

2-1999

The L, vol 1, no. 2, February 1999

New York Law School

the

The Voice of the New York Law School Community

Setting the Precedent

Volume 1, Number 2

February 1999

L@nyls.edu

Inside...

DiMaggio Mishap.....	3
Editorials.....	4
Course Selection.....	5
Center-fold.....	6&7
Domestic Violence.....	9
humming.....	10
Cop Story.....	10
IC Debate.....	11

The Student Bar Association and New York Law School Present

The 1999 Barristers' Ball

Saturday, April 17, 1999

Tavern on the Green

8:00pm until midnight

hot & cold appetizers, buffet dinner & desert, 4 hours of premium open bar, d.j.

Price also includes an after hours event at:

The China Club

Midnight until closing

Includes VIP entrance and free admission (normally \$20)

February (2/1-3/12)

\$50 NYLS students

\$75 non-students

March (3/13-4/2)

\$60 NYLS students

\$85 non-students

April (4/3-4/14)

\$90 for all

Please note that only 450 tickets are subsidized by SBA and NYLS. Tickets sold thereafter will be at the full price of \$90.00.

Please plan ahead! Buy your tickets as soon as possible for the greatest New York Law School event of the year!

Tickets available at the SBA office (cash/check) and the Office of Student Life (cash/check/charge)



Our Editor-in-Chief (middle) having a grand ol' time at last years Barristers Ball.

Deadline for the March Issue:
Friday, February 19



The Premiere Issue Release Party in Jerusalem was a great success.

GENERAL STAFF MEETING

Thursday February 11 @ 1:00 p.m

Room L2 (located in the NYLS Student Center Basement)

Refreshments will be provided.

All are welcome to attend, especially those who have contributed to this issue as well as those considering writing for us in the future....

City Law Breakfast Draws Crowd

In Mendik's Absence, Talk of the City's other Y2K problem

Eddie Westfield
Managing Editor

Over one-hundred and twenty people attended the January 22nd City Law Breakfast held in the Stiefel Reading Room to hear Bernard H. Mendik, NYLS Class of 1958 and Founder of the Mendik Company, discuss the topic, "Reminiscences and Real Estate." Mr. Mendik is well known in the New York City real estate scene, and those in attendance were looking forward to his speech. Unfortunately, due to illness, Mendik was unable to attend. "He knew that he'd been sick, and though he had confirmed at nine o'clock on Thursday morning... he got progressively ill during the day; The doctor had come and visited (his) home and said that he was not to leave his apartment," noted Professor Ross Sandler, Director of the Center for City Law. Sandler added, "He is the kind of person that has enormous energy. If it had been humanly possible he would have been here."

With under twelve hours notice, the task of moderating the breakfast fell upon Professor Sandler. The theme for the breakfast shifted from real estate to what some in City government might consider an entirely unique Year 2000 Concern: The combined effect of term limits in City government and Mayor Rudy Giuliani's eye on the open seat in the U.S. Senate.

"This is a man who has had an immense personal impact on government," Sandler said of Giuliani. He posited that most programs implemented during Giuliani's administration are probably not going to change. Sandler also noted that certain aspects of City government directly relate to the Giuliani Administration, mostly in the social welfare area. The Mayor has been particularly aggressive on the issues of homelessness, foster care, child protective services, and welfare programs. "It unlikely to see another powerful candidate that will embrace these policies so fully on the horizon. Those policies would probably be at the center of an Election campaign," Sandler said.

If Giuliani runs for Senate in the Year 2000, the City government might "freeze" as it has in the past when mayors have

campaigned for higher office. "That will have an impact on what the Giuliani administration is going to be able to do during this period, what kind of policy it is going to have to follow." He also noted that the new mayor sworn in January 2001 will have to immediately begin his campaign for the November election the same year. "We could have two years under a mayoral leadership that has its foot in City hall but its weight on an election campaign."



Professor Ross Sandler

Sandler went on to conclude that the next few years will be an era of intense change in City Government. He asked those present to wonder which current policies will survive; whether they will change; and what mistakes will be made. "Change is inevitable," he remarked.

"But what is unexpected is that the change could be so profound that it would essentially wipe out the Government [as we know it] within a two year period." San-

dler closed with this question: "What should we be doing when the government that delivers the most services to all of us is under such profound change?"

Among attendees who commented during the breakfast were Conn Nugent of the Citizens Union, President of Times Square BID Brendan Sexton, Samuel Schwartz of The Samuel Schwartz Company, and Assistant Deputy State Comptroller for New York City Kathleen Grimm. Voicing her concerns of term limits and their effect on matters of budget and debt, Grimm stated, "If we have elected officials who are not looking beyond an eight year term, they may not be as concerned with trying to lay the foundation to solve those long term problems that we or our chil-

dren are going to have to address later."

When asked for comment, Dean Harry Wellington said that it was unfortunate that Mendik could not attend: "He is a wonderful speaker and he has a great deal to say about the real estate scene in New York. I think that he will be able to come and speak sometime later this year." The Dean went on to say, "I thought that the breakfast was very interesting. There were very interesting comments on what's apt to happen in the City. These breakfasts are wonderful. More people should come."

For more information on the Center for City Law, call (212) 431-2115 or connect to www.citylaw.org.

Special Thanks to Bob Ward

Say It Ain't So, Joe

Joyce Saltalamachia
Professor of Law

While watching a Dateline NBC interview of Golden Globe nominees last Sunday, January 24, 1999 at around 7:30 p.m., I noticed a news bulletin in the familiar "crawl" style at the bottom of the screen announcing that baseball legend Joe DiMaggio had died at his home in Florida. I was saddened to see this but not surprised since, for several months, news reports had been tracing his precarious health and, only that morning, there had been a report that his condition was grave. While I wasn't surprised at the announcement of his death, I was extremely surprised to see another "crawl" about 20 minutes later stating that the report of DiMaggio's death was incorrect and that he was in stable condition.

The following day, newspapers and wire services reported that the incorrect death notice had been sent in error due to a technician pushing the wrong control panel button. Apparently the network had been alerted to DiMaggio's grave condition and was ready at any time to report his death. The technician in the control booth was said to have been testing this "crawl" bulletin in advance, and, instead of send-

ing it back to the file, sent the bulletin to all East Coast affiliates. Newspapers reported that DiMaggio, who had been breathing through a ventilator, had seen this erroneous report and was "livid" at the mistake. His wife was with him at the time and he had only been recently visited by family members, so there was little chance that anyone in the family had been misled by the initial report, although many had apparently seen it.

This incident reminded me of a similar story that had occurred last year. On June 5, 1998, while updating a pre-written obituary of Bob Hope, an Associated Press reporter made a technical computer coding error which sent the obituary to AP's web page. The error was noted and the obituary was pulled after 20 minutes but not before a staff employee of House Majority Leader Dick Arney (R-Texas) read it and reported it to his boss who then gave it to another Congress member to report it to the entire House of Representatives. Members of Congress then fell over themselves reading testimonials into the Congressional Record, Reuters wire service beamed the story around the world, and ABC news broke into its regular broadcast to air its own ready-to-go obituary. Hearing of

the news, the Hope family called the wire services to refute the stories. Apologies abounded and editorials decried the pernicious effects of computer technology.



Joe DiMaggio

As a Torts teacher, I am always on the lookout for weird and interesting liability situations. The natural question here was to wonder what recovery DiMaggio or Hope or their family members would have for such an obvious and distressing error. Mistakes happen of course, but what are the legal implications when a false report of someone's death is announced by the broadcast media?

