in prison without due process. Based on the arguments presented and its comparison of the recent treatment of Americans who have had their civil rights infringed upon to those who were placed in internment camps over 60 years ago, answer is a clear and resounding no. The government has incarcerated people without providing reasons for their imprisonment — other than being a potential threat to the country — and without allowing them to speak to attorneys. Through examples such as these, along with compiled footage of the opinions of legal professionals and lay persons, the video clearly articulated that governmental actions are overstepping bounds prescribed under law and must be dealt with before it goes any further. Professor Herman brought the

subsequent discussion exhibiting a full range of ideas. While the video pointed to some of the potential problems of the US PATRIOT Act, such as allowances to trace web browsing of just about anyone, Professor Herman presented another side of the issue. She noted that even Justice O'Connor has mentioned that, in the interest of security, some liberties may need to be restricted. While it is impossible to formulate a precise solution to the problem of civil liberties after 9/11, Professor Herman's lecture opened the doors of communication for a necessary and fruitful discussion on the pros and cons of the "New America."

In conclusion, Professor Herman spoke about the relevant cases on the Supreme Court docket for this term. With regards to civil liberties after 9/11, the court will be considering issues on deportation hearings, the material witness statute, and an "enemy combatant" label that the government is using to investigate suspicious persons. Additionally, the court will be hearing cases about the prisoners who are being held without due process, Megan's Law, First Amendment rights dealing with cross burning, abortion demonstrations, computer filters, and the affirmative action policy at Michigan State University.

Whether you have a stance on the recent effects of terrorism on personal liberties or not, this lecture encouraged everyone to at least be aware of them. "It is our job to stand up for the America that we know — the America of freedom." For more information on First Monday and the issues that surround it, check out [www.firstmonday2002.com](http://www.firstmonday2002.com).

Like most of us when we look at our mothers, we tend not to notice the person behind the persona. The June Seddo we do not know, however, has a rich background. She grew up in Plainview, TX, out on the panhandle, which would explain the rich southern drawl that tends to slip out every once in a while. From there she joined the Army, where she worked in the Intelligence Core (IG). Her first station was in Odessa, Kentucky, and from there she was eventually stationed at Governor's Island, where her love for New York began to blossom. It was there that she met her husband Frank, to whom she has been married for 36 years. They eventually settled in Brooklyn, and June left the military to work on Wall Street for Morgan Guarantee.

She moved her way up the corporate ladder fairly quickly in her office, which dealt with out-of-town securities. With the arrival of her first daughter, June quit the business world to raise her family. Together June and her husband Frank had three daughters, and have two granddaughters. After her daughters were old enough, June decided to return to work, which is how she ended up here at Brooklyn Law School. She remembers the days when all the offices fit on one floor, before we had the building across the street. She says the school was much more closely knit back then, but that the eventual growth of our BLS family can only be seen as a strength and a comfort. She feels that the Brooklyn of the past was like a small family dinner where everyone could learn of each other's day around a small table.

In contrast, today's Brooklyn is "a large family wedding," where we may not all sit at the same table, but we all share in each other's joy. In fact, she says "nothing brings me more happiness than to have past students return, remember me, and tell me of their accomplishments." With a family as large as our own, and ever expanding, she should not have to worry for lack of joy in her life. In the 19 years working here, June has said that her family at home refers to themselves as her second family and the BLS community as her first. We all know that cannot possibly be true, but appreciate the warmth and tenderness she brings to "our family."

Thank you June, for always being there for all of us, and not only sharing in our joy, but being a cause of it as well.



# Professor Thomas Uhl brings legal writing to life

by Alyson Mathews, '04

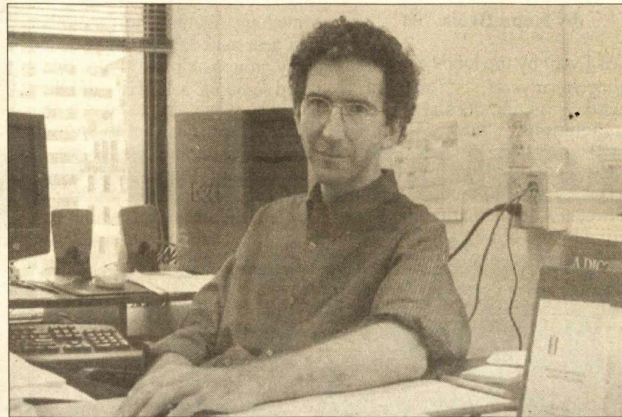
## Faculty Profile

Of all the classes one takes in law school, one of the most important is Legal Writing. It is the one skill that comes into play in every field of law. Brooklyn Law School, which is known for its writing program, pays close attention to the professors it hires to teach this invaluable skill. One of the most recent additions to the Legal Writing Department is Thomas Uhl, who just began his career at BLS this year.

Professor Uhl received his Bachelor's Degree in U.S. History from the University of Chicago. He continued to pursue his love of American culture at Columbia University where he earned his Masters in American Studies. As if these degrees were not enough, Professor Uhl also earned his *juris doctor* at our very own Brooklyn Law School and his L.L.M. from Yale Law School. Through his experience at these schools, he learned a lot about the differences

among various student bodies. Particularly noteworthy is his belief that BLS is just as difficult as Yale Law School. Although Yale has much higher admission standards, Prof. Uhl points out that the BLS grading curve makes it harder to earn A's. It does not hurt that Yale also grades on a Fail, Pass, High Pass system.

Following law school, Professor Uhl clerked for Judge Trager, an experience he found to be one the most important of his legal career. He spent the next three years working for Arnold & Porter in mass tort litigation and products liability. Even though he enjoyed working at Arnold & Porter and admitted that he learned a lot, Prof. Uhl felt his legal interests were more closely aligned with the teaching field. Professor Uhl returned to BLS to pursue his love of teaching and stated that the caliber of its writing program was a factor in his decision. "One of the reasons I came to



Alyson Mathews/ BLS News

### Professor Thomas Uhl

BLS was because of the writing program and I wanted to be a part of that. It gives you an opportunity to work with students and help them with the immersion process of the first year." He especially enjoys the smaller class-size because it

allows him to interact one-on-one with students. Prof. Uhl believes that learning legal writing is similar to learning a new language and a new style. He welcomes the frustra-

see UHL, page 10

# Prof. Berman leads Int. Law analysis of Iraq attack

On Sept. 30, 2002, students filled the lounge to capacity to participate in Professor Berman's discussion of whether the U.S. has the authority under International Law to attack Iraq. The goal of the discussion was to provide a legal framework through which an opinion about a unilateral attack could be formed. Each attendee of the event received a packet of "Basic Documents Relating to the Legality of Attacking Iraq" prepared by Prof. Berman. The documents provided background information, including U.N. Charter Rules, prior U.N. Resolutions sanctioning Iraq, and the current version of President Bush's resolution to Congress.

Throughout the event, Professor Berman explained the significance of each document to President Bush's argument in support of attacking Iraq. **Why Frame an Argument in Terms of International Law?**

Prof. Berman contended that participants in the debate over Iraq, whatever their positions, will find a much more receptive audience if they base their arguments on international law. The President, though seemingly committed to acting unilaterally if necessary, wants international support for toppling Saddam Hussein's government. An important obstacle to such support is the perception that unilateral action would violate international law. In fact, an argument can be made that the U.S. has already breached its U.N. Charter obligations because of its threat to use force against Iraq. The U.N. Charter

restricts the use of force, or even the threat of force, by one state against another in two situations: self-defense in response to an armed attack and force authorized by an explicit Security Council resolution. Some international lawyers would also permit the use of force in two other situations: in response to systematic and gross violations of fundamental human rights (humanitarian intervention) and in response to a plea for help by people fighting for self-determination. The Administration resolution authorizing the use of force against Iraq invoked self-defense and the enforcement of Security Council resolutions, and appeared to invoke humanitarian inter-

vention on behalf of Iraqi Kurds and other Iraqi civilians.

