Equitas, vol XIII, no. 3, January 1983

New York Law School

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HARRY LIPSIG, premier negligence lawyer, feels that "no case is hopeless..." Indeed, during his 50 years as a practicing attorney he has lost only four cases that his firm has tried. He is responsible for helping his clients collect over $800 million dollars in awards, and last year alone his firm won $50 million dollars. This year they expect to win over $81 million dollars — in fact, $7 million dollars went to a man who lost his leg in a car accident. Last week-end, I was lucky enough to interview HARRY LIPSIG at his spacious office on 100 Church Street.

LIPSIG, who joined still 13 months ago, is the senior partner in the firm of LIPSIG, Sullivan, & Lipsig, P.C., which boasts three co-members, and where the average age of his partners is twenty-nine. He is known as a fearless courtroom tactician, who is one of the most colorful figures practicing law today. The New York Times has said — there are two types of defense lawyers, those who have lost to Harry Lipsig and those who have never faced him.

While Lipsig's firm mainly concentrates on negligence claims, its cases range from estate litigation, international cases, product liability, and medical malpractice. N rear is a favorite with doctors, Lipsig helped to win that billion dollar premium by convincing the New York Court of Appeals that the running of the Statue of Liberty is a function of a physician negligent in a timely manner when the error was discovered.

HARRY LIPSIG

By Evelyn Smith

He has the distinction of being the only lawyer every to try and win a case in the United Nations. He has represented John Jacob Astor in a will contest against his brother. Yale Bryan in a suit against Trader Vic's for shipping, and families of firemen killed in a building collapse — each settlement in the $500,000 category. In a three year span he has won the City 241 times, yet Lipsig has helped to force opposing city lawyers in his specialty because — we feel we should share our expertise so that the city will be more successful in defending lawsuits brought against it. Currently, he is representing Robert Viola, who is permanently blinded by David "Son of Sam" Berkowitz. Lipsig has interrogated Berkowitz at Attica State Prison, where lipsig has "Son of Sam" to admit he is a member of a cult, and at every session he committed two, three, or four cult members were present.

While first meeting Harry Lipsig, one is struck by his tremendous energy and vitality. He still works fourteen hour days, at least six days a week. Moments from various hands of state line his inner office including a medieval sword, a small elephant sculpture, a statue of a Buddhist woman, and even an earnestly carved chair. His young associates wear uniformly tailored linen, and his cowboy boots, and each appears to be an affection reserved for a man who has won a case for a tourist torn apart by a shark in the waters of Acapulco. In his recent campaign for governor he was very well liked by the faculty. And as an indication of how highly respected and esteemed he was, as a 30 year old student and an educator, he was listed in the registration materials for the spring semester as professor for the course in law, despite his illness, because, according to Dean Katz, he was "administered without my knowledge."

In Remembrance: James F. Kibby

by David Katz & Linda Goldman

On January 7, 1985, only a few days before the start of the spring semester, New York Law School suffered a tremendous loss upon the untimely death of Professor James F. Kibby. Professor Kibby passed away after a long illness, during which he was hospitalized at Memorial Hospital. Professor Kibby was known to both faculty and students as an expert in the field of Commercial Law, and in fact, in 1974 he received his LL.M. from Yale University in commercial law. While there he attended and, with the late professor Grant Gilmore, one of the substances of the Uniform Commercial Code. Professor Kibby's proficiency and expertise in this area of law was described by one of his colleagues as "something of an inspiration..." and his passing was "crowned with a true triumph in the law and in the entire faculty.

Professor Kibby, an associate professor of law at New York Law School, had quickly gained a wide reputation. He received his Associate degree from Fordham College in 1970 and his J.D. from Georgetown University School of Law in 1976. While in law school, he was the Articles Editor for the law Review. As previously mentioned, he received his LL.M. from Yale University in 1978. During the period from 1972 to 1974 he served as an intern for the Office of the U.S. Attorney for the Eastern District of New York and in Washington. He also, in 1982, served as a section editor for the University of San Fernando Valley Law Review.

