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## The L, vol. 3, no. 3, February 2002

New York Law School

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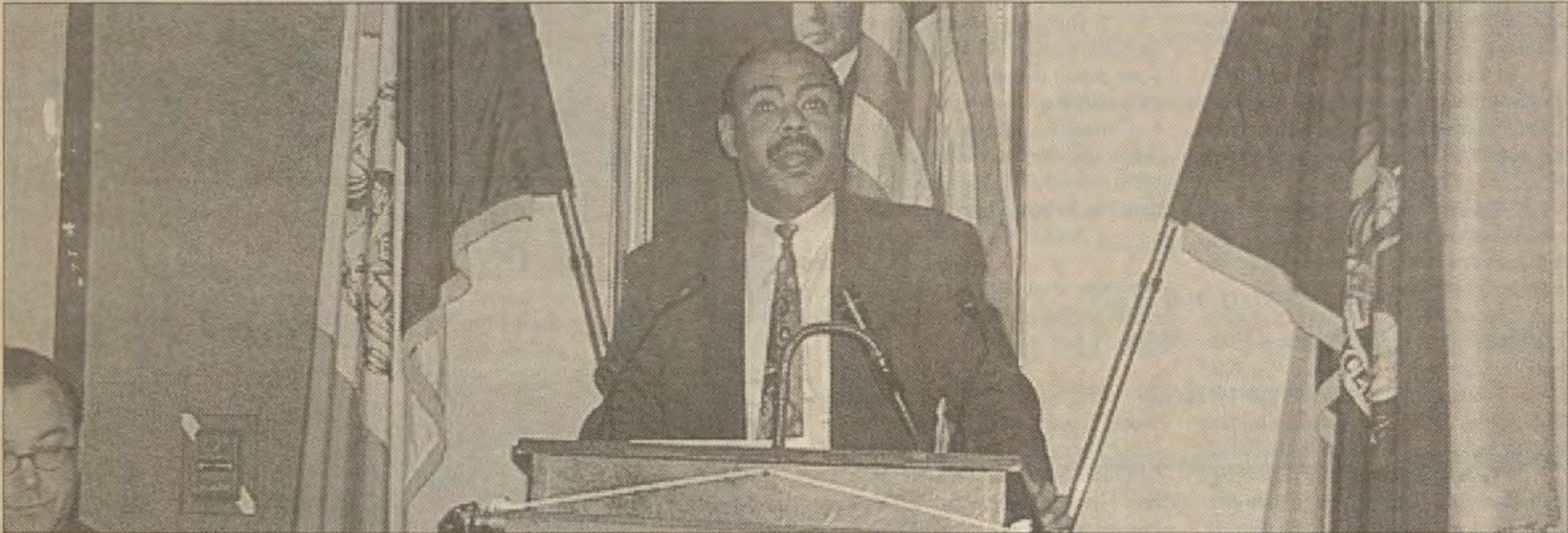
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Bryan Williams of the New York State Board of Law Examiners

# Dean Opens 2002 Bar Kick-Off

Susan L. Harper & Ninowtzka Mier

“Work your butt off,” urged Dean Richard A. Matasar to NYLS students.

On January 30<sup>th</sup>, a packed room full of students listened as Dean Matasar opened the NYLS/Bar 2002 Kick-Off Meeting in the Ernst Stiefel Reading Room with some reflective thoughts.

“Taking and passing the bar,” said Matasar, “it’s the union card to being lawyer. You can cross this finish line, but there are things you must do,” he stressed.

First he addressed top ranking students and urged them to “take the steps not to screw up.” Then, he pointed out that lower ranking students also needed to take the necessary steps to prepare and that they would need work harder than anyone else. Statistically, only 5 out of 10 students in the range pass on the first attempt, he shared.

“Based on 15 years of data without major intervention on our behalf,” Matasar said, “the top ranked students pass 100% on the first try, upper middle pass 90-95% on the first try, third quartile pass 65-75% on the first try, and the bottom 25% has passed in the worst year 30% of the time

and in the best year in the upper 50% range.”

Despite the figures, Dean Matasar assured students that they have the ability to pass the bar as long as they worked hard enough. Bryan Williams, member of the New York State Board of Law Examiner, also informed NYLS students about the bar exam and focused on demystify the bar process.

First, he described the makeup of the Board of Law Examiners; comprised of 5 practicing attorneys appointed by the New York’s Court of Appeals.