### Form an Opinion

Before analyzing the merit of the Bush administration's arguments, Berman declared: "If you live in the United States, you have a duty to participate in the debate, and if you're a lawyer or a law student, you have a responsibility to articulate your opinion in the language of the law." He stressed that, although he would be advocating one view of the legal issues, students had a responsibility to examine the legal sources for themselves and arrive at their own conclusions. He urged students to go out into their communities and play a role in the debate

using their legal training. He then proceeded to analyze the merits of each of the Bush administration's arguments.

### Self-Defense

Article 51 of the U.N. Charter allows the use of force by one state against another in response to an armed attack. Such force must be necessary to respond to the attack and proportional to the attack. The Article does not specifically authorize the use of force by a state to protect itself from an imminent attack, known as a "pre-emptive strike" or "anticipatory self-defense." Many international lawyers, however, view such actions as permissible, especially given the speed destructive-

ness of modern weapons. In relation to Iraq, the anticipatory self-defense argument works as follows. The administration claims to have evidence that Iraq is seeking to develop biological weapons and other weapons of mass destruction, including nuclear arms. We also know that Iraq has a hostile attitude towards the U.S. Why should the U.S. wait for Saddam to drop a nuclear bomb over a of US city before we attack? The problem with this argument, explained Prof. Berman, is that it is an abuse of the anticipatory self-defense doctrine, which restricts such action to truly immi-

see IRAQ, page 10

# Summer in an airplane not quite that sexy

By Doug Ornstein, '04

I interned for a judge at the U.S. Court of International Trade over the summer. That job has led to an internship assisting the same judge this semester while he sits by designation on the Court of Appeals. No other summer job matched exactly what I was looking for, and it has set me on an interesting path I intend to continue following.

For many people, International Trade is in some sense like International Travel - it sounds exciting and sexy. In truth, you sit on an airplane looking at the seat in front of you for 36 hours straight, and when you arrive at your destination, you can't communicate to anybody that you have diarrhea and need to use a bathroom. For others, like myself, International Trade is exciting and interesting, so long as you sleep through the flight and then meet people at your destination who walk around naked and say stuff like "baya-tembaya karibu na maji." (Actually, speaking of sex, the CIT has decided such issues as whether G.I. Joe should be considered a "doll" or a "toy" for tariff reasons. The Court ruled G.I. Joe and his fellow soldiers are dolls, commenting that this is so even though it is true that the male sex, not little girls, play with it). From G.I. Joe to the WTO, I set out to gain a better understanding of what International Trade law is all about.

I spent February of my first year fearing that with the amount of time I spent sending out resumes and attending job interviews for the summer, I was going to flunk out of school. I was routinely missing classes and getting severely behind in my schoolwork. Fortunately, I didn't flunk out (at least not technically), and the time consuming effort resulted in obtaining an ideal summer job - interning for a judge at the CIT.

The CIT typically reviews appealed rulings from the

International Trade Administration. The issues primarily concern anti-dumping and customs. Other interns at the court, however, dealt with such issues as Clinton's political appointments that he made prior to leaving office.

On my first day of work, I was given several stacks of papers. Each stack represented a different brief and its accompanying motions. I was told to read through each stack and essentially decide who should win. I quickly learned several things. First, International Trade issues are so complicated that it took me a full week to simply understand who the plaintiffs were and what they were complaining about, who the defense was and what they were complaining about, as well as other such matters that should typically be understood at first glance (I eventually understood it was an antidumping dispute). Second, watching The Practice prior to law school provides better

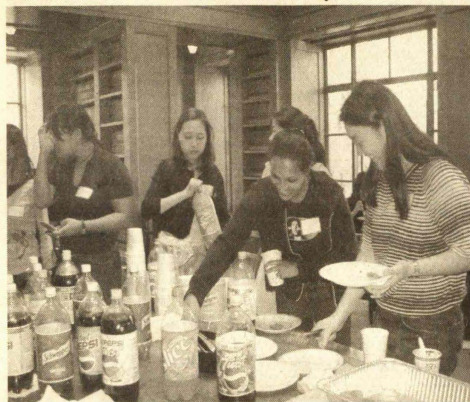
see SUMMER, page 10



## AALSA MENTORS NEW 1LS

by Rupa Banik, '04

As I wait by the lobby elevator, I think to myself, "Today is a Tuesday. Umm...let's see. I have Corporations and Criminal Procedure this afternoon so I guess I can drop by Career Services and Financial Aid in between. And then after that I can swing by the library and look up



Rupa Banik/BLS News

and print out those cases that I need from Lexis."

Ever since I became a 2L, making such mental schedules as well as the ease and familiarity of walking through Brooklyn Law School have become second nature to me as well as to many 2Ls and 3Ls. Having endured the rigors of first year, 2Ls and 3Ls have a general idea of what law professors expect and what will and will not pass muster. However, when I participated as a mentor at the AALSA (Asian American Law Student's Association) Mentor and Mentee mixer in the Subotnick Center on October 1, 2002 I noticed that many 1Ls haven't quite achieved a similar sense of comfort.

This isn't exactly shocking. A little over a month has passed since first year students started law school. While they becoming familiar with their professors' personalities and are coming to terms (somewhat) with the Socratic method as well as the culture shock of law school, many first years were inundated with questions and anxiety. By hosting this mentor and mentee event, AALSA hoped to assuage some of these concerns that first years have and pair them with a person they can contact throughout the semester if they have any more questions or problems. This event took place in the Subotnick Center where first years could relax and eat savory Asian and South Asian appetizers while socializing with their mentors.

At the start of the event the president of AALSA, Hyung Suk Kim '04 informed first years that AALSA was in the process of putting together outlines for some of the classes that they were taking which should further alleviate their confusion about creating one. During the event, the questions I heard from my mentees, as well as those I overheard, were interesting as well as humorous. One first year asked, "My professor has

time! Does that mean he has something against me?" Another first year asked, "So, did you find study groups helpful?" I also overheard someone ask, "How did they pick who was going to be in a particular section? I want to know if I'm in the dumb section."

In light of these questions all AALSA mentors tried to convey to their mentees that while first year of law school can be intense,

it does not have to be absolutely miserable unless they choose it to be. Mentors overall were truthful in saying that the first year of law school is work-intensive. However, mentors stressed that it is important to find some sort of balance between a personal life and studies and to remember to

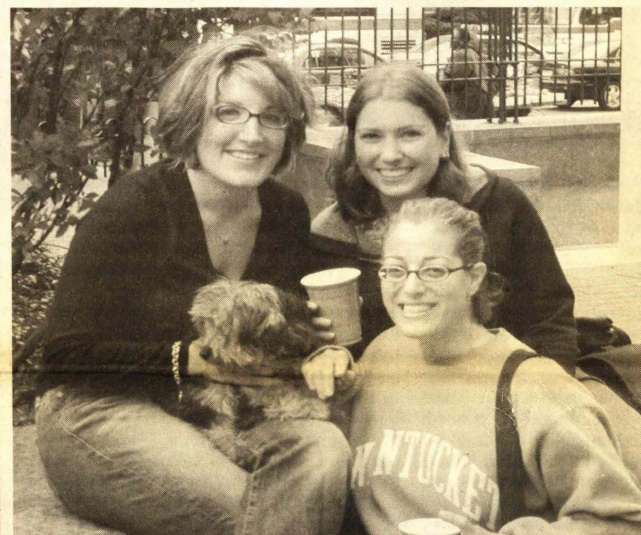
BREATHE! Mentors also advised mentees that instead of briefing every single case and biting fingers to the bone with worry that they are next on the professor's hit list, to focus on the big picture and basic concepts. Along with guidance for classroom performance, mentors addressed exams and the grading curve, which essentially makes students compete against each other for top grades. Mentors advised mentees not to let the curve prevent them from becoming close with their peers or to appreciate the people they have met thus far in school. They reminded mentees that they have probably met a diverse array of people, who have led fascinating lives prior to starting law school, and they should not allow the curve to cause them to lose sight of this.