When Dean Margaret S. Bean got word that Professor Kibby got along well with the students, who described him as a "very well, very supportive faculty member in terms of committee assignments. He was very liked by the faculty. And as an indication of how highly respected and esteemed he was, as a 30 year old student and an educator, he was listed in the registration materials for the spring semester as professor for the course in law, despite his illness, because, according to Dean Katz, he was "administered without my knowledge."

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CLASS OF '85 RATES THEIR FIRST SEMESTER AT NYLS

The Paper Chase

The main purpose of this student poll was to discover whether the first students had a positive experience while attending New York Law School during the first semester.

One hundred students in Day section A-C, C and D attended six questions, the majority of students chose to remain anonymous. Equites appreciates their privacy choices and thanks the students for taking time out of their busy schedules to respond. One hundred students were polled, of which fifty were male and fifty were female.

The first question: What do you think of your first semester so far? That is starting your first semester. The aggregate response was that over 80% of the participants thought the first semester was good or better. See Table 1.

Table 1: Male and female responses to this question were

by Nitya Braver

very similar. Representative of student comments are as follows:

"I was surprised at how well students did in the course. I expected the professors pushed students to gain more valuable knowledge in less time. I think all of them will probably benefit from the long run and be particularly pleased with the opportunity to experience an fast-paced course during the second semester. Wayne Guten, a section C student, graduate of John Jay College of Criminal Justice, also thought the program was excellent. However, Paul Freeman, an Indiana University graduate and section B student, Greta Cordero, a section B student and graduate of Fordham University, thought the first semester experience was excellent too. Linda Stein, a section C student and graduate of the University of California at Santa Barbara, and also who has her M.A. in theatre and cinema, thought the first program was very good. Patricia Piter, a section C student and graduate of Brooklyn College, thought the program was very good."
TABLE ONE
What do you think of your first semester now that you are starting your second semester?

<table>
<thead>
<tr>
<th>Gender</th>
<th>Rating (Percent)</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male</td>
<td>E VG G F</td>
<td>3 22 18 7 50</td>
</tr>
<tr>
<td>Female</td>
<td>-</td>
<td>3 23 19 6 60</td>
</tr>
</tbody>
</table>

Legend: Excellent, Very good, Good, Fair

TABLE TWO
The following exams permit you to demonstrate your knowledge and analytical skills.

<table>
<thead>
<tr>
<th>Gender Answer</th>
<th>Examination (Percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tort</td>
<td>Contract</td>
</tr>
<tr>
<td>True</td>
<td>35*</td>
</tr>
<tr>
<td>False</td>
<td>12</td>
</tr>
<tr>
<td>True</td>
<td>29*</td>
</tr>
<tr>
<td>False</td>
<td>21</td>
</tr>
<tr>
<td>Grand Total</td>
<td>Per Column N.B. 100 100 100 100</td>
</tr>
</tbody>
</table>

TABLE THREE
Have you already received a degree beyond an AB? If so which one?

<table>
<thead>
<tr>
<th>Gender</th>
<th>Degree</th>
<th>Type of Degree (Percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>MA</td>
<td>yes</td>
<td>MS MSW MFA</td>
</tr>
<tr>
<td>no</td>
<td></td>
<td>47 50 49 49 50</td>
</tr>
</tbody>
</table>

TABLE FOUR
How old are you?

<table>
<thead>
<tr>
<th>Gender</th>
<th>Age (Percent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 30</td>
<td>30-25</td>
</tr>
<tr>
<td>42-20</td>
<td>20</td>
</tr>
<tr>
<td>33</td>
<td>Male</td>
</tr>
<tr>
<td>4 13 33</td>
<td>Female</td>
</tr>
<tr>
<td>10 22 68</td>
<td>Total</td>
</tr>
</tbody>
</table>

TABLE FIVE
What undergraduate institution did you attend?