The obvious cause of action that springs to mind would be based on some form of emotional distress claim. Since the occurrence was based on an error or a mistake, the claim must be established in negligence. While the more modern forms of emotional distress are based on fear for one's own safety ("the zone of danger" line of cases) or

cases involving someone whose distress has resulted from seeing a close family member killed or seriously injured (*Dillon v. Legg*¹ type of cases), there are two traditional common law situations where courts have ordered damages for shock not associated with fear of or sight of physical injury. Most jurisdictions allow recovery for emotional distress resulting from negligent mishandling of corpses or from erroneous information given to someone about the death of a close family member. Would Joe or Bob or their families have any recourse under this latter scenario?

There are numerous cases which have attempted to sue "media publishers" for erroneous obituary notices. When the plaintiff is the person whose death has been wrongly reported, the courts have uniformly denied recovery if the only false thing said was the report of the death. Since these cases must be brought under a theory of libel, privacy or malicious prosecution (After all, the plaintiff knows he or she is still alive, so is unlikely to be misled about the fact of death itself.) courts feel that the false death report by itself does not harm a person's reputation. Liability has

continued on page 9

¹ 68 Cal.2d 728, 441 P.2d 912 (1968)

Editorial

Of Snobs,

The litigation snob loves to poke fun at the corporate lawyer who has never done "real legal work," whereas the corporate snob completely undervalues litigation experience in the corporate context. In actuality, both disciplines have respectively exclusive idiosyncrasies, however, litigation experience is a wonderful tool in the corporate world and vice versa.

An attorney should not litigate at a Closing, and the corporate attorney negotiates differently than a litigator. However, an experienced litigator practices corporate law with the advantage of hindsight. S/he knows what can go wrong, and attempts to prevent it from happening by doing extensive work during the deal. A sophisticated corporate attorney, on the

other hand, understands the intricate inter-workings of the corporation and may bring that know-how to the worst-case scenario litigation.

As the legal profession recognizes this phenomenon, the demand for inter-disciplinary attorneys will increase.

...Cynics, and Idealists

Litigation cynics see their world as a labyrinth-like paper-pushing formulaic contest with basic steps, tricks, and loopholes which change only with the procedural rules of the particular venue. The courtroom and occasional deposition provides a nice break in the monotony, but even these experiences sour after a few years.

Litigation idealists view the entire legal process as an incredible opportunity to participate in the evolution of law and



Baruch Cohen

Editor-in-Chief

society. The courtroom is the apex of this experience, because it is the public forum where the idealist creates, debates, and communicates.

Corporate cynics, on the other hand, view their work as an endless string of documents and concepts which rarely vary and continually flow in a bureaucratic rhythm. The occasional pushy client or shady adversary feeds these individuals' cynicism, as does the Closing, where all parties act like they have to leave from the moment they walk into the

conference room.

Corporate idealists see their job as an opportunity to build with ideas and creatively foster connections between parties and entities. Some consider corporate law a reflection of the essential threads of society and communication. The tediousness of document revision pales in comparison to the significance of their work and the deal-toy trophies which decorate their offices.

"Who maintains the correct perspective?" is the question I pose to you all.



This is Your Paper

Some people might feel that that the school newspaper is a closed group of certain individuals expressing an uneducated unilateral viewpoint ignorant of any implications or consequences of what is printed. Others are of the opinion that a student newspaper is a fertile breeding ground for misspelling, poor grammar, and a lack of professionalism. In fact, some people are surprised to learn that a NYLS student newspaper exists. The L is here to change all that.

Allow me to introduce myself. My name is Eddie, and I get to put this paper together. I have no hidden agenda and no steadfast beliefs that I deem print-worthy. In fact, I have nothing interesting or worthwhile to say. Therefore, you will never read

anything written by me that is one-sided or of poor quality (except maybe this editorial).

What belongs in this paper? Well, we like to call the L "the voice of the New York Law School Community," because the L stands for you, the Law Student. (It is the place to turn to for things which concern you and your fellow NYLS Law Students.) This paper serves as a forum where everybody has a chance to voice their concerns, exchange ideas, obtain feedback, and keep informed. The L is your paper and it requires your feedback.

Our email address sits on the front page and appears throughout for a reason. Contact us. Contribute. Become a part of this. We are waiting to hear from you.

Lastly, we would like to thank everyone who has contributed to this issue, and we especially extend thanks to Sally Harding in The

Office of Student Life and Yvonne Hudson in the Office of Public Affairs for all their support. Enjoy the rest of this issue.



Eddie Westfield

Managing Editor

If it matters to NYLS, it's in the L

Deadline for the March Issue Friday, February 19



Re-established 1998

Editor-in-Chief
Baruch Cohen

Managing Editor
Eddie Westfield, Jr.

Executive Editor
Cynthia Litman

Staff Editors
Deana Ardente
Denise DeVitto

Contributors:
Mark Demetropoulos
Prof. Aleta G. Estreicher
Prof. Joyce Saltalamachia
John Stebe
Jessica Vasquez

The L, serving as the voice of the New York Law School community, is independently published by its student members and is printed periodically throughout the school year.

The L welcomes submissions from all students, faculty, alumni, staff, and other members of the New York Law School community.

Writers of articles submitted to the L are ultimately responsible for the veracity of any of their articles submitted and accepted for publication. Articles must be written and pre-edited in a professional manner.

The views expressed herein are those of the writers, and not necessarily those of the L, any of its editors or staff members, or the students, faculty, or staff of New York Law School.

Advertising rates are available upon request. Subscriptions are available at a rate of \$12 per year.

Articles should be submitted on disk (in Word, WordPerfect, or RTF format) with a hard copy attached, by mail, or by placing it in our submissions' box in front of Room L2 in the lower level of the NYLS student center. Articles may also be e-mailed to L@nyls.edu. Along with your submission, please include your name, year, phone number, and photograph (optional). Please address all submissions, letters, and other correspondence to:

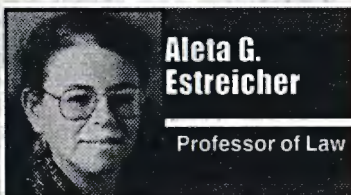
Editor-in-Chief
the L
Student Newspaper
47 Worth Street, Rm. L2
New York, NY 10013-2960.

Phone: (212) 431-2100 Ext. 4202
Fax: (212) 966-1522

L@nyls.edu

Course Selection: A Guide for 1L's

Now that exams are behind you, many of you are considering which elective courses you should select to complete your undergraduate legal education. Every spring, I discuss course selection with first-year and upperclass students, one of whom has asked me to write this article expressing my views on the subject. I am happy to do so with the following caveat: **this is only one professor's "take" on course selection. I strongly advise you to talk to other professors to hear their views on the subject.** In any event, it is wise not to delay mapping out your course load because, even with careful planning, it will be surprisingly difficult to cram everything you want to take (plus the courses people like me say you "must" or "should" take) into



Aleta G. Estreicher

Professor of Law

your remaining semesters of law school.

I believe it is best for many students to envision law school as "a liberal arts education in the law." At the end of your three years, if all goes according to plan, each of you will emerge a fairly well-rounded generalist. This is the safest route to follow given the unpredictability of life and the job market. (I speak from experience: in law school, I was certain that I would become a litigator and avoided like the plague nearly all business-related courses. Of course, as soon as I joined a law firm, I was assigned nothing but corporate and securities work, all of which I had to teach myself (and quickly, too.) Your learning curve after graduation does not have to be that steep!)