## SBA COURTYARD PARTY



Robert Vidoni/BLS News

1Ls pose for the camera at the first Student Bar Association courtyard party.



Robert Vidoni/BLS News

3Ls Marisa Capra, Beth Mattone, and Jackie Braunstein relax with a dog and a beer

## THE BLACK LAW STUDENTS ASSOCIATION

AND

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Will be hosting

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# BLS opens American Civil Liberties Union chapter

by Erez Davy, '05

From lobbying to litigation, the ACLU (American Civil Liberties Union) has been on the forefront of civil rights issues. Today, with offices in nearly every state, the ACLU plays an especially important role in shaping post-9/11 legisla-

tion and policy, defending individual rights against perceived governmental intrusions.

Despite its important legal functions, the ACLU has only recently had an official place on the BLS campus. With the guidance of Professor Susan Herman, a dedicated group of 1Ls—

Blake Johnson, Michelle Stern, Susan Rits, and Alexa Elam, have taken the initiative to create the BLS chapter of the ACLU. Although BLS students have participated in ACLU projects in the past, this is the first time that the group has here an organized, permanent presence on cam-

pus.

Its founders are excited about the prospects. Among other things, says founding member Stern, the chapter "enables BLS students to get involved in ACLU issues on their own local levels," allowing them to "outreach to their own community." Johnson, another

founding member, stresses the importance of the ACLU "in a post-9/11 era when civil liberties are attacked in an unprecedented manner."

Professor Herman, who serves as the General Counsel of the ACLU, is similarly pleased to see that students are actively engaged in bringing the ACLU to the school. "It is wonderful that students are willing to reinvigorate the chapter," expresses

Professor Herman, who believes the chapter will, among other things, help promote awareness in the BLS community about pressing civil rights issues.

The group has already taken action. Along with other public interest groups, the BLS chapter of the ACLU sponsored "First Monday," a presentation of the issues the US Supreme Court may resolve as it begins its current session. The discussion, widely attended by the student body, also enabled students to access sample emails and faxes addressed to local Representatives and Senators on the issues presented.

Beyond creating awareness of current issues, the ACLU at BLS intends to be an action-oriented organization. On October 10, the ACLU chapter, in conjunction with NYPIRG (New York Public Interest Research Group), was involved in a voter-registration blitz. Taking to the Fulton Street Mall, nearly a dozen BLS students assisted in registering approximately 200 voters, being part of a city-wide campaign that saw 2,700 voters registered overall. Along these lines, the group plans to further the election process by "poll watching" on Election Day, November 5th. Through conducting exit polls and examining ballots and voting machines, the chapter hopes to assist in promoting fair elections by monitoring irregularities that may creep in to the voting process.

Other plans in the chapter's agenda deal with reforming the Higher Education Drug Provision, which suspends financial aid for drug offenders, repealing the Rockefeller Drug laws, which impose harsh sentences for possession or sale of drugs, and fostering discussion on current issues such as racial profiling and the process of declaring war on Iraq.

For more information on the ACLU at BLS, log on to [www.skritsdesign.com/aclu/index.html](http://www.skritsdesign.com/aclu/index.html). In time, the group hopes to have a link to its site on the BLS webpage.

## Health Law Center reveals plans for success in the Spring

HUNTER  
continued from page 1

practical sides of Health Law are often forced to work without consulting each other. This has hampered the discovery of innovative solutions to issues plaguing the field. The Center's novel response to this shortcoming will likely be the source of future scholarship, policy, and ideally, legislative proposals.

Yet another creative project sponsored by the Center, the Science for Judges Project, features Professor Margaret Berger as its director. It will target judges (primarily those serving in the federal system) who provide educational programs to improve their understanding of the complex scientific issues appearing in today's courtrooms, especially in the litigation of

toxic tort cases. Next semester's Seminar will likely focus on Bioterrorism.

Additionally, in April 2003, the Center will organize and host a panel during the Sparer Public Interest Symposium on the New Economy ("Unraveling the Social Security Safety Net").

The Center has prioritized enriching the health law related courses BLS offers students. The present selection of core courses includes Administrative Law, Health Law, Law and Bioethics, and Managed Health Care; related courses, including Information Privacy, Mental Health, and Food and Drug Law, bring the general topic of health law into perspective by examining related fields.

Starting in the spring semester of 2003, the Center plans to provide close to a dozen interested students with externships as a part of its clinical program. Although student interest in the field of Health Law has always been high, no school-sponsored and organized opportunities have ever existed for students to apply their knowledge outside the classroom.

Karen Porter is currently finalizing the externship selection, and further information will be available at the upcoming Clinical Programs informational session this month. Externs will spend at least one day a week in the field and will complement their experience with a weekly seminar led by Dr. Porter on a breadth of issues relating to the field component.

Perhaps the sheer enthusiasm of the Center's directors and its interim faculty advisory board would be enough to bring about the long-term goals they have envisioned, but the overwhelming response from both the students and the administration assures the success of the nascent Center. The Health Law Association, a young club whose growing membership reflects the field's popularity among students, looks forward to collaborating with the Center to develop a mentorship program and a series of brown bag lunches on Health Law issues. And the Administration itself is supporting the Center and its programs, both ideologically and financially.

In the future, the Center may offer other academic courses; additional ideas to be explored include the creation of an on-site health law clinic. Students can look forward to improved networking and job-placement in areas of health care, as the Center works with the Career Services Office.

Students who would like to learn more about the Center are encouraged to contact Profs. Rosato, Hunter or Porter, and those 2Ls and 3Ls who would like to apply for an externship are invited to the upcoming meeting on Clinical Programs (See the BLSN Calendar of Events for details). The BLS Health Law curriculum does not assume that students have a background in science, given that the field spans so many aspects of the law.

# Bar exam.

One of a lawyer's most important obligations is to safeguard client money and property. ■ New York court rules and statutes impose special banking and recordkeeping requirements for lawyers entrusted with client money. ■ Escrow funds must be deposited in special bank accounts. ■ Clients must be provided with written receipts and complete accountings. ■ Escrow money must be disbursed promptly when due. ■ Remember, a lawyer entrusted with an escrow is a fiduciary. ■ Knowing and observing the fiduciary rules will help and protect you, your clients, and our profession.



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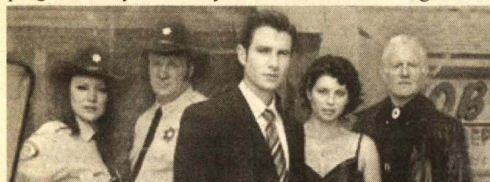


# Law and Television

## The IRS can't beat the D.A. on TV

by Sally Woo, '02

In the sad-but-true category, I was ready with a review of ABC's *Push, Nevada*, but then ABC gave the order to cancel it. The show is unlikely to be on the air by the time this article's in your hands, fair reader. But here are a few thoughts about *Push, Nevada*, and then I'll talk about a program that you actually have a chance of seeing.