<table>
<thead>
<tr>
<th>Gender</th>
<th>Geographical Location</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Within Tri-State Area</td>
<td>Outside Tri-State Area</td>
<td>No Answer</td>
</tr>
<tr>
<td>Male 25</td>
<td>21</td>
<td>4 50</td>
</tr>
<tr>
<td>Female 30</td>
<td>18</td>
<td>2 50</td>
</tr>
</tbody>
</table>

Grand Total: 100 can proudly boast that this year's first-year class has a higher grade point average than last year's. We hope that this is indicative of the random sampling method used in this study. Not only is this what is taught in law school; it also indicates that the students are performing as expected. Finally, it is encouraging to note that while 78% of the students polled thought the exams were good, a significant majority, 87%, thought the exams were very good, and only 7% felt that the exams did not meet their expectations. Overall, it appears that the students are happy with their first semester's performance.

In conclusion, half of all students are satisfied with the performance of their first-year classes. Most students are in their early twenties and have no other degree beyond the undergraduate level. Over three-quarters of those polled attended college in the tri-state area. Equitas is happy to report that most first-year students polled had a positive experience while attending New York Law School during their first semester. We wish them their continued success.

NYLS Students

NYLS Students
KAREN SILKWOOD
Question For The Supreme Court

by Rick Marchese

More than eight years after her death in an Oklahoma car crash, Karen Silkwood continues to make headlines in newspapers across the country. On January 10 the Supreme Court granted certiorari in the case of Silkwood v. Kerr-McGee Corp. (No. 84-1294), thus agreeing to review a lower court ruling which overturned an Oklahoma jury's verdict awarding her $10 million in punitive damages to the estate of Miss Silkwood. The estate filed suit against the Kerr-McGee Corporation in 1976, alleging that Miss Silkwood became contaminated with plutonium shortly before her death while employed by Kerr-McGee's nuclear facility in Cimmaron, Oklahoma. The government has not been cleared of its responsibility for the accident that caused her to be sentenced to a lethal dose of radiation poisoning. It is now 20 years since the crash.
The annual Student Bar Association elections are to be held February 15th and 16th in the Student Lounge. This is an important election because NYLS students will not only elect new officers for the SBA, but they will also have the chance to ratify the SBA constitution.

One of the proposals that will be on the ballot is for the creation of a student fee fund. The plan, drawn up by ANBBA committees headed by Duss Brich, tentatively calls for a student fee of $3.00 per term for full-time day students and $2.50 per term for part time and evening students. If approved it would become effective with the Fall term of 1983-84 academic year. We strongly support this proposal. It would provide much needed revenue for the many student organizations at NYLS. Since neither the SBA nor the student organizations presently receive any direct funding from the student fee at NYLS, we feel that this fee is but a small contribution for students to make in order to improve the quality of life at NYLS.

Editorial

SBA Elections

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Letters To the Editor

Mr. Michael Greifinger
Editor-In-Chief, DIGITAS
New York Law School
57 Worth Street
New York, New York 10013

Dear Michael:

All American Bar Association approved law schools are inspected on a regular basis, approximately every two years to ascertain that they are continuing to meet all accreditation standards. The inspection of our school's educational programs was under the direction of an Adjunct Professor of Law. Our location and the willingness of highly qualified lawyers and judges to devote themselves to legal education, has greatly enhanced the quality of our faculty and the curriculum here at New York Law School. A number of other leading urban law schools in the United States also follow this practice and its value is recognized by many prominent legal educators throughout the country.

However, one of the newer accreditation guidelines applicable to all approved law schools is that a full-time faculty/student ratio of 30:1 be maintained. This is the sole ABA accreditation guideline to which the ABA has called our attention, in view of the forthcoming reinspection. Our Faculty and Faculty Appointments Committee has been working to establish that ratio for the past year. I fully anticipate that we will fulfill this guideline by the time the ABA accredits.

Not only that, but our faculty will continue to be of outstanding quality.