In planning your course sequence,

take note of which courses are prerequisites within a specialty. Those courses should be given the highest priority — i.e., taken as soon as possible — in order to give yourself the greatest flexibility later on. Many introductory courses provide the foundation for more advanced courses in a particular field of law, and not all advanced courses are offered every semester. Therefore, it is important to determine the sequence of course offerings in areas of interest to you. For example, Corporations is a prerequisite of virtually all other business law courses, including Securities Regulation (e.g., the Securities Act of 1933 and the Securities Exchange Act of 1934); the latter is, in turn, a prerequisite of Securities Arbitration, Practice and Theory. In order to complete that sequence, then, you should plan to take Corporations no later than your second year (preferably in the first semester for full-time students).

I will try to organize my course recommendations into three illustrative categories: (1) basic essentials (if possible, all students should take all of these courses); (2) valuable courses (very useful, and highly recommended, particularly if you are interested in that area of practice); (3) valuable, but arguably more specialized or advanced courses. **LET ME REPEAT THAT OTHER PROFESSORS MAY (PROBABLY DO) DISAGREE WITH MY GROUPINGS AND/OR PRIORITIES;** also, I may have inadvertently omitted valuable and interesting courses. Be sure to talk with professors who teach in your areas of interest before committing yourself to a program. (Remember, too, to consider the exam schedule: you are responsible for avoiding scheduling conflicts.)

1. BASIC ESSENTIALS

As you know, the Faculty has recently made Evidence a required course. Had it not done so, I would have included evidence as one of these "foundation" courses. All of them introduce students to areas of law that are important, complex and difficult to "self-teach."

Accounting for Lawyers

[this is the course for you if you have never studied accounting — I guarantee that you will thank me when you are in practice]

Administrative Law

Commercial Transactions

[prerequisite or strongly recommended for many commercial law courses]

Corporations

[prerequisite for virtually all other business courses]

Federal Income Tax — Individual

[prerequisite for all other tax courses]

Wills, Trusts and Future Interests

[I think everyone should take this, but see below, also]

Writing

[as many writing experiences as you can manage: paper courses, seminars, independent research papers, journals, etc. I will say more about writing below.]

2. VERY VALUABLE

Antitrust

Bankruptcy

Conflict of Laws

Corporate Finance

Copyright

Criminal Procedure

(Adjudication or Investigation)

Environmental Law

Family Law

Federal Courts & the Federal System

Human Rights Law

Immigration Law

International Law [public and private]

Labor Relations/Employment Law

Land Transactions and Finance

Legal Research, Advanced

[particularly important if you know your skills need improving]

New York/ New Jersey Practice

[useful for the bar exam]

Remedies

Securities Regulation

[Securities Act of 1933; Securities Exchange Act of 1934]

Statutory Interpretation

Wills, Trusts and Future Interests

[see above]

3. SPECIAL INTEREST AREAS

Admiralty

Advanced Topics in

Corporate and Securities Law

[various specific subject matters]

Advanced Tort Law

[Medical Malpractice, Mass Torts, etc.]

Alternative Dispute Resolution/

Securities Arbitration,

Theory and Practice*

American Slavery and the Law

Art Law

Comparative Law

Complex Litigation

Criminal Appellate Clinic*

Criminal Law: Criminals and

Our Urge to Punish Them

Derivatives Market Regulation

Seminar & Workshop*

Feminist Jurisprudence

Jurisprudence

Law and

[courses like Law and Literature; Law and Popular Culture, Law and Social Change, etc.]

Legal History

Media and Entertainment Law

Mental Health Law

Mergers and Acquisitions

New York City Law

Quantitative Methods

in Legal Theory & Practice

Securities Regulation

[Broker-Dealer Regulation; Federal Regulation of Mutual Funds]

Sexual Orientation and the Law

Trial Advocacy*

Workshops*

[see Academic Catalog]

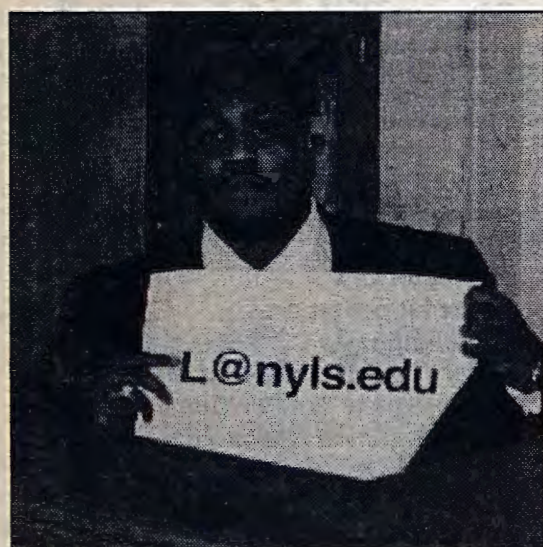
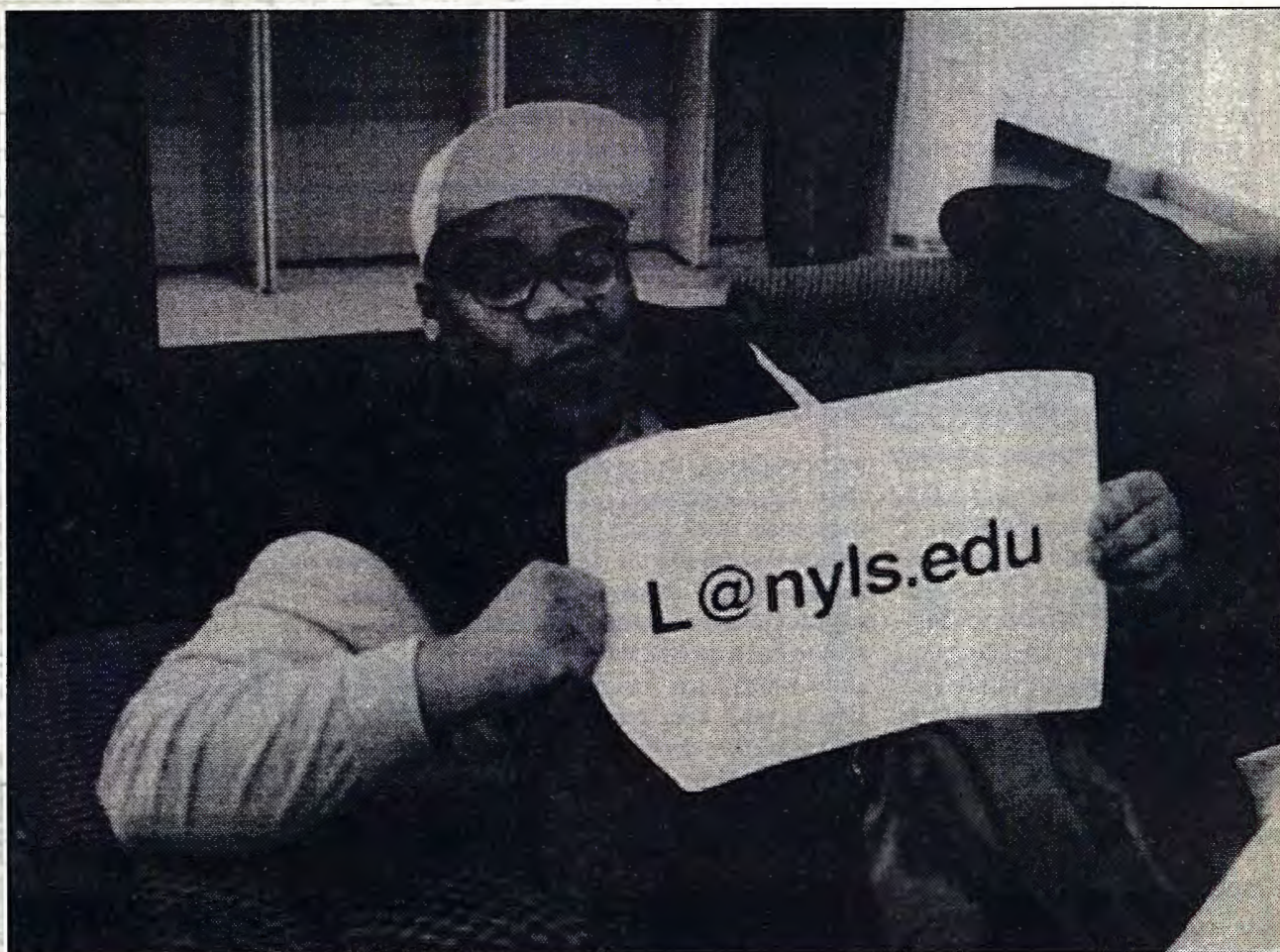
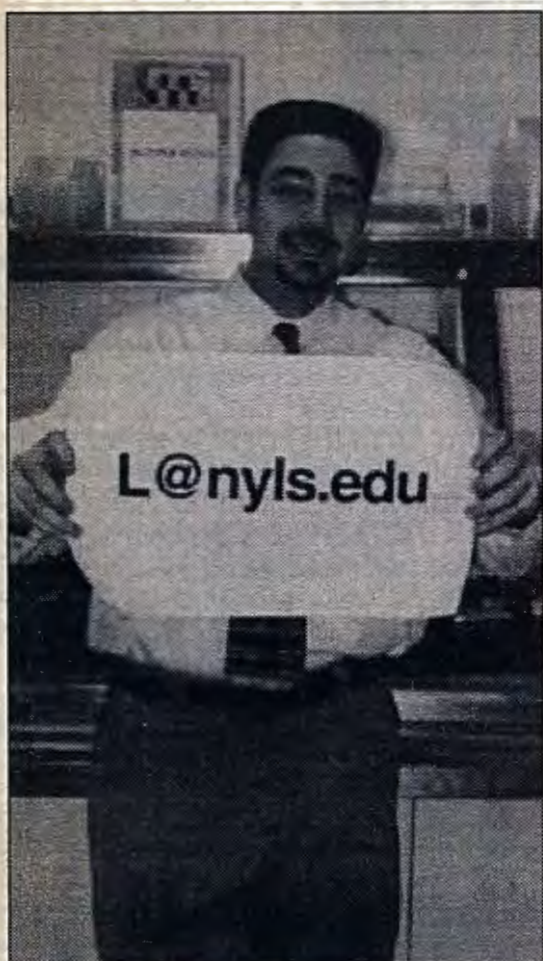
**Trial Advocacy; the Criminal Appellate Clinic; the various "workshop" courses; the Judicial and other Externships; Negotiation, Counseling & Interviewing; ADR (also Securities Arbitration) are all valuable opportunities to develop your practical lawyering skills, including oral exercises in addition to writing and research.*