*Push, Nevada* – the brainchild of Hollywood stars Ben Affleck, Matt Damon, and their friends – premiered in September 2002. The show presented the adventure of an Internal Revenue Service (IRS) agent, Jim Prufrock, as he investigates embezzlement in *Push*'s Versailles Casino. The eerie ambience is reminiscent of ABC's *Twin Peaks*, the equally eerie 1990's series in which FBI Agent Dale Cooper investigated a murder in *Twin Peaks*. The plot thickens when Jim realizes the extent of corruption in *Push* and the lack of citizen cooperation in his investigation. For instance, *Push*'s incompetent sheriff arrests Jim for a murder he obviously did not commit. The arrest was no clear constitutional violation, but it was still outrageous.

As a gimmick, viewers could log on to the show's website, locate the show's stolen money, and win a real prize. *Push, Nevada* was allowed to stay on the air long enough for someone to win the contest.

The character of Jim was very well acted and most sympathetic. He had dignity: Jim was aware of the IRS' unpopularity, but still believed in the ideals of good government. His sweetness and gumption could persuade people to enter public service, but he alone was unable to win an audience.

*Push, Nevada* needed to show that there was a purpose to Jim's obstacles; instead, it tended to bore me. It was more gripping toward later episodes, yet it was too little, too late. Other notables: there were extremely eccentric characters in *Push*; the cinematography had interesting plays of light and shadow; and, the weird film shot angles made me feel dizzy. The series was stylish at best and pretentious at worse. It did not help that *Push, Nevada* was up against the still-strong *CSI* on CBS in the Thursday, 9:00 p.m. time slot.

For a new television show that's likely to succeed, there is NBC's *Boomtown*, on Sundays at 10:00 p.m. Like *Push, Nevada*, it's a high-concept show: viewers follow different characters in their parts of a story. The district attorney receives a call from a reporter. The viewers then follow the reporter, who talks to the policeman, and so on.

The storytelling technique is more fascinating than I expected when I watched the series' premiere, and it provides a literary and artistic presentation. The concept of storytelling also appears to be a theme of the series: a detective nicknamed "Fearless" (played by Mykelti Williamson) tells anecdotes that are illuminating, subtly-told, and well-conceived for the first episode.

The ensemble cast seems solid. It includes Donnie Wahlberg (formerly of the "New Kids of the Block," the 1990's boy band which gripped my generation). To my surprise, Wahlberg is good at playing the Los Angeles detective Joel Stevens, who takes his job seriously even as he remains in denial about his family problems. The district attorney David McNorris is deftly played by Neal McDonough. It is to the actor's credit that McNorris is simultaneously slimy and sincere – a great character to watch. One wonders: does McNorris really believe his lovely speeches about justice, or is he more concerned about perception, to make himself a "Super D.A." and to achieve other levels of political office?

The women of *Boomtown* leave much to be desired. According to the series' premiere, the journalist Andrea Little has a complicated relationship with (the married) McNorris. But, it remains to be seen whether viewers will get to learn more about what motivates her.

The series' premiere is only a start, but the strong acting suggests the *Boomtown* cast's confidence; it's as if they are very aware of how their show can do well. It certainly has

Published by Brooklyn Works, 2002

## Law Review

As the weather continues to grow colder, most of us tend to reexamine our fall/winter wardrobes. We want to look stylish and also keep warm. What we may not realize is that the law even governs the clothes we wear.

Although we complain about the bitter cold of winter, we definitely do not have it quite as bad as those in some parts of the country, such as Minnesota. Just to make sure people stay warm, however, Minnesota has made it illegal to sleep naked. Why someone would do so otherwise in Minnesota seems incredulous!

As far as taking off one's clothes, women in Oxford, Ohio may not remove their clothing while standing in front of a man's picture. Imagine the embarrassment of being caught stripping in front of a two-dimensional man. It has obviously been quite a problem in Oxford.

To be fair to the sexes, Cleveland, Ohio prohibits women from wearing patent leather shoes. Even though this may seem unfair to women, it actually protects them. The motivation behind this law is to keep men from seeing the reflection of a woman's underwear in her shoes. Who knew this was even possible?

Florida also makes an effort to curb the desires of men by making it illegal for a man to be seen publicly in a strapless gown. Even though the Sunshine State does not have quite the winter experience as we do up here, it does make an effort to level the playing field with laws applicable to the beach. It is illegal in Florida to sing in a public place while wearing a bathing suit. If bathing suits are not your thing, keep in mind that Florida's nudity statute specifies that liquid latex, whether wet or dry, is not considered an opaque covering. So, if have some liquid latex handy, please do not use it to make yourself clothing.

For those of you who may not care much about clothing, please do not sell the clothes you are wearing to pay off a gambling debt. This is illegal in New Hampshire.

Lastly, the perfect fall/winter outfit can never be complete without the perfect accessories. Although these tend to change with less frequency than clothing trends, there is one accessory that never goes out of style. Sadly, only Pocatello, Idaho has discovered this secret for there it is mandated that people may not be seen in public without a smile on their face!

- Alyson Mathews

## Higher Standards for Incoming 1L Class

### ADMISSIONS

continued from page 1

we began keeping records 30 years ago, and the 2002 applicant pool was the largest in School history, surpassing our previous record that had stood since 1992. I attribute our bigger increase [than increases at other schools] in part to [Brooklyn Law School's] effective marketing efforts, but mainly to the fact that BLS enjoys an ever-growing reputation as a first-rate law school," said Dean Haverstick.

BLS actually accepted less students this year than it did last year, with 1,421 students receiving acceptance letters in 2001 as compared to 1,363 in 2002. This translates to a drop in acceptances from 45.4% in 2001 to 29% this year. However, even though the School accepted fewer students this year, the class size increased from 487 students in 2001 to 515 students in 2002. The School explains this paradox by the fact that more students are accepting BLS' admission offer, rather than offers from other schools.

"Our admit-to-enroll yield was the highest here since 1990. The fact that a higher percentage of admitted students chose to accept our offer of admission is one of the best barometers of the Law School's reputation in the marketplace," Dean Haverstick mentions with pride. "None of this was a late summer surprise. A greater number of admitted students made their commitment to attend BLS at an earlier time in the spring than ever before."

As the number of applica-

tions to BLS increased and the number of acceptances decreased, the School reported higher incoming student LSAT numbers. From 1997 to 2001, the median LSAT score was 157. This year the median LSAT score was 160.

BLS did not accept any applicants with LSAT scores below 150 this year. Last year, BLS accepted 37 students with scores under 150 (none were accepted with scores below 145). This continues a trend that over the last few years saw a steady decline in the number of students accepted with scores below 150. In 1998, BLS accepted 118 students with scores under 150, compared to 108 in 1999.

"There is no statistical threshold below which the Committee will not review an application. Every file is reviewed individually and admission decisions are made in light of each candidate's qualifications relative to the qualifications of all other candidates," Dean Haverstick maintains. "Concurrent with our increase in application volume, there was also an improvement in the quality of applicants. We had more people than ever before earning high LSAT scores."

Interestingly, BLS' incoming part-time student enrollment has declined precipitously over the last few years while the full-time program has experienced a noticeable increase. In 1997, BLS had 275 full-time and 210 part-time entering students. In 2000, 294 students entered the full-time program while 188 students enrolled in the

part-time division. Last year, 307 students enrolled in the full-time program compared with 180 students for the part-time program. This year, 407 students entered the full-time program and only 105 students enrolled in the part-time program. This amounts to a more than 50% decline in part-time student enrollment over the last five years.

Other New York City law schools reported increases in applications. Fordham University received 7,020 applications this year, admitting 1,449 students and enrolling 509 students. Just four years earlier, Fordham received 4,091 applications, accepting 1,252 and enrolling 435 students. New York Law School Dean Richard Matasar announced in De Novo, the school's student newspaper, that his school received 700 more applications than the previous year with 300 less acceptances and 120 more students. Cardozo Law School's Dean Rudensine acknowledged on the school's Web site that Cardozo received 4,000 applications this year, a 40% increase over the previous year. Like BLS, Cardozo's median LSAT score also jumped to 160 from previous year averages of about 157.