New York Law School was provisionally approved by the ABA in 1964 and fully approved in 1968. Since that time, we have made great strides in the quality of our student body, faculty and curriculum. The development of our Library, the literary magazines of our Alumni and Law School Officers and our Placement Office. Furthermore, our physical plant has been fully renovated and expanded in three buildings. Architectural planning for further expansion has been undertaken and the acquisition of additional property is planned to prepare for further construction has been achieved. All of these are clearly studies conducted so carefully that we may go forward in the best manner possible at the appropriate time.

I am this strong feeling that our law students are well prepared. The academic achievements, the success they have had in their New York City Court and other bar examinations, the many fine legal journals and other publications that are issued, and our overall participation here at New York Law School. Our Alumni have been very supportive and devoted to our Alma Mater. Since our last inspection, we established our first chair—the Joseph Solomon Professorship in Law and a donation of one million dollars by Dr. Joseph Solomon. A substantial amount of money has been raised for the New York Law School Heritage Fund, our Building Campaign, Alumni Scholarships, special books and lecture series. In addition, our Alumni have been very generous with both time and talents in the legal educational activities of our Law School and in countless other ways which have benefited our students.

After having spent the last ten years as Dean and having now handed over my resignation, I can only express my great pride that the progress the Law School has made with the help of so many deeply concerned in our quality of legal education, as well as the development of fitting physical facilities for our students and faculty. Although we are all faced with difficult economic conditions, the Law School has a sound financial base on which to continue to meet its goals.

A conscientious search is being made for a new Dean by our Trustees and Faculty Decennial Search Committee. There is every reason to anticipate that the transition will be a smooth one, and that New York Law School will continue to make great strides as an ABA fully-accredited law school.

To quote our motto: "What's past is Prologue, what's to come is yours."

Cordially yours,

R. Donald Shaprio
Dean
Phi Delta Phi: Enters 1983 With New Ambitions

The Dwight Inn of the International Legal Fraternity, Phi Delta Phi, opened the Spring 1983 Semester with a promise to make 1983 a banner year, especially in terms of providing valuable service to the legal community. The Inn recognizes the varied needs of the growing student body, especially first year students. Some plans to meet these needs include an outline availability program, an alumni contact system, career seminars, advice of senior P.P.D. members to new initiates, a survival seminar, and a new award to an outstanding N.Y.L.S. Associate.

Members can also be assured of making full use of P.P.D.'s professional network of alumni that is ideally suited to improving the environment and life of the law student. Members of the N.Y.L.S. student body are encouraged to join P.P.D. and become part of a heritage that includes many prominent attorneys, judges, and most of the members of the United States Supreme Court. Phi Delta Phi will soon announce its semester rush party and National Officers will be on hand to speak in all interested persons. Meetings are held in the N.Y.L.S. and all are invited to come and observe the function of N.Y.L.S.'s oldest and most established service organization.

All interested persons should leave a message in the mailbox of P.D.F. at the Copycenter in the basement of 67 Worth, or contact:

- Eugene P. Maguire
- Michael Greifinger
- Drew Brotcher
- Lynn Weinberg
- Simon Kogan
- Norman Boyle

New Fraternity Enthusiasm

Randall Block

Starting this semester N.Y.L.S. has a new fraternity amidst its activist groups and clubs. The Fraternity, Phi Alpha Delta, has been reactivated after approximately six years of inactivity. The news of Phi Alpha Delta's re-emergence does not seem unusual. However, the manner in which P.A.D. has been reactivated has caused a great deal of excitement for all of the students involved in the project. Organized by a handful of freshmen, P.A.D. has managed to meet the minimum requirements for reactivation. (10 members and recognition from Dean Byrney) While in fact expanding its membership to a projected thirty to forty members in just a matter of weeks. The extensive and rapid development has come as a pleasant surprise to both school officials as well as the National officers of P.A.D.

Why the need for another legal fraternity at N.Y.L.S.? It was felt by the "core members" of P.A.D. that there was a demand among the students to have a fresh new organization which they could associate themselves with, while having a real input in the group development. Starting their own fraternity appeared to be a more favorable option than joining a previously established one.