Next, he discussed the NY Bar exam itself, highlighting and stressing particular points.

- For the NY Short Answer section there is “one right answer,” as opposed to the
- MBE, where test-takers must choose the “best answer.”
- For the NY Essay section there is one right conclusion. Each essay asks three queries. Williams stressed that (1) students must state the principles of law; (2) apply the law to the fact pattern; and (3) state the conclusion clearly. Most importantly, answer the question asked.
- NY CPLR (New York Practice) is

very important, he stated. “Almost every essay is testing substantive and procedural law.”

- Write clearly. If you have poor handwriting, you may type your exam.
- On the Multi-State Performance Test section, which tests practical skills, he explained that test-takers may be required to write a will or a memo to a senior partner. He assured NYLS students that everything the test-taker needs will be in the case file.
- A passing grade is 660. A person who obtains a grade of 650-669 automatically gets re-graded. The two grades are then averaged out to obtain a final score.
- The NY bar exam is scheduled on the last Tuesday and Wednesday of July. The New Jersey and Connecticut bar exams will be administered on following Thursday of the same week.
- The official website of the NY State Board of Law Examiners: [www.nybarexam.org](http://www.nybarexam.org) will provide FAQ and sample questions and answers.

The third speaker, NYLS alumna Andrea Risoli ’00, then took the podium and shared her insights and how students could sign up for the Bar Buddies program. “Your approach is the key,” she an-

nounced.

Professor Joseph Marino closed the evening event by discussing upcoming NYLS programs students can take advantage of this year. These programs include BAR FAQs sessions, Your Bar Application, Bar Prep Jumpstart, Bar Buddies and Faculty Mentoring Program. All attendees received information folders.

For more information on the date and times of upcoming programs check the school’s bulletin boards.

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# news

## School Explains Grade Posting Delays

*Knowing Your Rights in Challenging Your Grades.*

**Susan L. Harper**

If you didn't get your grades until after the semester commenced, your professor may not be the one to blame.

In a January 22, 2002, email interview with Jethro K. Lieberman, associate dean of academic affairs, Lieberman stated that almost all of the course grades were turned in by the due date, January 11.

"One or two sets of grades did not come in because of unanticipated problems; in at least one instance, the professor was in the hospital," said Lieberman.

Second, Lieberman stated that some [students] did not see their grades until the middle of the week because the rush of grades coming in on the last day (Jan. 11) made it impossible to process and post them on the intranet until the middle of last week.

"Processing grades from first receipt to final posting is a much more time-consuming process than most people realize," he noted. "Moreover, one of the people in the Registrar's Office who is central to the process has been out of the office. Separately, some students did not find their grades posted because there was an accounting hold on their records. The cure to that problem lies in the students' hands, not in the School's."

Lieberman shared that grades are being processed in a far more timely fashion than ever before.

"Dean Matasar made it a priority when he arrived at school in 2000 that exams be graded and turned in to the Registrar on time. In previous years, grades in some courses might be as much as a month late. Since the summer of 2000, virtually all course grades have been received by the due date and posted within days after that (and even the few late grades have been turned in within a day or two of the deadline)."

**Unsatisfied with Your Grades? What are Your Rights? Can You Make a Challenge?**

According to Lieberman, faculty rules are quite specific that grades are in the hands of the professors who assign them. "Neither I nor the Dean nor anyone else has authority to overturn a grade on the merits.

Nor, for that matter, does a professor have the authority to do so once the grade is recorded with the Registrar."

"A change is permitted," he states, "only on a showing of a mathematical error in computing the grade or a clerical error in transmitting it."

Students could, however, challenge a grade when the claim is that the grade was unfairly awarded for reasons other than on the merits, he said. An example he provided was a claim of discrimination.

**How about Model Answers? Are faculty members required to give you one?**

"Faculty are not required to provide a model answer," said Lieberman.

According to Faculty Rule 6.04 ("Discussion of Examinations with Students"), shared Lieberman, the faculty are expected "to provide an opportunity for students to receive an explanation of any grade a student receives." The explanation "should include the opportunity for the student to review a copy of his or her final examination or final paper in the course, and the faculty member's explanation of the grade may be given to the student in any reasonable manner." The suggested types of review listed in the rule are these: "(a) making available one or more model answers for the student to review, (b) providing an individual critique for the student, (c) providing a written summary and analysis of the exam questions and of the issues and problems the questions raise; and (d) holding a review session open to all students who were in the course."