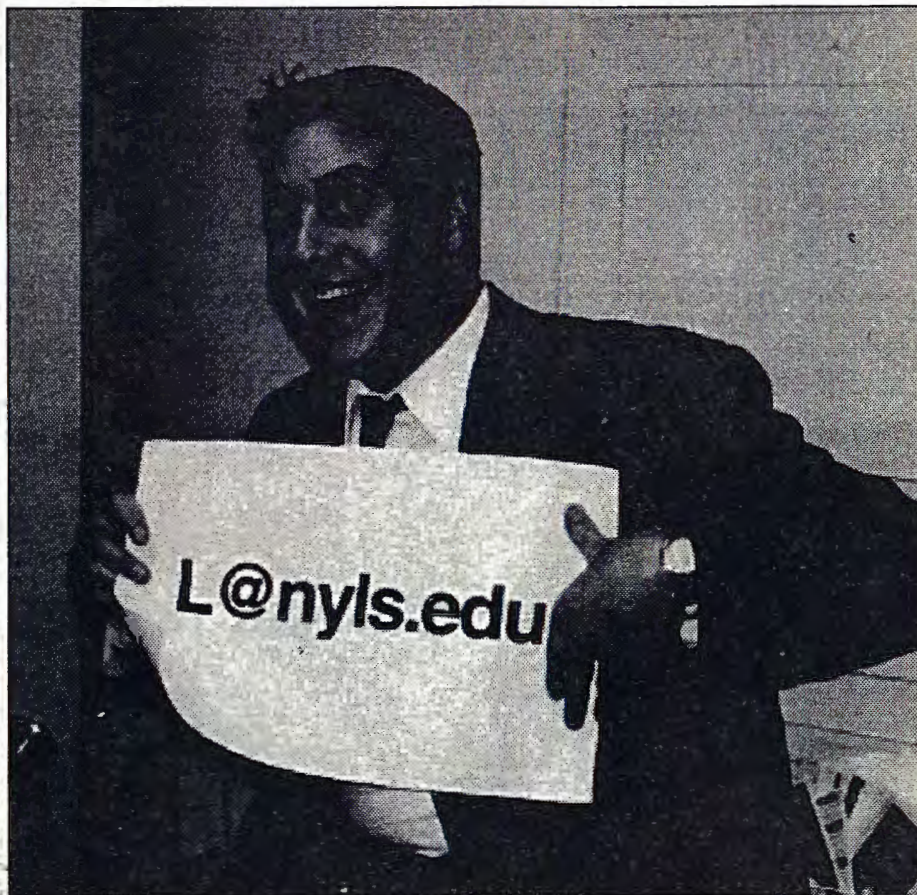
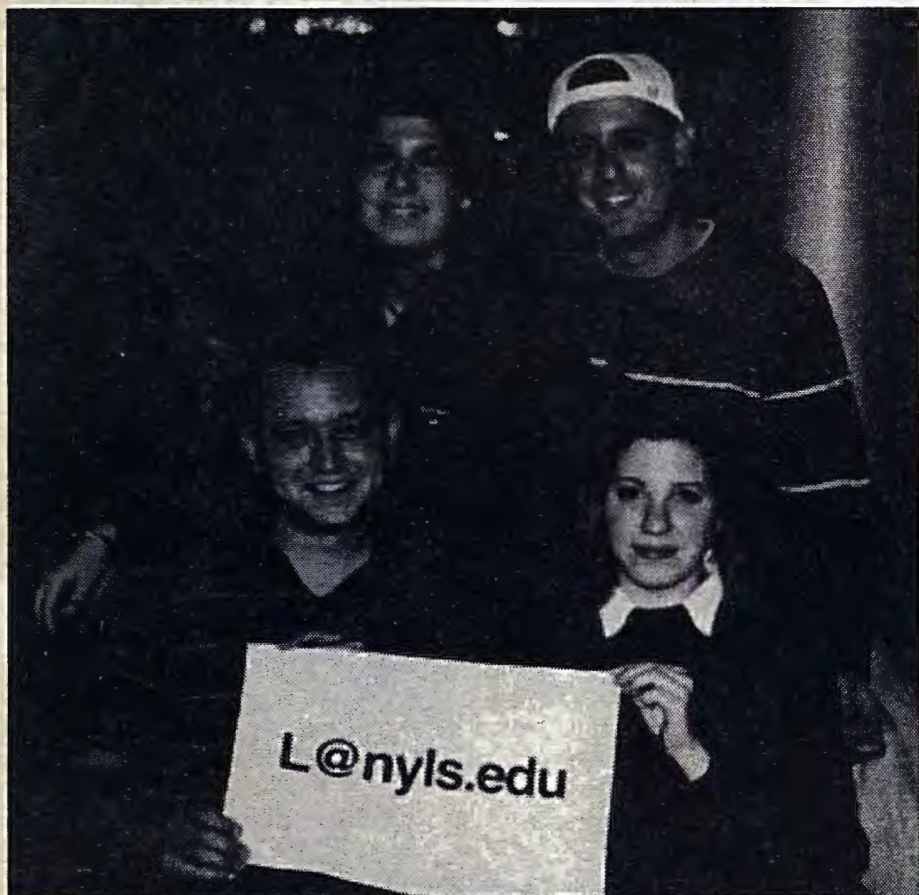
4 WRITING/RESEARCH