However, there is still great skepticism as to the probable success of Phi Alpha Delta. Many students would have such a project. As recent as last year, an attempt was made to reactivate P.A.D. which fell short. However, the enthusiasm of the newly elected officials of P.A.D. has apparently spread throughout the student body as P.A.D.'s membership continues to expand every day.

One of the reasons for the tremendous response P.A.D. has received is its projected program for this semester. This includes probable speakers from the Attorney General's office, the Nassau County District attorney's office, an attorney from a Wall Street firm, as well as others. The program is topped off with P.A.D.'s March 9th trip to Washington D.C. for a tour of the United States Supreme Court.

Another exciting project P.A.D. plans to implement is enrollment in its nationwide Juvenile Justice Program, a project designed to offer law-related programs to young people in various communities across the country. This program has been commended by Chief Justice Burger, a member of P.A.D.

Phi Alpha Delta encourages men and women from all classes to join P.D.F. and become part of a heritage that includes many prominent attorneys, judges, and most of the members of the United States Supreme Court. Phi Delta Phi will soon announce its semester rush party and National Officers will be on hand to speak in all interested persons. Meetings are held in the N.Y.L.S. and all are invited to come and observe the function of N.Y.L.S.'s oldest and most established service organization.

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1983 SUMMER SESSIONS
THE UNIVERSITY OF BRIDGEPORT
SCHOOL OF LAW

SUMMER SESSION I
Classroom Courses begin May 23
Clinical Courses begin May 31
Classroom Courses and June 30
Final Examinations July 28, 29

COURSES
Administrative Law
Business Organizations
Clinical
English Legal History
Family Law
Federal Income Tax
Independent Research
International Law
Judicial Clerkship
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Law, Language and Ethics
Municipal Law
Products Liability
Real Estate Transactions
Securities Regulation
Tax Clinic

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Supreme Court

eliminate witnesses and the jury
with courtroom histronics
designed to arouse sympathy for
Miss Silkwood.

During the trial the attorneys representing Ken-McGee attempted
to convince the jury that Miss Silkwood intentionally
removed plutonium from Com-
meron after finding that she was
unable to document her com-
plaining arguments that Ken-McGee
had no legal duty to keep
plutonium within the confines of
their facility. They also tried
to admit evidence of Miss Silk-
wood’s sexual involvements,
drug use and purported suicide
attempts earlier in her life, all of
which were excluded by the trial
judge.

As the trial wore on it became
evident that safety precautions
at the Commeron facility were
somewhat less than ideal. One
doctor testified that manuals on
the safe handling of plutonium
furnished to Commeron em-
ployees were misleading and con-
tained false information. The
jury also heard testimony which
indicated that possibly up to for-
ty pounds of plutonium were
coming from the plant enough
to exposure the entire world’s
population to the maximum dose
dose of radiation the human body
can tolerate. Barraged throughout
the trial with evidence of Ken-
McGee’s indifference to virtually
unnecessary plant security, the
jury retired on May 14, 1979 to
consider its verdict. After four
days of deliberation the jury
returned a verdict for the plaint-
tiff, awarding Miss Silkwood’s
estate $500,000 in actual
damages and $10 million in punitive damages. The jury
disregarded the arguments of
defense counsel and held Ken-
McGee liable for total failure of
security for allowing plutonium
to escape its facility and contam-
inate Miss Silkwood. They
awarded punitive damages un-
der the trial judge instructions
that Oklahoma law permitted the
jury a “give damage for the
sake of example and by way of
punishment.”

Ken-McGee immediately
ap-
ppealed the verdict to the Federal
District Court for the Western
District of Oklahoma, vehement-
l'y arguing that the evidence did
not justify such a large award of
punitive damages. The court, in
Silkwood v. Ken-McGee, 684
F.Supp.566(1981) upheld the
verdict, calling “Plaintiff’s
evidence established substantial,
credible evidence of poor
training, poor security, workers
who knew of a variety of ways to
remove large amounts of
plutonium from the facility
without detection, workers indif-
frent to the hazards of
plutonium, and much more, all of
which tended to establish the
propriety of a punitive award.