Many faculty members, though, are averse to providing model answers.

"Years of experience have taught the faculty that students tend to copy both the structure and content of model answers for all their subsequent work, to their detriment," he said.

Instead, some faculty, although not required (such as Dean Lieberman in his constitutional law class) provide a set of "reflections," rather than a model answer. Students can still obtain feedback or hints on what the professor is looking for in the final exam.



US District Court Judge Jon O. Newman (left) talking with Dean Emeritus Prof. Harry Wellington (right) and Prof. Edward Purcell (far right) at the January 20 Law Review symposium

## Law Review Honors Judge Newman

**Kelli J. Brownewell**

On Sunday, January 20, 2002, the New York Law School Law Review held a symposium honoring Judge Jon O. Newman for his dedicated service on the bench. Judge Newman became a judge in federal district court in 1972 for the District Court of Connecticut, and now serves as senior judge to the United States Court of Appeals for the Second Circuit. The symposium focused on three areas of law: federal court jurisdiction, international law as part of U.S. law, and copyright law in the Internet age. Each section of the symposium had panelists who spoke about their expertise within each of these areas.

In fact, one of our very own professors, Professor Paul Dubinsky, a former law clerk of Judge Newman's, moderated panel two of the symposium. Dubinsky, while

introducing panel two—Is International Law Part of U.S. Law?—spoke a bit about international law and what it has to do with U.S. law. In doing so, Dubinsky commented that our "international obligations are multiplying."

The panel on federal court jurisdiction focused on questions such as: what kinds of cases belong in federal courts and how can judges continue to be the kinds of judges they have been? All panelists upon commencing their presentation paid tribute to Judge Newman and his professional contributions. The consensus among them: that he's just the kind of judge all judges should be.

"It was just the kind of event you want to attend to truly understand how law exists in the real world, not just in law school," stated one student about the symposium.



## Pass/Fail Notation Policy Questioned

Susan L. Harper

If you opted for Pass/Fail on your transcript, you are probably wondering what the statement will say on your transcript; so are we. After all, when you submitted the form to the Registrar's office right above the dotted line you agreed to have some statement of explanation of the Pass/Fail option.

According to Dean Richard Matasar and Associate Dean for Academic Affairs Jethro Lieberman, the School, as of late January, could not provide an answer since they hadn't decided on the exact or final wording yet.

While many students welcome a statement of explanation, some are concerned. One 3L student stated he felt uncomfortable that an explanation would be included. The student felt that an explanation may raise a "red flag" during interviews and serve as a permanent painful reminder of the September 11 tragedy.

Further, the student felt the matter was really an internal school decision and that there should be no need to provide an explanation, since it is not unusual for students during law school to take a class Pass/Fail.

The L shared relayed this student's concerns to the administration. In response, Jethro Lieberman stated in an email to the L late this January that the Pass/Fail consequence was contrary to the student's belief.

"One major policy reason for including a statement is that contrary to a belief you [the L] express, it is not in fact an ordinary matter to take a class [Pass/Fail] in law school," said Lieberman. "Certainly it has not been here, beyond the independent study paper."

He pointed out that the reasons why

the School will include a Pass/Fail explanation "is that the faculty voted that such a statement should be made and that policy was announced to students at the time."

"We cannot—or perhaps I should say, ought not—now rescind, since there are undoubtedly as many students who would want the statement as would not. Many employers may not know or not recall how close we are to Ground Zero, and those days may dim for many employers by the time the student goes onto the job market. A reminder that we adopted this one-time only [Pass/Fail] policy for the reasons that we did (including a loss of class time, etc.) seems well warranted."

Dean Matasar, via email to the L, also provided some additional reasoning for the notation.

"This is especially a worry for students applying for jobs where NYLS students have been hired in the past—since NYLS graduates know that we do not ordinarily have Pass/Fail courses."

However, Matasar felt that students should not be too worried.

"I do not think that any employer will care one way or the other about whether someone has a Pass/Fail on his or her record," said Matasar. "Every student will have grades in all of the other course. Moreover, most employers compare students on the basis of their relative performance in law school against their peers. Under this view, no single course is important. Employers look to the totality of the record."

"What happened happened," said Lieberman on more personal note. "And it is not going to disappear from our memories. It is not a mark against us but a statement that we were part of that history."

