



THE COMMENTATOR

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Spring '05 New Orleans Cleanup Prompts Creation of Alternative Spring Break Programs

After the success of last year's spring break in Gulfport, Mississippi, Law Students for Human Rights is instituting an alternative spring break for 36 interested students.

By MIMI FRANKE '08

Last spring, NYU's Law Students for Human Rights (LSHR) partnered with the Student Hurricane Network (SHN) to provide the opportunity for NYU School of Law students to perform hurricane relief and rebuilding work in the Gulf Coast over their spring break. I had the great fortune to participate in this trip with 29 other NYUers. With the exception of two road-trip junkies, we flew to New Orleans in a couple of large groups on the first weekend of spring break. Once there, eight students traveled to Gulfport, Mississippi



Thirteen New York University School of Law students spend their 2005 spring break working with ACORN cleaning and demolishing damaged homes in New Orleans.

to live and work for the week while the rest of us scattered to our New Orleans' home-away-from-home. Some of us slept on apartment floors owned by gracious Tulane

law students, others stayed with area friends, and a group of us bunked with 500 other volunteers in FEMA Tent City.

In all, our NYU group served at nine different organizations in New Orleans and Gulfport, Mississippi. We assisted along a broad spectrum of legal relief and rebuilding efforts, from advocating for voters rights, to recovering lost cases at the Juvenile Court to monitoring Mississippi eviction proceedings. Thirteen students helped clean or demolish homes damaged by the storm. I worked with a community organizing group to prepare written testimony for a New Orleans City Council

meeting held on the Thursday of Spring Break. The final report detailed the types of misconduct rampant throughout the New Orleans Police Department and highlighted the dire need for systemic reform. I attended Thursday's meeting with a number of attorneys and community activists and thus got the chance to see City Council members read and reflect upon the report to which I had contributed.

Each of us was affected by different elements of the trip. Robyn Mar was stricken by the graciousness of New Orleans residents, many of whom randomly stopped members of our group to offer their thanks and appreciation of our work. As Robyn recalls "this happened at restaurants, on the street, even in the bathrooms at bars... Eventually I realized they weren't thanking us for the actual work as much as the fact that we cared about what had happened to them and we acknowledged their losses." Isaac Cheng and several other students vividly remember helping a disabled veteran named Mike to clean and repair his home:

"He pointed out the houses on the street—who would come back, who had lost someone, whose house had been most severely damaged. And he got a bit emotional, telling us how when he

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JUSTICE GINSBURG SPEAKS AT BRENNAN SYMPOSIUM

By STEPHEN MILLIGAN '07

On Thursday the law school and the Brennan Center for Justice hosted a symposium in honor of the late Justice William J. Brennan, Jr. Robert Post of Yale Law School and Michael McConnell of the 10th Circuit Court of Appeals spoke on freedom of religion, and Geoffrey Stone of the University of Chicago and Abraham Sofaer of the Hoover Institution spoke on liberty and national security. Justice Ruth Bader Ginsburg gave a speech to conclude the event.

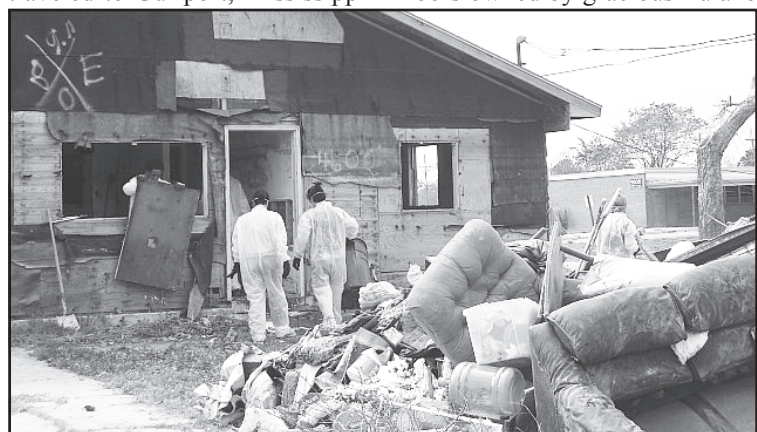
Post, McConnell, Stone, and Sofaer are all former clerks of Justice Brennan, and many other clerks from Brennan's thirty four years on the Supreme Court were in attendance. As Post said, referring to himself and these others, "[w]e were all children of Justice Brennan."