Although it is a law school's dream to have a tremendous influx of applications, it just might be a law school student's worst nightmare. With an abundance of attorneys in the legal market and a dreary economic forecast predicted for the years ahead,

see ADMISSIONS, page 11





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## From the Editors:

We would like to thank everyone who gave us positive feedback on the first issue of the year. Your comments are very much appreciated. As we continue our efforts to make this newspaper a permanent part of the BLS community, we would like to turn your attention to two new features. This month we have received our first "Letter to the Editor," which is a response to an article published last month, and our first Op/Ed piece. As a content-neutral publication, we welcome these two articles as an opportunity for students to express their opinions, not only on the articles we publish, but on current events. We remind you that the opinions expressed are not necessarily the opinions of the Brooklyn Law School News. Anyone who is interested in voicing his or her opinion is encouraged to consider these formats as options. Look for more of these types of articles in subsequent issues.

To submit to BLS News, drop off your article (hard copy and disk copy) to Room 509. The article may also be submitted via e-mail at [blsnews@hotmail.com](mailto:blsnews@hotmail.com). All articles should be in Microsoft Word, 12 point Times New Roman font. Please only place one space between sentences. Thank you again for your support.

# Letter to the Editor:

To the Editor:

After reading the article in the last issue of the News regarding reviews of tests with professors, I feel compelled to make a few observations.

The article in the last issue described an all-too-common dilemma at our school: the unsuccessful and frustrating search for a professor. A review of an examination is sought, but the examining professor is M.I.A. This is nothing new. Every BLS student has either experienced this phenomenon or has heard directly from someone that has. I am equally certain that the faculty members in question are aware that students wish to meet with them from time to time, especially to review examinations that did not receive a high mark.

Believe it or not, there is a policy dictating when professors must conduct such reviews, and every exam that does not fall within the policy gives the professor the discretion to refuse the review. This is unacceptable. I, for one, remember when I was making a decision about which law school to attend. Every BLS officer I spoke to, and every BLS brochure that I read gave me the same line: Brooklyn Law School has an open door policy with respect to its professors. Applicants are told that if they have problems, the faculty will be there and willing to address them. Furthermore, if you volunteered to be an upper-class admission counselor, you were expressly told to highlight this policy, as BLS is very proud of its open door policy (provided that your faculty nemesis was the exception a humorless line in the counselor packet itself).

The exception in my first-year section

was a visiting Contracts professor. This particular exception was practically unwilling to meet with students at all. He even went so far as to flat out refuse to provide a sample examination to study from upon request. What was the response from the administration regarding this flagrant disregard of the open door policy? There was no response. Instead, the professor continued to refuse to meet with students and never provided the sample exam.

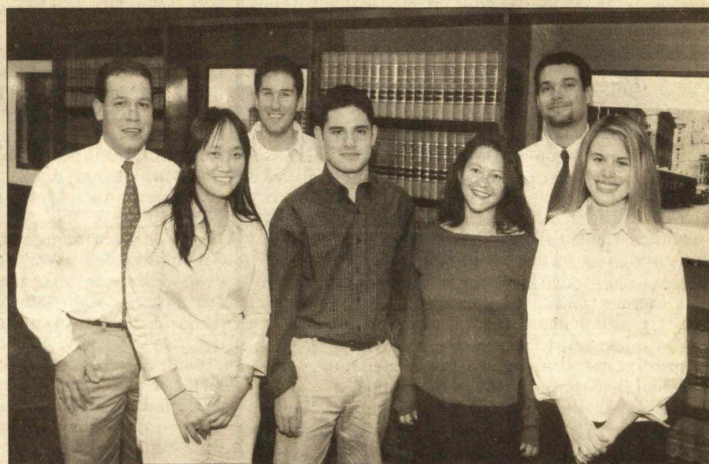
There should be no exceptions to the policy. BLS markets itself on its open door policy. If you promise it, you have to be willing to deliver on it, without exception. There should be no policy speaking to when a professor is directed to grant an exam review. This seems to be the exact situation that an open door policy would remedy. A student under-performed on an examination (in his or her view) and wishes to approach the professor to gain a better understanding of what went wrong. The BLS administration should make each professor strictly respect the open door policy at all times, not just in admissions brochures and when it is convenient, but every time a student reasonably expects that a professor will be there to address concerns. The alternative is to stop marketing BLS as an open door school. The label becomes a mockery when professors are not even willing to review exams with their students.

Concerned BLS Student, '04

(Editors' note: the continuation of this letter will be printed in the December issue of the BLS News, along with any responses it may receive.)

## Hello from the SBA Executive Board!

Have a suggestion? A question? Find one of these folks and tell 'em what's on your mind.



## Congratulations to the newly elected first-year SBA representatives:

Section 1 - Lauren DeBellis  
Section 2 - Sascha Puritz  
Section 3 - Christina Young  
Section 4 - Amber Long  
Section 5 - Adam Kramer  
Section 6 - Joe Pontrello  
Section 7 - Douglas Atkins

Section 8 - Clark Whitset  
Section 9 - Yael Utt  
Section 10 - Paul Reinitz  
Section 11 - Meredith  
Ronayne, Gabriel Tese &  
Danette Slevinski



# Op-Ed: A Culture of Hate

by Adam Wiener, '05

*"They are the ones who must be butchered and killed... Have no mercy on the Jews no matter where they are, in any country. Fight them, wherever you are. Wherever you meet them, kill them."*

-Dr. Ahmad Abu Halabiya, a Palestinian preacher

While war looms in Iraq, another war continues in the Middle East. The Palestinian campaign of terror against Israel has recently passed its second year with no end in sight. Several days ago as of the

date of this writing, another Palestinian suicide bomber struck, killing an Israeli grandmother of 15. Perhaps the bomber heard those words of Sheik Halabiya.

As violence between Palestinians and Israelis continues, so too does Palestinian incitement, a major component of this conflict. Halabiya's call for murder was delivered in a Gaza mosque and was broadcast live on official Palestinian Authority television shortly after the violence began. It has since been replayed on the Voice of Palestine TV and radio. The Palestinian Authority

("PA"), the governing body of the Palestinians, has institutionalized a campaign of hatred that has constituted the driving force of Palestinian terror and the main instrument for recruiting new terrorists and suicide bombers. The incitement reflects the decades-old ideology of the ruling Palestinian regime. Article 12 of the charter of Fatah, Arafat's political party and the dominant organization in the Palestinian areas, continues to this day to call for the "complete liberation of Palestine, and eradication of Zionist economic, politi-

cal, military and cultural existence." In other words, the destruction of Israel.

The Palestinian Authority television stations and official daily newspapers have been busy promoting violence against Israelis and praising the work of suicide bombers. Suicide bombings, such as the one at a Sbarro pizzeria in Jerusalem that killed a group of infants, are called 'heroic martyrdom operations' by the Voice of Palestine radio and TV.

Posters of successful suicide bombers (those who have killed Israelis) are displayed on buildings

throughout Palestinian cities. PA-financed clergy, like Sheik Halabiya, use the pulpit to preach hatred of Jews and praise the glories of Jihad. Palestinian educational television airs programs glorifying the murder of Jews, praising child martyrdom, teaching nursery rhymes of hate, and calling on children to "drop the toys and take up arms" (as one broadcast literally instructed Palestinian children to do).