## The GPA Lowdown: Making Dean's List and Graduating With Honors

Kelli J. Brownwell

What GPA do you have to have to make Dean's list or to graduate with honors? According to Brenda Holzinger, senior director of academic affairs, a student must obtain a GPA of at least a 3.4 during the semester to make Dean's list. If you are one of NYLS's exceptionally academically inclined with a GPA of least 3.7, you will be named to the Dean's High Honors list during the semester.

The honor of being named to Dean's list, Holzinger points out is subject to finishing the minimum number of credits required by the student's status (12 for full time and 18 for part time), not receiving any

incompletes for the semester and not visiting away at another school.

For those of you who are curious as to whether you will graduate with honors, Holzinger said that graduation honor categories are determined by percentages of the class rather than a straight GPA cutoff. In the past, GPA ranges for graduating with honors hover around 3.1-3.2 for honors, 3.4-3.5 for cum laude, and 3.7 or higher for summa cum laude.

Should you require any further information regarding the Dean's list, GPA cutoffs, and graduating with honors, please contact Brenda Holzinger in the Academic Affairs Office, located on the second floor of the A building.

## LAURA HIDALGO PRAISES GALLAGHER BAR TRAINING SCHOOLS

I think what helped me most about your class was the rote memorization, the memorization drills, and going through essay writing step-by-step, line by line, paragraph by paragraph. The World Cup of Memorization was a lot of fun—it motivated me and I hope you'll keep that in your curriculum.

I needed the forced memorization, as well as a "starting point"—prior to taking your class, I was completely overwhelmed by all the material I was supposed to know. I was so overwhelmed, in fact, that I couldn't figure out where to start, what to start memorizing. As a result, I really didn't have anything memorized verbatim on past bar exams (I had tried to just absorb all the Barbri materials and know the "basic concepts"). Your course helped overcome that, because within the first hour of the first day, you had us memorizing. By the end of the first couple of classes, I had already memorized more than I thought I could in such a short time, which gave me confidence in my ability to continue. You gave us the most important "morsels" to know, a core of the most important rules of law to have memorized word for word—you gave me a starting point from which I was able to gain confidence, which in turn motivated me to keep memorizing and practicing—and sure enough, I was able to memorize enough and practice enough essays to pass the bar exam. Your method works, and I've already shared that with everyone I've talked to about my recent bar pass.

I will find out from the NYBOLE whether that was the sixth or seventh bar exam I took (I think I blocked the exact number out some time ago) and will send that to you as well as my score information.

Thanks again Dr. Gallagher!!! Your class changed my life.

-Laura

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## Fringe Benefits of Auditing

Susan L. Harper

Imagine being in class and not worrying about taking notes, or preparing the perfect outline? It's possible, just sign up to audit a course.

According to NYLS Registrar, Geraldine Wenz, alums and students are permitted to audit courses without receiving credit.

How does auditing work?

Ms. Wenz explained that during your final year at NYLS you are permitted to audit a course for FREE if 1) you are carrying a full credit load and 2) the course you seek to audit is not offered during the next semester.

For example, as a fourth year evening student I had a full course load last semester. However, I really wanted to take Publishing Law. Unfortunately, it was not offered during the spring semester, so I was faced with a dilemma: drop a class or graduate law school without Publishing Law. As an alternative, I decided to audit Publishing Law instead.

There are several benefits and drawbacks to auditing a class.

One benefit is obvious. You are still able to learn about a subject matter that you're really interested in before graduat-

ing; unlike courses that you are required to take, but may not want to take.

Plus, when you audit it's less stressful and you may actually learn more because you aren't preoccupied with preparing for a final exam. It makes the learning experience that much more fun.

On the drawback side, no final exam means no credit. Additionally, even if you show up to every single class and vigorously participate, the audit class will not show up on your transcript.

But for alums, the transcript rule doesn't apply. Ms. Wenz added that alums may obtain some paperwork or evidence that they audited a class since, after all, they're paying \$100 for the course.

Ok, now that I got your academic juices flowing and you know now that you can still squeeze in additional course or two before you graduate, your next question is probably, how do I sign up?

This process is simple. Ms. Wenz said all you have to do is pick up an "Audit Form" from the Registrar's office in the beginning of the semester, fill it out, obtain the professor's signature and return it to the Registrar.

That's all? That's all. Now, where else can you find a bargain like that in New York?