The last (and two of the most critical) curricular areas I want to address are writing and research. First writing: There is no more important skill for a lawyer to develop than the ability to write clearly, logically, and persuasively. A lawyer is, after all, a professional writer. Unfortunately, most students consider writing of secondary importance in law school. In fact, ironically, those students who need the most help with their writing are often the very students who deliberately avoid taking "writing" courses. I urge you not to make this mistake. Make every effort to practice and improve your writing skills while still in law school.

NYLS provides many opportunities for you to write, including: (1) memberships on student journals; (2) seminars and paper courses; (3) independent studies (research papers, under the supervision and direction of faculty members); (4) one or more of the advanced legal writing courses (e.g., Drafting — General Principles/Legislation/Commercial Documents/Litigation, Memorandum and Brief Writing, Writing Skills for Lawyers, Advanced). All of these activities involve writing and then rewriting after receiving feedback. Although NYLS only demands that you satisfy the writing requirement once, it would be a serious miscalculation to believe that one writing "experience" in law school is enough. Improve your writing now, while you have the time to focus on it. You will increase your value to your employers and clients a thousandfold. (And you will almost certainly improve your grades on exams, at the same time.)

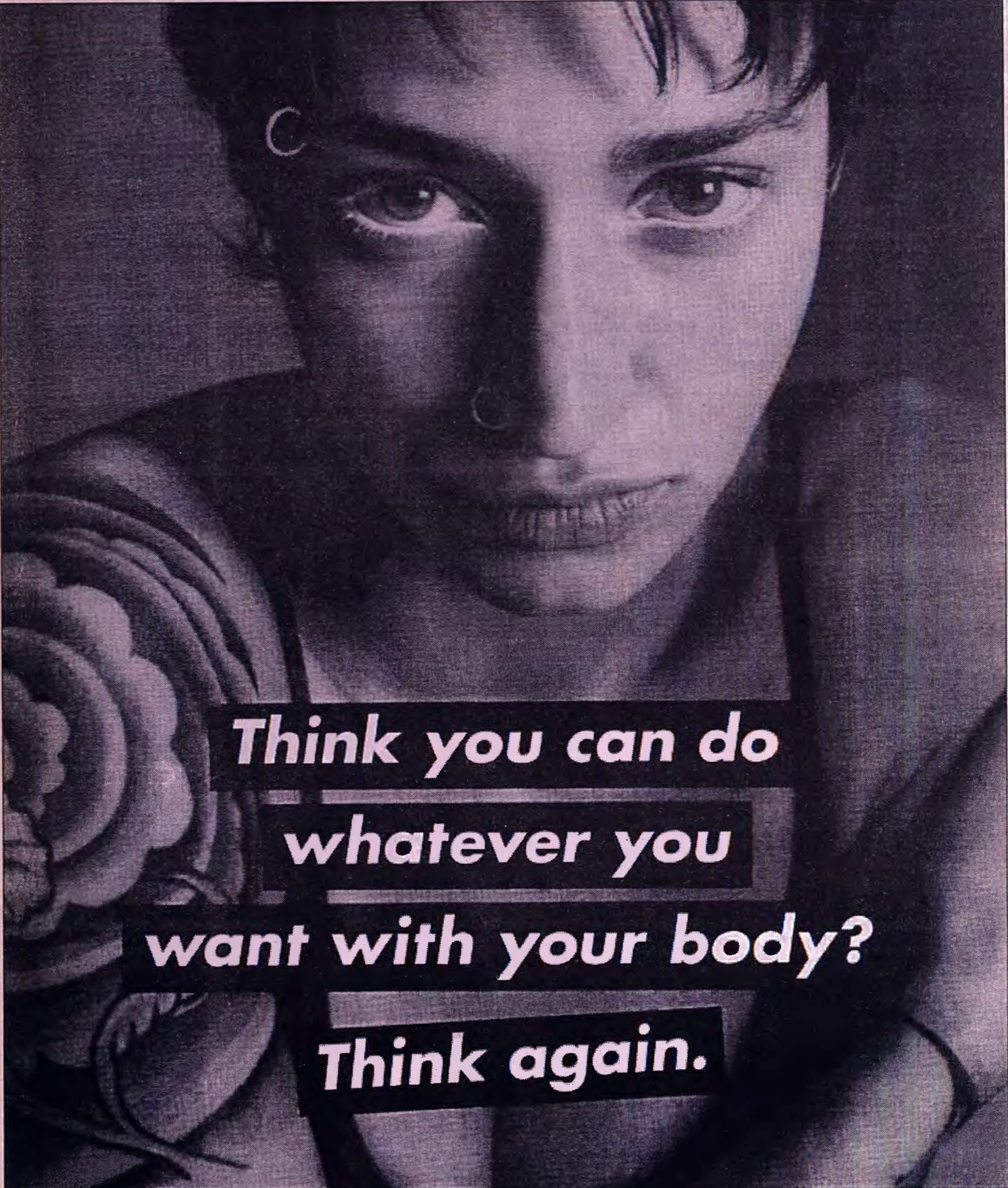
Finally, be honest with yourself about the level of your research skills, both computer-based and library-based. Take advantage of the Lexis/ Westlaw tutorials being offered by the talented librarians, but remember that you will not necessarily have access to — or be able to afford — Lexis or Westlaw in practice. Therefore, brush up on your traditional research skills, as well. Consider taking the advanced legal research course, or simply picking the brains of our remarkable library staff. They are eager to impart their nearly encyclopedic knowledge to you, if you are willing to make the effort.





**GET TO
KNOW
US!**
L@nyls.edu





**Think you can do
whatever you
want with your body?
Think again.**

Reproductive rights are under attack. The Pro-Choice Public Education Project. It's pro-choice or no choice.

1(888)253-CHOICE or www.protectchoice.org

DiMaggio

Continued from page 3

been established only when there are derogatory or defamatory statements included in the report, such as a story that the death occurred during the commission of a crime or under unsavory circumstances. The courts have reasoned that the false story can be corrected by a speedy retraction in the same location that the initial report appeared and that, since death is inevitable, merely reporting a false death is not libel per se. Thus, newspapers which have printed false obituaries have not been held liable to the person whose death was wrongly reported.

As far as a cause of action by the families, courts have been similarly restrictive. Recovery has always been limited to situations where family members have received telegraphs or other individual notices of the death and have not found out the truth for some time afterwards. In cases where the erroneous information was conveyed directly to the family, the courts have determined a direct duty to have been established and thus liability for the "publisher". However, in cases where the false reports have appeared in general news stories or in obituary notices, courts have held that there is no special duty to the family as individuals. It should be no surprise to anyone that courts are unwilling to create a duty of broadcasters to the public at large,

even if certain members of that public have a special interest in the story being broadcast. As in many other tort situations where there has been no direct contact between the plaintiff and the defendant, courts will look to see whether there is some sort of special relationship that would otherwise create a duty. Here, since the DiMaggio family saw the erroneous report along with all other NBC viewers, the courts would be highly unlikely to imply any duty to the family by NBC, especially since the mistaken report was retracted promptly.