While Israeli schools include in their curriculum peace studies and

see PEACE page 10

## The Case for Testing Transparency

*Less opacity means greater sagacity*

by Alex Ryley, '04

In last month's issue, you learned about BLS's policy that, unless your grade falls at the very bottom of the curve, you have no right to an individual review with your professor, let alone an explanation of your grade. I'm not sure which has surprised me least, the appreciative response my article received from fellow students or the silence that even now emanates from my professor, his colleagues, and the Deans' office. What is quite clear, however, is that BLS's policy is neither subject to imminent change nor atypical (regarding legal education in general, the *Slate* columnist Dahlia Lithwick recently asked rhetorically, "Why are all laws of intellectual physics so utterly upended at law school?"). Students thus will continue to complain, in a vacuum, about grades they do not – and cannot – comprehend. But do not despair – I submit that there is a means of improving this crummy state of affairs that will neither unduly tax professors nor disturb the hallowed student-professor hierarchy. My facile suggestion is this: require professors to make clear their expectations in advance of their final exams.

I'm no gambler, but I'll happily wager that in many of your classes (though half the semester has now elapsed), your professor has yet to mention the final, let alone tell you anything substantive about it. Am I the only one who thinks this is bizarre? Your exam grade, after all, is your final grade, with rare exceptions. (I can merely "imagine," for, according to Dean Ziegler, yet another right we students lack is to know how many grades in a given class a professor adjusted based on class performance.) And, like it or not, there's a whole lot riding on that final grade; anyone who claims otherwise is either delusional or dishonest. At BLS, your grades will determine your tuition, journal membership, job prospects, and awards – even your housing.

Now, professors are right to believe that the final exam should not be the focus of their classes. But here's the irony: the exam invariably becomes the focus in a class where the professor makes no effort to discuss the test, or responds to students' questions and concerns elliptically or dismissively – or not at all. And in a class where the professor's expectations are ever the subject of anxious speculation, I, at least, find it very difficult to learn. It recently dawned on me that my grades last year correlated precisely to the extent to which my professors were courteous (and, dare I say, 'responsible') enough to discuss and describe to us their expectations with regard to their final exams. Without exception, I performed well in the classes where my professor explained what he or she expected, and I performed poorly in the classes where my professor behaved throughout the semester almost as if the exam

didn't exist.

But perhaps this is my own perverse idiosyncrasy. Maybe the exam is the last thing my classmates want to hear about during the course of the semester. Where I see a professor bent on ensuring the opacity of his or her expectations, other students may see an instructor conscientiously avoiding that four-letter word. Yet I don't think so. I sensed that all my classmates were equally astounded when, in a certain class last spring, we watched our professor stride imperturbably out of the classroom at the moment his colleague began to advise us about the final exam. Of the many people to whom I relayed that surreal experience, I think the most incredulous was my father, a retired English professor.

So let me propose that professors take a page from the book of my Criminal Law professor, whose approach to her final exam last spring was, to my mind, ideal. Here's what she did: First of all, she placed not just one but several sample exams on BLS's website, along with a sample answer. I believe a sample answer is critical to understanding a professor's expecta-

tions. (I disagree strenuously with the professor who, in defending her policy never to provide a sample answer, told me last year that students are apt simply to "copy" a sample answer's format. Kindergarten students, maybe.) Second, my professor offered an optional ungraded take-home midterm, which provided us with an excellent gauge of our comprehension half-way through the course. And, finally, she (i.e., not a colleague) discussed the exam and answered our questions about it candidly and in detail. Thanks to this thoughtful and deliberate transparency, I was able to prepare for the criminal law test thoroughly and with enthusiasm. In contrast, in classes where my professors' expectations were shrouded in secrecy, my motivation to study was minimal.

I therefore urge professors no longer to keep their expectations under their hats, but, rather, to follow my criminal-law professor's example and try laying them out on the table. Those who do, I predict, will find that their students spend less time fretting and more time learning, and will, consequently, write better exams. Is this not a prediction worth testing?

## BROOKLYN LAW SCHOOL CAREER CENTER

### SUMMER & GRADUATE JOB SEARCH INFORMATION

#### FIRST-YEAR STUDENTS:

##### Attend

#### "First-Year Summer Job Search Strategies"

Tuesday, November 5th

1:00 - 2:00 p.m., Room 401.

#### UPPER-CLASS STUDENTS:

##### If you missed

#### "Beyond OCI: What Should I Do Now?"

you can view it online at

[www.brooklaw.edu/video/beyondoci.ram](http://www.brooklaw.edu/video/beyondoci.ram).

It is very important to make an appointment with a counselor to discuss what you should be doing now and in the beginning of next year.

Call us to make an appointment: (718) 780-7963

8:30 a.m. - 6:00 p.m.; Monday, Tuesday, Thursday and Friday

8:30 a.m. - 8:30 p.m.; Wednesday



## Prof. reminds students: opportunities abound

**UHL**  
continued from page 3

tions of students and feels fortunate that he has, thus far, not encountered students who think they know how to write legally. He notes that legal writing is "counter-intuitive" and he wants to help his students figure it out. "The importance of legal writing has never been second-guessed," he remarked. "As lawyers, we need to learn how to communicate with other people in the same profession."

In addition to explaining the merit of legal writing skills, Professor Uhl also provided some two tips for successful legal writing. "(1) Think about the pur-

pose of the exercise (visualize your audience) and (2) execute the work as if your client's liberty or property depended upon the quality of your analysis."

For those of us who have already completed Legal Writing, Professor Uhl offered some suggestions for success in law school. Law students need to "recognize that there are no short cuts." One of the most rewarding aspects of a legal education is what you gain from the time expended. This, however, may be frustrating as it is a long and arduous process. Prof. Uhl, however, also noted the importance of activities outside of the

classroom, such as student groups and clinics, which are excellent additions to a resume. As a final note, he also reminds us that we are not all grouped together in the broad "law student" category. There are plenty of opportunities to pursue individual interests and, as Professor Uhl commented, they are available within the BLS community as well as outside of it.

As part of a highly regarded Legal Writing Department, Professor Uhl hopes to make a significant contribution. With his views of teaching and the value of legal writing, one has little difficulty concluding that he will do just that.

## Solution lies in ending Palestinian incitement

**PEACE**  
continued from page 9

Palestinian perspectives, the Palestinian educational system instills in its young students a hatred of Israel and the Jewish people. The opening line of the textbook *Our Country Palestine*, introduced to 6th graders a few years ago, reads: "There is no alternative to destroying Israel." Kids are taught that the Jews have no history and no place in the

Middle East. Israel is absent from the maps of Palestinian school books.

Is it any wonder that in this environment, the Arabic-language edition of Adolf Hitler's *Mein Kampf*, whose cover bears the picture of Hitler and a swastika, has become a big seller in Palestinian cities?

In the face of this overwhelming campaign of incitement, many Palestinians have been swept up in an ultimately

self-destructive vortex of violence against Israel that has left in its path shattered dreams of reconciliation between the two peoples. Peace between Israelis and Palestinians will not solely entail the cessation of violence; it will require the forging of a mentality of peace between the peoples.

An end to Palestinian incitement is necessary if Israelis and Palestinians are to ever live together in peaceful coexistence.

## Iraq hard-pressed to listen to UN recommendations

**IRAQ**  
continued from page 3

ment dangers. There are too many intermediate events, explained Berman, which could take place before the possible danger from Iraq could be translated into an actual armed attack against the United States. The current situation does not meet the legal test of "imminence."