# editorial

## We Need You!

We need your help! We are passing the torch and in need of aspiring writers, editors and staff members to take over the L. Yes, it's law school and no one has time to do anything else but law school. So for those of you who feel that way, make time. It's worth it. We are looking for ambitious, creative writers who like to take long walks on the beach. Woops! Wrong ad. But even if you do like taking long walks



**Ninowtzka Mier**

Editor-in-Chief

on the beach, we still want you.

The L is in danger of becoming a thing of the past and we need you to keep it alive. So, write . . . anything. See it in print and you'll be everyone's hero! Really! It's up to you to keep this student-created tradition going and make it your own. So take

that bagel out of your mouth and start writing!



## WE MUST WORK HARD

**Christopher Ross**  
Managing Editor

Just a few weeks ago NYLS hosted the School's BAR kickoff 2002 event. The overall theme was YOU MUST WORK HARD.

After leaving that event I reflected a little about what was said.

And some of what Dean Matasar said was right. The finish line, the last week on July, seemed a long way off when we started law school three or four years ago, but time does fly.

It seemed like only yesterday I came to NYLS for the first day of class. And I along with my fellow 1Ls lined up for our ID photos with eager excitement and anxiety. All of us optimistic and excited about the possibilities our law degree would offer us in the distant future and the challenges that stood in front of us in the near future.

Even during the fall semester that finish line seemed a ways off still and after the events of September 11<sup>th</sup>, at times even unimportant in the grand scheme of life. Well after four years and a more pessimistic view, I can now look back and say, "WHAT THE HELL WERE WE THINKING?"

Who would have imagined that in this short span of

time the school would fall to the fourth tier, the graduating class would never beat the state bar passage average, tuition would rise and our country would enter a recession and declare war on terrorism after an attack only yards away from the front door of NYLS.

Yes things could be better, but they could also be worse. Maybe now would be a good time to heed the advice Professor Sinclair gave my 1<sup>st</sup> year contracts class from time-to-time, "don't get your knickers in a twist."

Then it occurred to me that my knickers should be in a twist. By their words NYLS, Dean Matasar and the administration, seemed to point the finger at us the students. You need to WORK HARD or harder then you have in the past. Well last time I checked we are in this thing together. The members of the class of 2002 and NYLS will ultimately be measured by our bar passage rate.

Yes as students we have a lot of work to do before we cross that finish line and will have to work diligently to do everything in our power to ensure our bar passage. However, the administration needs to work harder too. Why not have a Bar meeting for 1Ls, 2Ls or Evening-students? Why wait till the last semester of the our 3<sup>rd</sup> or 4<sup>th</sup> year to hold a bar meeting?

We all need to WORK HARD.

**July 2001 NYS Bar Passage Rate  
for  
New York Law School**

**72%**

**Statewide Average  
79%**

SOURCE: NEW YORK LAW JOURNAL



**The L says, "It's never too late to take Bankruptcy."**

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The L is independently published by its student members and is released every month while school is in session. Contributions from students, faculty, alumni, staff, and all members of the NYLS community are always welcome.

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All submissions are due by 5 pm on the Thursday two weeks prior to the release date. Please include your name, telephone number, and email address with your submission.

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# The "Visiting" Professors

Susan L. Harper

Last month, the New York State Bar Examiner visited NYLS for the third consecutive year to address students at the NYLS Bar Kickoff/2002. Hundreds of students packed the Stiefel Reading Room while Dean Richard Matasar led the motivational charge. Yet, one group was visibly missing: the faculty.

For the past three years, I have covered this event for *the L* and during the prior two years dozens of faculty members lined up against the walls in a show of support for the students and for the school. I must say it was impressive.

However, this year was different. When Dean Matasar said to the audience that the faculty members are supportive of our efforts, I turned to get a glimpse of the

faculty members who were present in previous years. Eerily, few were there.

I assumed faculty members were required to attend these events. However, Dean Matasar explained faculty attendance was never mandatory. Surprisingly, this year faculty attendance, according to Dean Matasar, trickled down to 10 faculty members. Despite the low number, Matasar assured me the faculty fully supports NYLS students' bar exam efforts.

Now is the time we must unite as a community. And the absence of our faculty at such a time makes it difficult to feel united. We greatly appreciate the efforts of those who attended the event. However, we miss those who were absent.