And indeed, though they are children who have grown up and become successful in their own right, they seemed to remain very much in thrall of their late father. Nevertheless, Brennan's request, noted in the introductory remarks of the Michael Waldman, the executive director of the center, that the center not become a mere museum to his work was respected by the speakers, as they all sought to apply Brennan's values to contemporary issues.

Post and McConnell both expressed nostalgia for Brennan's ability to acknowledge and support the religious expression of Americans and yet to defend their right to be free of government intrusion into the religious sphere. Both speakers contrasted Brennan's approach with the assumption that a vigorous First Amendment jurisprudence is a tool for secularists and the bane of sectarians, a position that many people have taken today. Post explained that for Brennan, government support for religion was as much of a problem for the religious, whose beliefs and institutions might be tainted by the government, as for the nonreligious. McConnell agreed and argued that Brennan believed in protecting not only private but also political and public religious expression.

Sofaer began the second

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Legal Scholars Discuss Immigration Paradoxes

By ANNA MACK '08

On Friday, the Journal of Legislation and Public Policy hosted a symposium titled "Immigration Reform: Balancing Enforcement and Integration." The speakers explored the basic paradox of immigration policy, an inescapable tension that President Bush has described as the desire to "be a lawful society and a welcoming society at the same time."

The symposium's first panel addressed the desire to be a welcoming society, discussing the extent to which immigrants should be allowed to participate in American society. The panel featured two of the Law School's own—Professors Cristina Rodríguez and Nancy Morawetz—who took turns analyzing the way that guest worker programs impact patterns of assimilation, and describing the various obstacles that immigrants face in the process of obtaining citizenship. Professor Kris Kobach of the University of Missouri-Kansas City, who previously served as

Counsel to Attorney General Ashcroft, took on a hot-button issue and argued against providing undocumented aliens with access to in-state tuition at state schools. The panel ended with ACLU Senior Staff Counsel Judy Rabinovitz, also an adjunct professor at the law school, who spoke about the impact of detention policies in light of the various ways that legal immigrants can fall out of status.

The afternoon panel focused on the desire to be a lawful society, examining different strategies that have been proposed to improve enforcement. Professor David Martin of the UVA provided a general overview of the existing enforcement regime, arguing that recognizing certain key myths would enable the system to work. Judge John Walker, a Senior Judge on the Second Circuit, discussed the impact that changes to the immigration laws have had on the judiciary, and the pressure that the increased caseload has put on the judicial system. Michael Hethmon,

the Director and General Counsel for the Immigration Reform Law Institute, spoke about workplace enforcement and on the potential for increased state involvement. Lastly, Muzaffar Chishti, the Director of the Migration Policy Institute at the Law School, emphasized the need for workplace enforcement, but pointed instead to the potential dangers of greater state involvement, given the history of employer-employee relations.

The day ended with an illuminating keynote address delivered by Marcelo Suárez-Orozco, University Professor at NYU and co-Director of the NYU Institute for Globalization in Metropolitan Settings. "Immigration has been implicit in every single turn of American history," he observed. Contextualizing the issues discussed during the symposium's two panels, Professor Suárez-Orozco described migration as a worldwide issue "structured by powerful global forces," and likened the U.S. economy to a vacuum that

pulls in workers, just as it has throughout the country's past.

Turning to the present, he was quick to caution that the economic claims against immigration are at best "anemic." He noted that that every year approximately one billion dollars are remitted for every one million immigrants in the United States, but estimated the annual economic benefit to the American economy to be between one and ten billion dollars. Rather, he insisted that "values and world view should have a more prominent view in the current debate about immigration." He explained the cultural impact of the current wave of immigration by noting that this year, for the first time, more undocumented than documented workers arrived in the United States. He also noted that between 1990 and 2000, the foreign-born population grew 57% in the United States; not surprisingly, the largest growing section of the American population consists of the children of immigrants.