### Enforcement of U.N. Resolutions

In November, 1990, the U.N. Security Council passed Resolution 678 authorizing the use of force against Iraq if Iraq refused to withdraw from Kuwait before January 15, 1991. The war against Iraq began January 16, 1991. It ended on April 3, 1991 when the U.N. Security Council passed Resolution 687 calling for a cease-fire, providing that Iraq comply with a variety of provisions. The resolution required that Iraq destroy all chemical and biological weapons and ballistic missiles, agree to on-site inspections by a

U.N. Special Commission, "unconditionally undertake not to use, develop, construct or acquire any" of the prohibited weapons, and "unconditionally agree not to acquire or develop nuclear weapons" or any manufacturing facilities. The Bush administration argues that, because Iraq has not complied with the requirements of Resolution 687, the cease-fire has lapsed, and Resolution 678 authorizing the use of force against Iraq has become reactivated.

Prof. Berman noted several problems with this argument. Resolution 678 was passed in response to the illegal occupation by Iraq of Kuwait. The Gulf War ended that occupation. It is extremely unlikely that most states who voted for the resolution intended it to authorize the use of force by other states against Iraq for the indefinite future. The US argument seems to imply that the 1990 resolution could authorize the use

see IRAQ, page 11

Contribute: e-mail [blsnews@hotmail.com](mailto:blsnews@hotmail.com)

## Some summer experiences are better than others: this was one of them

**SUMMER**  
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preparation for legal work than the entire first year of law school. Third, nobody strictly follows the Blue Book, nor other little annoyances that cause 1Ls to often miss the forest for the trees in Legal Writing class. Fourth, if you plan to work for a judge in the summer, make sure to shower each day because the staff is small, you work closely together, and summers in New York are hot and humid. After all, the people you work with will also be the ones determining how successful and enjoyable your internship will be.

After figuring out the basics, I was given different tasks for the remainder of the summer, from developing an outline of what the opinion should look like, to researching what the opinion should hold and drafting several issues in the actual opinion itself. It seemed, like with most jobs in life, the more initiative I took, the more responsibility I was given and the more interesting my work became. In truth, the chambers didn't seem to expect much from its interns, having received a true spectrum of interns in the past. They pretty much wanted to

teach us some more stuff, and so on.

The clerks and judge were very open to my questions, both the ones that resulted in laughter and the ones that resulted in discussions lasting into the early evening. These questions were both personal and professional—What's it like when you disagree with other judges on the court? How do you deal with the WTO and domestic law? If I buy my girlfriend this present, will she like it? What classes should I take in school? How can I get a job next year? All of my hair is falling out, do you think I should shave my head? By the end of the summer, I felt a real friendship with the chambers, particularly with the clerks and the secretary, whom I spent more time with than I did with the judge.

The judge was Bill Clinton's law school roommate. He and Bubba are still very close friends. Unfortunately, I suspect he's caught on to the fact that everybody wants to capitalize on his friendship, so never once did he mention the night that Bill brought Hillary over to play scrabble, or anything else that would be similarly interesting. Fortunately, the judge himself is probably

the man could have a hundred different things going on in his professional life and stay on top of all of them, even while flying from city to city for various conferences. The man even bakes bread, which he brought to the court for us to snack on. Beyond being extraordinarily intelligent, he is also extremely kind and patient. I sensed that he remembers what it was like to be a law student because he constantly tried to involve me in different aspects of his daily routine, such as conference calls with attorneys, who were acting like two-year-olds, or settlement discussions. This "behind the scenes" stuff was a rare glimpse into a particularly special world that few see. Again, this is where every intern's experience is probably going to be vastly different, since the judge will control how much insight the intern can gain.

The judge's power and control over his work is also inspiring. Who can speak when, who can say what, whether someone is right or wrong—all of these are determined with finality by the judge. I wanted to go on vacation during the first week of August, and they were able to schedule oral arguments around that. This is in complete contrast to

the life of the attorney, whose every breath is dictated by either his client, his boss, the judge, or all three.

A few days prior to oral arguments, with a draft of the opinion completed, the judge had me write a few tough questions for the parties answer during their oral arguments. The parties came to the court having read those questions. He then had me sit with him and face the attorneys as they tried to answer these questions. This is where it became clear to me that personality plays a big role in court. Those attorneys who acted naturally and even made a couple jokes tended to be more convincing than those who formally stood and said stuff like "may it please the court." In the end, it's all about trying to tell a story at a level to which the judge can relate.

In addition to the work with my own chambers, the court also held lectures by other judges who spoke about their particular specialty or interest. Some of these were very informative. Others made about as much sense as a professor rushing through the different circumstances described under Rule 15 of the F.R.C.P. Even in such confusing speeches, however, it was still an interesting

insight into the personality of a federal judge. There were also several social outings that brought all the interns and clerks together, which was a good time to meet students from across the country and find out where the clerks came from and where they are going.

At the end of the summer, I knew I had completed an ideal job. I learned a great deal; the hours were pretty much whatever I wanted them to be; the work was challenging and stimulating; the people were helpful and interesting; and I now have a writing sample that is part of a published opinion—something that is at least a positive aspect of an otherwise humiliating job search that has taken over my life for this semester.

The judge is currently doing a circuit court sitting and I am continuing to work for him this semester. The issues are significantly different: instead of deciding whether a certain company has to pay millions of dollars in anti-dumping fines, I am helping to decide whether a certain fellow with a propensity for drug importation is going to stay in jail for another few years. I'm happy with the path this internship has placed me on, and hope to continue following it wherever it leads next.



# Clinical Trials: Safe for the subject?

**CLINICAL TRIALS**  
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Research.” Alan Milstein, the Gelsinger’s attorney spoke about his views on the subject, along with Professor Harold Edgar of Columbia Law School who presented a different perspective. Professor Jennifer Rosato moderated the event and Dean Wexler and Professor Nan Hunter presented introductions to put the discussion in context.

Milstein’s main contention was that there exists a myth of subject protection in clinical trials: that everyone is watching everyone. The truth is that the protection of the human subject is solely dependent on the researcher’s ethics. His solution: reduce the number of clinical trials; stop trivial research; and devote more resources to subject protection.

Milstein stated that there are approximately 100,000 trials occurring, involving 8,000,000 participants. Additionally, too many of these trials are for “me too” drugs. This means that drug companies are conducting trials on drugs that already exist but which are marketed by another company. These drug companies are seeking to develop the same drug in order to capitalize on the financial gains other companies made off similar drugs. “To use human being for an experiment, the experiment has to be important. Human beings are not chattel,” Milstein articulated.

Milstein also highlighted the problem with informed consent in clinical trials. Unfortunately, many of these trials presume consent on the part of the subject. The “therapeutic misconception” is that “when dealing with an ill patient, that individual wants one thing: to get themselves well.” Because of that, it is almost irrelevant what the doctor tells the subject, or whether the informed consent document lists every known risk—the patient will think that the trial will make him better. However, researchers can limit this phenomenon by telling it like it is; using subject advocates—who are people appointed to represent the interests of the subject; clearly explaining the phases of the trials; disclosing whether it is the best therapeutic alternative; and by stopping the hard sell.

Professor Edgar responded to Milstein by pointing out that more people are killed by physician error than by any failures in medical research. Yet the clinical trials cases receive an enormous amount of

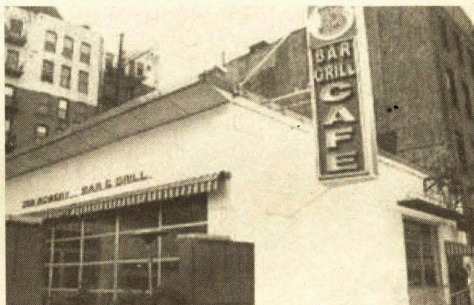
attention for several reasons. First, because of the legacy of the Hitler experiments, second because of the American research experience, and third because of the tension between deontological and utilitarian beliefs and the role that tension plays in the medical research context. Edgar would agree with Milstein, that the number of clinical trials occurring cannot possibly be adequately reviewed by Institutional Review Boards (IRBs). (IRB’s are responsible for reviewing clinical trials and for monitoring their progress, in essence they act as watchdogs.) However, Edgar disagrees with Milstein’s solution to the problem and believes that the clinical trials cases should be lumped together with the rest of the field of medical malpractice cases. Edgar also presented new questions that will have to be resolved by the courts. For example, Edgar asks whether the IRBs can be sued for not following procedures, or for “getting it wrong.” Along those lines, he asks, how closely does the IRB have to monitor the trials: is it actionable that a Board never saw something that would have influenced its judgment as to whether to proceed with the trial.