The Bar has been a real thorn in our school's side. It has affected our morale (not to mention our standing) and reflects poor-

ly upon us all.

We, the students, are trying to do our part. Ask any student taking Perspectives this semester (like me) and they will tell you that they are working weekdays and weekends in an effort to prepare for the exam. Though we are exhausted, we fully understand the efforts we must make, as we are aware that our exam performance has personal and institutional consequences.

We welcome a relationship with our

faculty and though there are times you may get tired and just want to zip on home, (we know, you are human too) your efforts to show up, whether for the Bar-Kickoff or a simple cocktail mixer, sends a strong message to us—that you care.

So the next time there is an event and you're not sure if you should attend, we would appreciate it if all members of our distinguished faculty would think twice; your decision matters.

## 1981 Playmate of the Year Must Shed Logo Instead of Clothing for Playboy

Christopher Ross

On February 1<sup>st</sup> The US Court of Appeals for the 9<sup>th</sup> Circuit reversed a summary judgment de novo by the district court. The US Court of Appeals said that The 1981 Playmate Terri Welles is permitted to use the title of "Playmate of the Year" on her website, but not the Playboy logo.

Ms. Welles was sued for Trademark infringement by Playboy Enterprises Inc. for the use of the Term "Playmate of the Year" and Playboy trademark throughout her website.

"[T]here is no other way that Ms. Welles can identify or describe herself and her services without venturing into absurd descriptive phrases. To describe herself as the 'nude model selected by Mr. Hefner's magazine as its number-one prototypical women for the year 1981' would be impractical as well as ineffectual in identifying Terri Welles to the public," according to the US court of Appeals.

The use of the Playmate of the Year on Ms. Welles' website, "did not imply sponsorship or endorsement of the product because the mark is used only to describe the thing, rather than to identify its source." Therefore, the court concluded that Ms. Welles' use of Playboy's trademarks are permissible, nominative uses.

For its review the court divided the use of the term "Playmate of the Year" and its acronym PLOY into three groups banners and headlines, metatags and the use on the background of the website.

The court used a test established in *New Kids on the Block v. New America Publishing, Inc.*, 971 F.2d 302 (9th Cir. 1992). The test said:

First, the product or services in question must be one not readily identifiable without use of the trademark; second, only so much of the mark or marks may be used as is reasonably necessary to identify the product or services; and third, the user must do nothing that would, in conjunction with the mark, suggest sponsorship or endorsement by the trademark holder.

With regard to the banner advertisement and headlines the court compared Ms. Welles use to the use in the New Kids on the Block case. "Just as the newspaper in *New Kids* could only identify the band clearly by using its trademarked name, so can Welles only identify herself clearly by using a trademarked title." Her, "banner advertisements and headlines satisfy this element because they use only the trademark words, not the font or symbols associated with the trademarks." And she "does nothing in conjunction with her use of the marks to suggest sponsorship or endorsement by Playboy."

The site's metatags, keywords that are generally used to describe the content of a website, are also nominative. The court said that since "a large portion of the site describes her association with playboy" that there was, "no practical way of identifying the content of website without referring to Playboy's trademarks."

However, the court pointed out Welles' use of PMOY '81 on the wallpaper or background of the site, which was not accompanied by her name or any likeness, failed the first prong of the nominative test. Additionally it did not qualify as fair use and therefore affirmed the district court's ruling on summary judgment of trademark dilution.

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# features

## The Unfair Management of Summer Flounder

*Recreational Fishing Up Against Environmental Restrictions*

**Herb Moore**

Each summer, fishermen from the Outer Banks of North Carolina to southern New England prepare for another day of fishing. They drive into town in their SUVs or pick-ups and stop off at the Foodtown for enough sandwiches and snacks for a full day on the water. They grab some ice at Buy-Rite and a 30-pack of fermented beverages. They finally stop off at Atlantic Highlands Bait and Tackle for live bait, frozen squid, hooks, sinkers, a tide chart and maybe a new fishing rod. Now they are ready for a full day of fishing for summer flounder.

The summer flounder is the most sought after fish by recreational fishermen. This unusual looking species is relatively small, flat, usually dark brown on top and

all white on the bottom. It has both eyes on one side of its head and a mouth full of sharp teeth. Despite its unusual appearance, its tasty fillets and propensity to inhabit areas easily accessible from any size boat make it the target species of choice for millions.