To further limit the possibility of recovery, some courts have determined that in order to protect a media defendant's First Amendment rights, it is necessary for these types of cases to show the same degree of culpability as required in a defamation action. Therefore mere negligence would not be enough for liability. If this rule was used as the standard, DiMaggio's status as a public figure would make the showing for the plaintiffs even more difficult.

In this era of high-tech information delivery, such "wrong button" human error situations are likely to increase. Although the results will always be distressing and upsetting to the parties involved, courts are unlikely to broaden tort law to provide recovery for these occasions. As all tort students should remember, mere negligence alone does not a cause of action make.

Love and Violence

Jessica F. Vasquez

Domestic Violence Project

More women in New York City are killed by their husbands or boyfriends in domestic violence attacks than by any other crime. Domestic violence occurs at all levels of society and in all classes and communities, regardless of the victim's social, economic, or cultural background. Domestic violence takes many forms, ranging from emotional, psychological, and economic abuse to rape and homicide; from refusing to let a woman out of her house to taking away all of her money, and from a slap across the face to a death-threat if she refuses to have sex with her abuser.

Historically, the abuse of a wife by her husband was socially accepted and condoned by the government. In 19th Century England, husbands were not punished for murdering their wives, while in the United States a husband was allowed to physically "discipline" his wife without fear of prosecution for assault and/or battery. Moreover, a husband could beat his wife with "a stick no bigger than his thumb." That is the origin of the colloquial expression "rule of thumb."

During the last 20 years, societal attitudes towards domestic violence have

changed. After the first domestic violence shelter opened in 1974, the demand for shelters and resources for survivors of domestic violence have increased. Domestic violence is no longer considered a private issue. Many public and private services are available for survivors.

If you know someone who is being abused, don't ignore her needs and let her know that services are available. Most of all, emphasize that love does not equal abuse.

For more information, please call 1-800-621-HOPE for the New York City Domestic Violence Hotline for referrals to legal services, shelters, and counseling and 1-800-942-6906 New York State Domestic Violence Hotline; and 1-800-942-6908 New York State Spanish Domestic Violence Hotline.

Editor's Note: I once read that in the United States, we spend three-times more money on animal shelters than we do on shelters for battered women. I asked a friend of mine what she thought about Valentine's Day, and she replied, "it's good for a card or something." Then I decided to ask someone from the Legal Association of Women to write the above piece. I consider Jessica's foregoing article the L's Valentine's Day Card. —ed.

Student Organization News

Federalist Society

The Federalist Society is founded on the principles that the state exists to preserve individual liberty, and that the separation of governmental powers is central to our Constitution.

Over the past two years, the Federalist Society has been very active by holding several successful events, including a panel discussion on Affirmative Action and a faculty panel on the topic "Should the President be Held to a Moral Standard?". The Society has also hosted lectures at NYLS by former United States Attorney General Dick Thornburgh and Court of Appeals Judge Eugene Sullivan. Federalist Society members are invited to events sponsored by the local and national chapters of the Federalist Society. At such events, Society members have had the opportunity to meet persons such as former President George Bush, General Colin Powell, Court of Appeals Judges Dennis Jacobs and Robert Bork, and Independent Counsel Kenneth Starr.

The Federalist Society's faculty advisor is Professor David Schoenbrod, and Professor Nadine Strossen is a frequent contributor to Federalist events. Membership in the NYLS Federalist Society is free, and we welcome all to join. Please contact Dawn Fasano or Derek Jacques at ext. 4189 for more information.

LaLSA

The Latino Law Students Association (LaLSA) is dedicated to enriching the NYLS community with the unique experience and multiracial heritage of the Latino law student. We encourage admission and retention of Latino law students at NYLS and seek to raise awareness of the needs of the Latino community in general. Recently, former LaLSA President Peggy Sanchez addressed Latina issues on *Good Day New York*.

LaLSA is the primary organizer of the annual Multicultural Festival, in which all organizations are encouraged to participate. The purpose of the Multicultural Festival is to ex-

pose the student body to the various cultures represented at NYLS.

LaLSA welcomes all new members, regardless of heritage. Any persons interested in LaLSA or the Multicultural Festival should contact Cesar De Castro or Darrin Ocasio at ext. 4195.

MESLA

The Media, Entertainment, & Sports Law Association sponsored a series of luncheons in November bringing students together with attorneys in various fields of law. Each lunch followed a different theme, and students were able to hear from attorneys who work in the fields of copyright and trademark law, sports law, film and television law, and music law. Each attorney spoke about her particular field of expertise, her background, and what her practice entailed. Students were able to ask questions and speak with the attorneys on a one-to-one basis.

MESLA has a busy semester planned, with several events coming up soon! Look for a debate in February, tentatively en-

titled "The Privacy Rights of Public Figures," a cocktail party in March, and a panel discussion in April.

SBA

The SBA-sponsored Barristers' Ball is the pinnacle law school event of the year. It allows everyone to get together in a social setting to break bread, drink spirits, and have a great time. This year's Ball will be the most spectacular to date as attention was given to every aspect of the evening. Everyone is invited. For newcomers, it is a celebration of surviving that first year. For those graduating, it is the celebration of moving on to greener pastures. For everyone else, it is the celebration of another year to notch

under your belt.

This semi-formal occasion will be held at the renowned Tavern on the Green on Saturday, April 17 from 8:00 p.m. until midnight. All in attendance will receive complimentary admission to the China Club from midnight until closing.

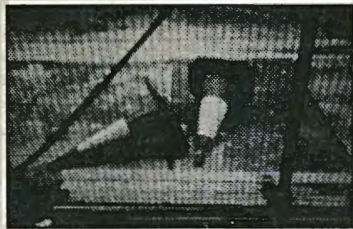
Tickets may be purchased from any SBA Senator or Executive Board Officer in the SBA Office in L5, or at the Office of Student Life in the fifth floor of the A building. We will also have a table available in the cafeteria from 11 a.m. to 1 p.m. and from 5 to 7 p.m.

The Barrister's Ball is guaranteed to be a great time. See you there!

Attention All Student Organizations

The L wants to know what has been going on in your organization. Please send your article on disk (Word or WP) along with a hard copy to Room L2 in the student center (You may leave it in the box outside), or simply e-mail it to L@nyls.edu. Be sure to include your name, your position within the organization, phone number, and e-mail address so we can contact you if necessary. Please keep your article to about 50 to 100 words. Our deadline for the March issue is Friday, February 19. Thank you. —m.ed.

humming 1.2



the post-finals party is still rocking, no one did the laundry, and i am physically ill. nonetheless, i have to meet frederique, jhoe, and arabel in london, and my flight leaves jfk in eight hours. i watch *tank girl* and later that week i turn british airways socks into gloves. i drop the laundry off, and i watch *midnight cowboy*. i feel like dustin hoffman, but i don't have a jon voight person to get me out of nyc. i am stuffing random clothes in my yellow bag, and i'm still holding all this mail that needs to be mailed. at 2am i hit the road. i

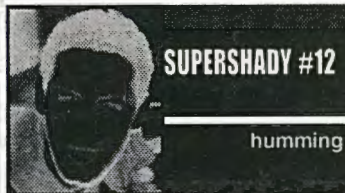
get halfway up my block, and i hail a cab for a two block ride to port authority. a long time later i board the a-train, fall asleep, and wake up in howard beach.