Milstein and Edgar also disagree as to issues of informed consent in clinical trials. Edgar asked whether a subject has a cause of action if a researcher fails to inform him that monkeys had died from a slightly varied form of the drug about to be tested on him. In other words, how much should a patient be informed about what is about to be done to them? Most subjects are not informed or do not have enough of an understanding of the science involved in the test. Milstein’s response is that if the researcher cannot convey information so the subject can understand it then the experiment should not be conducted. Milstein did acknowledge that there are going to be times when informed consent is impossible, for example when children are being used as subjects. For those cases, Milstein proposed a standard: if it is in the child’s best therapeutic interest to be in that study then he can be.

A lively question and answer period and a reception for guests and participants followed. Overall, the event was a terrific way to launch the new Brooklyn Law School Center for Health Law and Policy. The Center is a welcome addition to the law school’s academic environment.

et al.: The Justinian

## Bar Review



There are very few bars that serve good food and drinks and have a great atmosphere. Bowery Bar is one of these few. Located just northeast of Houston Street at Bowery and E. 4th, Bowery Bar provides an excellent place for meeting with friends or mingling with strangers.

With its partial outdoor setting, Bowery Bar may best be visited during the summer. Only then can one appreciate the full effect of the Christmas lights adorning the trees and walls. I happened to visit it this past summer on the recommendation that it was a great place to go for happy hour. Keep in mind, however, that the crowd does not pick up until around 10 or 11. If you want the complete happy hour experience, you may want to start at another location and hit Bowery Bar later in the evening. If you are more interested in sitting down for a nice, quiet meal, then by all means, go early.

The menu has a nice variety with reasonable prices. No one complained about what they ordered and all plates seemed to have been cleared. (Note, however, that this tends to happen when alcohol is involved.) The drink prices seemed a bit high depending on the drink. I ordered a strawberry martini, which cost \$10. The waiter left the shaker next to my glass and I ended up with the equivalent of three martinis for the price of one. This did not seem like such a bad deal, but when the crowd picked up, the shaker disappeared.

Bowery Bar becomes quite crowded by about 11 p.m. At that point, dinner was over and we moved to the bar. My friend and I both ordered chocolate martinis...big mistake, unless you like the taste of straight liquor with a splash of straight vodka. I am not a connoisseur of chocolate martinis, but I am pretty sure that they are supposed to have a hint of chocolate flavor.

Overall, I was quite impressed with Bowery Bar. Its ambience and crowd of young, single professionals make it a great place for dinner, drinks, and a little mingling.

- Alyson Mathews

## School standards and reputation improve

**ADMISSIONS**  
continued from page 7

many graduating students have had – and will probably continue to have – extreme difficulty obtaining the jobs and the salaries they desire. A common horror story circulating among recent law school graduates is sending out hundreds of resumes and receiving little, if no responses. Injecting more highly qualified students into a competitive market will only exacerbate the problem. Dean Haverstick could offer only less than encouraging assurances for the immediate future.

“As to advice for prospective students, there is no crystal ball, no accurate means of predicting what the business cycle or job market for law school graduates will be like in three or four years. Historically, however, a law degree has proven to provide a very sound return on investment. Over the long run, I expect that track record will continue,” said Dean Haverstick.

The Admissions Office has hired more staff and improved its processing network to deal with the flood of applications pouring into the office. Office staff were required to put in extra hours to prevent an application backlog.

“Dean [Joan] Wexler recognized [the Admissions Office’s increase in paperwork and data entry needs] early on and quickly authorized us to hire temporary help to augment our own staff’s yeoman efforts to keep ahead of the paper flow. To their credit, our staff did quite well in keeping up to date – we experienced little delay in processing applications,” said Dean Haverstick.

Early indicators point to an increase in applications for next year’s class similar to, or surpassing, last year’s total. 2003 BLS application requests are up from requests made the same time last year. More people are also registering for the LSAT. The Law School Admission Counsel reported a 16.3% increase in June test-takers and a 10-14% increase in October registration.

The Office of Admissions stands ready for the possible inundation of applications next year. “The test-taker volume is a harbinger of the potential volume at our school. Dean Wexler has anticipated our needs and authorized me to hire additional temp help for data entry,” said Dean Haverstick. “The Admissions Office and the Committee on Admissions are gearing up for the real possibility of another high-volume year.”

## Bush pushes for Iraq attack

**IRAQ**  
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of force against Iraq for decades to come. This interpretation is simply not plausible. In the face of this implausibility, the administration appears to be arguing that the US can unilaterally determine the means appropriate for the enforcement of Security Council resolutions. This view contradicts the detailed provisions in the UN Charter vesting the Security Council alone with the authority to determine the appropriate means for enforcing its own resolutions.

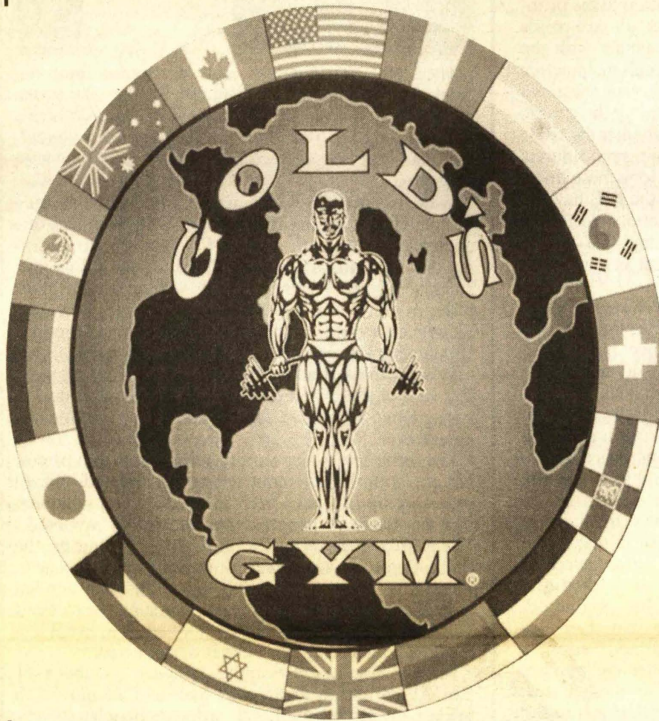
### Humanitarian Intervention

The original administration resolution to Congress, noted Berman, contained passages suggesting that the plight of the Kurds and other Iraqi civilians could justify a US attack. Some international lawyers, though not all, argue that humanitarian intervention may be justified in some circumstances. However, these lawyers require that such interventions be limited to situations of the most severe human rights abuses – such as genocide or near-genocidal atrocities. The reasons for such a restriction include the fear that armed intervention may cause more human suffering than it will prevent. They also include the fear that a more permissive doctrine would lend itself to abuse by states who seek to intervene to achieve other than humanitarian goals. Nothing indicates that the Iraqi government is currently engaged in abuses on a genocidal scale, despite its undeniably deplorable human rights record. Humanitarian intervention, therefore, would not be legally permitted under today’s conditions.



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