The $10 million punitive award was overturned, however, by the
United States Court of Appeals for the 10th Circuit in
held that the Atomic Energy Act of 1954 preempted any
state regulation of radiation hazards associated with
plants handling nuclear materials. In
rejecting the Atomic Energy Act
Congress, explained the court,
intended to assert exclusive
central control over any and all
radiation hazards connected with
the development of nuclear
energy, noting that “the nuclear
industry was initially developed
by the federal government, it
strongly linked with national
security, and is extensively
regulated by a federal agency.”

Wrote the court: “A judicial
award of exemplary damages
under state law as punishment
for bad practices or to deter
future practices involving ex-
posure to radiation is no less in-
trusive than direct legislative
acts of the state. Thus we hold
punitive damages may not be
awarded in this case.”

The question of federal pre-
emption in the Silkwood case now
passes on to the Supreme Court.
The issue boils down to this:
whether a state court’s jury in

determination allowing the jury to
award punitive damages against
the operator of a nuclear facility
equates to state regulation of
radiation hazards associated with
plants handling nuclear material? If so, are all
state courts prohibited from
awarding an award of punitive
damages against a nuclear
facility corporation who acts
irresponsibly? In 1972 the
Supreme Court affirmed on 6th
Circuit Court of Appeals decision
which held that the Atomic
Energy Act preempted the State
of Minnesota from imposing
state licensing requirements to
regulate radiation emission from
nuclear power plants in
that state. Northern States
Power Co. v. Minnesota, 447 F.2d
1143, aff’d mem. U.S.1030(1972). Ken-McGee is now asking the Supreme Court
to extend the holding of Nor-
thern States to preempt any
punitive damages award by a
state court which punishes and
deterres irresponsible behavior in
the nuclear power industry. If
the Supreme Court so acts, state
judges may find their courthouse
doors locked to plaintiffs like
the estate of Miss Silkwood who
seek to punish corporations like
Ken-McGee and discourage others from acting in the same
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LIPSIg

First-of-a-kind complaint Lipsig charged the hotelkeepers of Algodones with a conspiracy of silence on the subject of sharks in local waters. Knowing, in Mexico, suit would be worthless and finding New York convenient, despite a lack of jurisdiction over a Mexican defendant, Lipsig sued and won. Both sides knew that the case could not stand in the New York venue, but Lipsig disturbed the waters of context and a settlement was had. Shortly thereafter, Lipsig was retained by a Canadian national for a subsequent shark attack in the same ocean locales. Lipsig now charged that the hotel, through its prior suit, had notice, but further contended that the hotel’s alleged dumping of garbage in the waters, attracted sharks. Again, despite the venue problem, Lipsig won a settlement for his client. The combined award for the two shark cases was over $825,000.

Although Lipsig personally does not, despite a staff of forty lawyers, try criminal cases he does a large amount of civil work. He feels that his training in a criminal practice has been useful in acquiring and prejudicing him to take on the more civil case. Thus, the National Director of Congress of Retail Liquorists (C.O.R.E.), an associate charged with selling alcohol to an admitted minor, was convicted. The C.O.R.E. made a 'tongue-in-cheek remark about the hotel's plan being in the home of the accused. He filed a sex discrimination complaint in court. The matter was consolidated with a county Court in coalition.

"...thankful the times have changed. Many more of us seem to be aware."

---

A lawyer, alone

Posture and refuge in extra worn suit forms, bellboy and bellman boasts to abuse titre's time, the great,' be effective'.

New York's longer lesson of perspective?

Quick-play reaction runs.

Efforts to whiff freedom to divine.

Efforts to whiff freedom to divine.

Once between from there and my eye.

Ends from which is truly.

Ends from which is truly.

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