i pick up the cockney slang in london, and on the streets of jerusalem i maintain an intelligent slang-ridden conversation with a geezer from england. i can tell that he is quite impressed.

my apartment in jerusalem never has any heat, and i am cold all the time.

i sitting in the "blues" bar in madrid talking to this english/california/world-traveler kind of

guy who is retired and sailing his boat all over the atlantic. he keeps on buying me drinks and telling me about his life as an air-force fighter pilot. he tells me that the oxygen feels really great when he flies with a hangover.



a new bar opens on the first floor of the building on the south-east corner of houston and

norfolk, and no one ever patronizes it. this phenomenon is no great wonder, because the building formerly housed a store which carved tombstones.

mr. haskeli decides it is time for a pilgrimage to las vegas. i agree to join him, but i am completely unprepared for the



legal mayhem which follows. i am not even sure if mr. haskeli knows anymore whether we are taking a trip or closing a deal. he stops talking to me like a person, and he negotiates instead. this trip is legal, but the terms are not subject to litigation. soon we are enroute to los angeles as well, and

as i ask mr. haskeli one more time if people will mess with me if i wear my yellow hat, i hear someone fading into the background saying: "have a good time. . ."

osmin stops me on the corner of 45th and 9th one night, takes me to the *film center cafe* and buys me a beer. osmin is a literary man, and he always wants to know what i'm reading. he also loves to talk about books, but when i show him my brand new *federal income taxation of corporate transactions*, he really has nothing to say.



One Cops's Story

Arresting Joan

John Stebe

You are always a part of your past . . . and your past is always a part of you.

Once when I was working warrants, myself and another Cop, George, went to arrest a woman. She had failed to show up at court, and a warrant for her arrest was subsequently issued.

The house was a pretty one-family-attached brick house in Forest Hills, an upscale neighborhood in Queens, New York. We went to the door and a Haitian maid answered. She frowned when she saw our uniforms. We asked for Joan. The maid said, "she is upstairs," shook her head disapprovingly, and glanced in the direction of the stairs as she let us in.

The house was immaculate and tastefully decorated. We went upstairs to the bedroom. Joan was sitting on the bed in her underwear smoking a cigarette. The room smelled like crack. We told her that she was under arrest for failure to answer a court summons. She said: "OK please turn around, I need to get dressed." I said, "no, get dressed." (We were concerned that she would arm herself while our backs were turned.)

She was about twenty four years old, and she had fine European features. Her figure and face would have been stunning; except for the fact that she was emaciated from years of drug use and/or maybe disease. She slipped into her jeans, and the track marks from the heroin became apparent on her arms and legs. Her buttocks and breasts were almost nonexistent, because she didn't care enough to eat. The drugs suppressed her appetite.

She started to put on makeup. I had to laugh to myself; because on the one hand she didn't give a shit about herself and was totally controlled by drugs, yet she still wanted to be attractive. Maybe it was just a habit, putting on makeup, like the drug habit, once you start you just don't stop. I told her to put her hands behind her back, and I cuffed her.

In my head I heard strains of music from the Neil Young Harvest Album -

"I see the needle and the damage done, a little part of it in everyone, and every junkie's like a setting sun..."

I was overwhelmed by a feeling of disgust and pity, really intense pity. This girl had all the advantages: a nice home, the potential for a beautiful body, parents who loved her, enough money, and now she was probably dying of AIDS.

She would never be like her parents, our parents, or have a decent life. I was disgusted by this waste of humanity. Even though she was a hopeless junkie, her physical beauty was still apparent. A few years earlier, before I was married, I could have fallen for her. She could have been a terrific wife, mate, lover, or "mommy," if she wasn't owned by drugs.

We took her to the station house to process her before we took her to Court in Brooklyn. I placed her in a holding cell so I could do the required paperwork. A Sergeant friend of mine came over and asked: "how's it going, what's up?"

"I arrested a pretty junkie," I said, "she is probably going to die soon, and if she doesn't have AIDS now, she will soon; if she doesn't OD first."

Sarge went over to take a look in the

cell. His eyes got really big. "John," he said, "she's fucking smoking Crack!"

"Get the fuck outta here! You gotta be shitting me!," I replied as I ran to the cell.

When she saw me coming, she grabbed the glass crack pipe out of her mouth and shattered it on the cement floor of the cell. Then she ground the remnants of the pipe into sand on floor. This all happened in about two seconds.

"Are you fucking crazy!," I yelled at her. "Get the fuck out of the cell," I declared, as I grabbed her arm and hauled her out of the cell.

I told a female cop what had just happened. She grabbed Joan, took her into the women's room, and thoroughly searched her. I went back to the cell, swept up the remnants of the crack pipe, and I threw them out.

About a half hour later, George and I put her in the police car to transport her to Brooklyn. "Where the fuck did you hide the pipe?," I yelled at her, "I'm not going to charge you with it, but I'm really pissed off, because you put my job in jeopardy. Maybe you don't need to work, but I fucking do. You can ruin your own life, but don't ruin everyone else's fucking life."

"I slipped it into my sock," she said, "I reached into the sock drawer and just slipped it in. I couldn't help it. I'm sorry."

Pretending to still be angry, I grunted at her. "Where are you from? You have a French last name."

"Yes," she replied, "my family is from Normandy, I used to go over every Summer."

"What do your parents do?," I asked.

"They have a business in Queens," she answered. "Business is good."

"Do you have a boyfriend?"

"No."

"Do you have AIDS?"

She looked down and shook her head no. Her body language told me she was lying (lying, or unsure).

We bullshitted a little longer, and I told her my name, "John." She told me that she got on drugs by hanging out and experimenting with friends. She had gone from grass, to smack, to crack.

Then she told me another story of how she got into a car accident. She really wasn't hurt badly, but she received ninety thousand dollars in settlement. I thought to myself, "here I am scrimping every penny to save for a down payment on my house, and this girl used all that money on drugs."

She said she got off of heroin by going on crack.

She started to nod out, and as she went to sleep, a childlike innocence came over her face. You could see how beautiful she should have been, could have been, and how beautiful she was.

"Oh God," I thought, "please don't let this plague hurt my loved ones. And God please help this lost soul."

I thought about her parents, sending their only child to France every year, trying to do their best, watching their daughter, the love of their lives slowly wasting away and dying. I hope this shit never happens to my kids or to my family.

She woke up after about ten minutes, and she said: "John, I am really hungry." I

Continued on next page

The First Year Perspective

Prepare to Qualify

Deana Ardente
Staff Editor

I can clearly remember walking into the law school on that dreaded day. I was about to take my first law school exam, and I was more nervous than I can remember ever being in my life. Other students were on edge from lack of sleep and an overload of caffeine. I intended on studying more before the exam, but as I thought about it, I realized that I was only going to confuse myself at this point. I decided that if I didn't know the material by now, a few extra library hours weren't going to clear it up for me. When I walked into school, I ran into a fellow "teammate" who was telling me that he had been at the library since Thursday; it was Tuesday. The first thought that came to mind? "Oh my God." Then panic set in, and it was all down hill from there...

Had I studied enough? Was I as prepared as he was? I guess only time was going to tell. By the way, I must mention that by the end of exams, I was really tired of hearing people say, "I have been up for 3 days straight, studying, and I haven't slept, ate, etc." They were all full of shit. It became a contest: "who had slept the least?"