While certainly not the most glamorous fish in the region, none is more valuable to the recreational fishing industry. Yet, these fishermen are treated as second-class citizens when it comes to the management of this species. Recreational fishing provides tremendous economic and social benefits to society with limited impact on our natural resources. However, recreational fishermen are suffering at the hands of a biased fisheries management system that fails to take them seriously.

Summer flounder recreational fishing alone contributes billions of dollars to the

economy each year. East coast boat builders, boat dealers, fishing tackle manufacturers, marinas, party and charter boat operations, bait and tackle stores, and a myriad of other businesses benefit from this industry.

Furthermore, the social benefits from fishing for summer flounder are enormous. In a time when spending quality time with friends and family seems more important than ever, I anticipate that recreational fishing will become more popular than ever. (Hey guys and girls, my first date with a girl in high school was on a summer flounder fishing trip on her uncle's boat, and that relationship lasted over five years!).

So you may be asking, "what's the problem?" The problem is, this fantastic fishery is being strangled by seasonal closures, size restrictions, and bag limits passed down by a flawed fisheries management system. Just about any fisherman in the Mid-Atlantic can tell you that there are plenty of summer flounder out there now. After working out in my Ocean Kayak in the waters off Monmouth Beach, NJ, I can't resist the urge to drop a line in the water. More often than not, I catch one summer flounder after another. But, due to current size restrictions, it's rare that I catch one big enough to legally take home for a fresh flounder sandwich.

As one Jersey Captain says, "There are so many flounder in the ocean now that I'm afraid to let my lab go swimming!" However, that same Captain dreads another summer of watching his customers release 25 or 30 summer flounder for every one they can keep.

Recreational fishermen were once responsible for the majority of summer flounder landings and due to the inherent inefficiencies of fishing with a hook and line, the stocks were healthy for decades. The ability to catch and keep summer flounder for consumption is critical to participation in this fishery. Yet, in recent years, fishermen have tolerated drastic restrictions on recreational harvesting to help rebuild depleted stocks by an overcapitalized commercial trawler fleet.

I give the commercial sector credit for realizing early on that they had to be politically active. But, as a result of their

activism, the system was rigged! The management system was top heavy with commercial representatives and fisheries directors who valued the commercial industry, but failed to recognize the economic and social contributions of the recreational sector. It was decided that the allocation split would be based on the average of the recreational and commercial harvests in the ten-year period between 1980 and 1989. In their wisdom, the allocation split was set at 60 percent commercial and 40 percent recreational. That's 60 percent of the summer flounder catch for a couple hundred commercial fishermen and 40 percent of the summer flounder catch for a couple hundred thousand recreational fishermen! You tell me, is that fair?

Fortunately, the summer flounder population rebounded tremendously with government imposition of larger mesh sizes in commercial trawl nets, which give smaller fish a chance to spawn; the use of the commercial quota which results in shorter seasons and seasonal closures; and larger minimum size limits and reduced daily bag limits for recreational fishermen.

Unfortunately, recreational fishermen are forced to bear a disproportionate load for rebuilding the summer flounder stock because of the 60/40-allocation split. The economic and social benefits generated by the recreational summer flounder fishing has been consistently discounted and devalued in the management process. The Magnuson-Stevens Sustainable Fisheries Act mandates that fisheries must be managed for the greatest benefit to the nation, but fisheries managers seem to ignore this. It's time for the recreational sector to be treated fairly and this allocation split is a great place to start.

Considering recreational fishing for summer flounder and a wide range of other species has been under attack for years, more and more anglers are joining the Recreational Fishing Alliance (RFA). The RFA is national grassroots lobbying organization representing individual saltwater anglers and the recreational fishing industry. For years, recreational fishermen have wanted a fair fisheries management system; the RFA is demanding it. To learn more, call 1-888-JOIN-RFA.

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# The Fly

Ninowtzka Mier

I was worried. Mounting law debts, waiting on my final exam grades, and ending a 6-year relationship with my boyfriend, kept me from having anything resembling a goodnight sleep. I was frustrated. I wanted peace.

My eyes peeled open at 5:30am, another one of my many restless nights. I couldn't get back to sleep. Instead of trying to fight it, I threw off my covers and got up to watch the sunrise from my balcony. I crawled out of bed, pulled on the crumpled jeans I wore the day before and slipped my feet into brown sandals. I crept through the apartment filled with my family's soft roaring snores. I would have the view all to myself.