Everything that I had learned that semester was supposedly going to resurface in one three-hour exam (one three hour exam with 2 questions). Are you kidding me? The anxiety attack began. Not only was I going to write for three hours, but I had to make sure the professor could find a coherent, intelligent answer that told him that I understood all that he had said this semester.

Surprisingly, I noted a feeling of camaraderie among my classmates. I thought that there would be more feelings of com-

petition, but I think that we all knew we were going down together. We had all braved the class together this semester, and we all pretty much knew that we knew nothing.

When I entered the exam room, they did everything but a body cavity search. There was a signing when you came in, when you went to the bathroom, when you left.... Sure, I understand that they were trying to protect us by making sure we were who we said we were. But honestly, did they truly believe that we could find someone to take this exam for us?

As I sat waiting for the exam to be passed out, I looked all around me. Some students were laughing, and some had looks of fear on their faces. I fell into the latter group. Other students, with looks of sheer terror on their faces, were staring off into space knowing that they were about to face their doom. They were shaking

their heads and muttering to themselves.

When I had the exam in my hands, everything just left me. Everything that I thought I knew was gone. I was afraid to read the first question... Yet, once I did, I realized that I knew something. I began writing feverishly. Soon the time was half over, and I was half way through my first law school final. I was going at full speed, and before I knew it, I was all done. I felt accomplished.

On my way back to my apartment, I thought: "It wasn't all that bad." But then that wave of panic set in again and posed another probing question. "How well did I do?" It was then that I realized I learned something from this experience: Taking the exam caused less anxiety than waiting for "them" to post the results on the board. But that's a story for another time...

Terms of Impeachment

The Independent Counsel Statute: Is it Necessary?

From the Point of View of Former Attorney Dick Thornburgh

Mark Demetropoulos,
Federalist Society

The Independent Counsel Statute (the "Statute") is up for renewal in 1999. On November 11, 1998, former Attorney General of the United States (under Presidents Reagan and Bush) and twice elected governor of Pennsylvania, Dick Thornburgh visited NYLS to discuss the merits and disadvantages of the Statute in a presentation sponsored by the Federalist Society (this forum was made possible by the outstanding efforts of third year law student, Michele Peters).

Mr. Thornburgh began by outlining his opposition to the Statute. First Thornburgh explained that he was against the

Statute, because he believes that it is contradictory to how a regular prosecutor functions. For example, Mr. Thornburgh explained that a prosecutor's job is to prosecute, and this function should not be limited by the Statute. In Thornburgh's own words, this Statute creates an "all dressed up and nowhere to go" scenario, because the Independent Counsel is limited to prosecute on one issue. Thornburgh also believes that the Statute is over broad, because the Independent Counsel can easily petition to expand any investigation related to its ongoing investigations (into other areas). Furthermore, Thornburgh mentioned that he is against the Statute, because it makes the Independent Counsel account-

able to no one. Thornburgh cited the Watergate case, specifically, the "Saturday Night Massacre" (in which Nixon attempted to fire the Special Prosecutor Cox), and believes this case sets forth the notion that no attorney general will fire a Special Prosecutor or Independent Counsel because it will result in a "political nightmare." Thornburgh then referred to Justice Scalia's dissent in *Morrison v. Olson*, 487 U.S. 654, 711 (1988), in which Scalia stated that Congress should only appoint a special prosecutor when necessary, because such appointments should stem from an impeachment inquiry, which is a political matter. Thornburgh then paraphrased Scalia's statement by saying "it is a scary thought" for

a leader to have someone watching over his/her misdeeds.

At the end of his discussion, Mr. Thornburgh entertained questions from the audience. One audience member questioned the credibility of Starr's report. Another questioned whether Starr had violated any ethical rules during his investigation of Ms. Lewinsky and the President. In responding to the latter, Mr. Thornburgh posited that any ethical violation on Starr's part would have been detected by Judge Norma Johnson. In answering the former, Thornburgh asserted that the credibility of the report was determined during Starr's testimony before the House Judiciary committee.

Another question ad-

ressed the issue of whether the President lied in a civil deposition, i.e. "the definition of sex" issue. Mr. Thornburgh refused to discuss the substance of the definition, but based on his reading of the Starr Report and the President's deposition in its entirety, Thornburgh believes that the President committed perjury. Near the end of the question session, a person asked if Starr's investigation could have taken place without the Statute. Thornburgh answered affirmatively, and he reminded the audience that Starr replaced Robert Fiske prior to the re-instatement of the Statute. Thornburgh further noted other possible wrong doings beyond the scope of Starr's investigation, including illegal contributions from China.

In December 1998, the House Judiciary Committee, called Kenneth Starr to testify. After long hours of testimony, the majority of the Committee found Starr's report credible. In late December the majority of the entire House of Representatives impeached the President on two articles. As we go to press, the Senate is conducting a trial of whether to remove the President from Office. Despite disagreements people may have with Mr. Thornburgh, many of his predictions on the current state of political affairs in Washington have come true.

Joan

Continued from previous page

pretended to be angry again. In the past, I was hungry, because I did not have enough money to eat.

My father threw me out of the house when I was nineteen, and I probably deserved it. I handled it ok, but sometimes, well, I was hungry. I never had ninety thousand dollars. She didn't have more than a dollar with her now, just enough to call home when she got out of jail. She had obviously been through the system before, and she had numerous

narcotics arrests on her arrest record.

"When you get to court they will give you one of their famous cheese sandwiches," I said. Joan nodded.

We were at Brooklyn Criminal Court about a half hour later. Traffic on the BQE had been heavy. I asked the court officer if they had any food for the prisoners. "No," he said, "the perps ate every last sandwich."

I too have been hungry.

I went to the concession stand and bought her something to eat. I forget exactly what it was. I brought the food to her

and said, "I'm sorry I don't have ninety thousand dollars, but I bought this for you." I gave her the food, and she said, "thank you." "Don't try to escape," I said as I uncuffed her so she could eat. We walked to the court holding cells.

When we arrived at the cells, the corrections officer pointed to the food and said: "she can't take that in with her."

I waited outside of the cell with her while she finished the food. "Joan," I said, "listen, try to straighten out, get off of drugs, all is not lost."

"Thanks John," she replied,

"Bye." She finished her food and went into the cell. "God please help her and her family," I prayed. I went back to the police car where George was waiting.

You are always a part of your past...your past is always a part of you. I've seen the needle and the damage done... a little part of it in everyone... and every junkie's like a setting sun...

Editors Note: John Stebe is a police officer and an evening student at NYLS.—m.ed.

WELCOME BACK!



IS PLEASED TO PRESENT
IMPORTANT DATES
FOR THE SPRING 1999 SEMESTER:

MARCH 1999 MPRE INFORMATION

TUESDAY, FEBRUARY 2 – TIMELY FILING (\$48)

THURSDAY, FEBRUARY 18 – LATE FILING (\$96)

FRIDAY, MARCH 12 – EXAM DATE

LIVE MPRE COURSES IN NYC

SATURDAY, FEBRUARY 20

SUNDAY, FEBRUARY 21

Stop by the BAR/BRI table for video location information.



LIVE CPLR COURSE IN NYC

SATURDAY, MARCH 27

Stop by the BAR/BRI table for video location information.

TABLE DATES FOR SPRING 1999

**STOP BY
THE TABLE
FOR THIS
SEMESTER'S
FINAL
EXAM
REVIEW
SCHEDULE!**

NYLS
TUESDAYS
February 2, 9, 16, 23
March 2, 9, 23, 30
April 6, 13, 20

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



**NEW YORK
BAR EXAM
FILING
DEADLINE:
APRIL 28
NO
EXTENSIONS!**