I stepped out onto the balcony to await the sun peek out from under the hori-

zon, and illuminate the Colombian rooftops. As I leaned back against the green cement railing taking in a deep breath, a fly interrupted what might have been a tranquil moment. Yes, a fly.

The fly darted towards me, claiming the balcony for himself. I jumped away, and made room for the winged creature as he made himself more comfortable on the railing's edge. He made sure to take up space—he needed room.

He made me nervous. I backed away, eased closer to the sliding glass doors behind me, while keeping a watchful eye on the six-legged intruder. He turned one way. Then another—attempting to intimidate me with his great fly girth. I didn't waver. Instead, I studied my proclaimed opponent.

I didn't hesitate. I made the first move. I approached the furry bug with a cautious step. He didn't budge. I was sure

this was just part of his arsenal of tactics: never show fear.

I took one more step towards the balcony he now dominated. Still, he did not flinch.

"You think you are so tough?," I thought.

His wings flickered.

"You don't scare me. I know your kind. I swatted your aunts, cousins—even some relatives you didn't know you had."

He turned from one side, then to the other—showing off his fly-profile. Then, he rubbed his fly-hands together, warming up to give me a good pounding.

"You don't scare me," I whispered, "I know how to deal with your unrelenting kind."

And with that, I inched closer to the fuzzy insect. He eased his way back on the railing.

"You think you're so tough, huh? What are you going to do?"

Suddenly, I imagined all the possible methods of attacks he had at his fly-fingertips. He could fly in my hair or on my face. He could even regurgitate his last meal all over me.

I thought it wise not to underestimate his strength. But I grew tired of this battle and the sun was already rising. I took my place as far from him as possible on the balcony and felt the sun's soft warmth cover the city. I closed my eyes and took a deep breath. Maybe I overreacted. Maybe this little insect needed to find his own peace, too. But when I opened my eyes, he was gone.

"We'll meet again," I thought. I leaned on the cool rail my fly-friend occupied only moments ago and watched the city come to life.

## Watch Better Movies

Greetings, hopefully the first couple of months of 2002 have treated you as well as it has the New England Patriots. Super Bowl Champions BABY! I pick my movies like I pick my teams; they're all winners.

Anyway, over the semester break, I took in a few of the big screen's better movies. Here are a few...

### ALI

Starring Will Smith

Directed by Michael Mann.  
Columbia Pictures

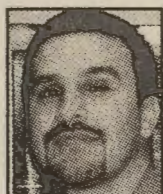
"Float like a butterfly, sting like a bee, Rumble young man Rumble!" This film covers a decade in the life and career of Ali, from his early days as Cassius Clay through the historic "Rumble in the Jungle." Although Will Smith gives the performance of his life, would anyone really be satisfied with the portrayal of the greatest heavyweight champion of all time? I don't think so, but this movie comes close.

### I Am Sam

Starring Sean Penn and

Michelle Pfeiffer  
Directed by Jessie Nelson  
New Line Cinema

The story of Sam, played by Sean Penn, a disabled man, who struggles to keep custody of his young daughter. Michelle Pfeiffer looks absolutely gorgeous while playing a pretentious corporate attorney who represents Sam and discovers significance outside of her firm. Along the way, Sam's friends provide you with a ton of



Cory Garcia

The Movie  
Maverick

belly aching laughs. If you enjoyed Kramer vs. Kramer and Rainman, you'll love this movie.

### In The Bedroom

Starring Marisa Tomei, Sissy Spacek and Tom Wilkinson  
Directed by Todd Fields  
Miramax Films

This is a family drama about a couple dealing with the consequences of their son's relationship with an older woman. The cast presents a gifted display of beautiful performances. You feel like a member of the family. Sissy Spacek earned a Golden Globe for her performance. Check it out.

### Monster's Ball

Starring Halle Berry, Billy Bob Thornton and Heath Ledger  
Directed by Marc Forster  
Lions Gates Films

Did I tell you that Halle Berry proposed to me? Anyhow, the movie captures how racism is handed down from generation to generation. Bob Thornton's character, Hank, is a correctional officer who falls in love with an inmate's widow (Berry). The chemistry between Berry and Thornton is wonderful. Their performances and the movie deserve Oscar nominations.

Well, I have to run. But remember, if the Movie Maverick doesn't approve, it's not the movie! Peace.

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