GINSBURG: Speaks in Tishman

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panel discussion on national security by summarizing a speech Brennan had given about the American history of civil liberties in times of national crisis. Sofaer then praised Brennan for his firm belief that constitutional liberties must not bend to the exigencies of particular crises.

Stone followed Sofaer's introduction by pointing out how the Court had, in the first two-thirds of its history, habitually deferred to the President and the military when confronted with questions of national security. This only changed beginning with the 1957 *Yates* and *Watkins* cases, when the Court, which now included Brennan, began to realize that it could no longer be intimidated by the Executive's claims to informational superiority during national crises when its claims had so often turned out to be greatly exaggerated. This new stance was continued throughout Brennan's career on the bench and has been maintained with the recent cases of *Rasul*, *Ramdi*, and *Hamdan*.

Though these speakers were all clerks of Brennan, they made no mention of helping him craft opinions or develop the values that were the hallmark of Brennan's jurisprudence. Only McConnell came close, noting that while a clerk, he often disagreed with Brennan. Eventually someone in the audience brought up the role of clerks. McConnell responded that clerks are most important as conversation partners and

that they are most valuable when their views are contrary to the judge's. Post and Sofaer bemoaned the increased number and influence of clerks: Post said that opinion writing has become more formulaic and bureaucratic and less reflective of the judge's own personality, and Sofaer said that the richness of the experience from the clerk's point of view is greatly lost when his judge has more than two clerks.

When Ginsburg arrived, the lingering discussion among the other speakers was stopped, and she was immediately led up to the stage. She explicitly acknowledged that the perspective of her speech was to be more personal and less academic than that of the previous speakers. (Indeed, much of it was taken straight from her remarks published in an issue of the *Harvard Law Review* upon his death. 111 *Harv. L. Rev.* 3 (1997)) Her delivery was very strong and sharp, and though she spoke less than the previous speakers, she did so with more energy and enthusiasm.

Ginsburg told the audience the story of the first time she met Justice Brennan. He was visiting Rutgers–Newark law school where she was teaching. Brennan, accompanied by Chief Justice Earl Warren and Justice Abe Fortas, was asked if he wanted more police protection from the angry demonstrators outside and his reply that they should be left alone for they were only exercising their First Amendment rights.

For the years Ginsburg worked on ACLU on women's

rights cases (often with the help of NYU students), she could count on Brennan as an ideological ally. He found her arguments on the need She then reflected on her work with the A.C.L.U. on women's rights cases, noting that she received help from a team of N.Y.U. students, and on the cases in which she submitted briefs to and argued before Brennan and the rest of the Supreme Court. Brennan, of course, found her arguments persuasive and joined the majorities in landmark cases like *Frontiero* and *Boren*, cases which helped to vindicate the discrimination she had been subject to earlier in her career. But as Ginsburg explained, Brennan to her was not just an ideological ally but someone for whom she has had great respect and admiration. He was, she said, quoting the former dean of the N.Y.U. law school Robert McKay, "our hero of the Constitution of the United States."

New SBA Members

BY JOHNATHAN SMITH '07,
SBA PRESIDENT

Last week, the SBA was proud to add nine new members to its ranks. The new first-year representatives for each section are:

- (1) Carly Leinheiser (cleinheiser@nyu.edu)
- (2) Binish Hasan (bsh230@nyu.edu)
- (3) Manekha Sinha (maneka.sinha@nyu.edu)
- (4) Justin Lee (justin.lee@nyu.edu)

Additionally, Vib Mittal (vmittal@nyu.edu) was elected as the new Transfer Representative, and Jason Swallow (jas763@nyu.edu) was appointed as the fourth 3L Representative. Finally, Omer Granit (omerg@nyu.edu) Jigar Patel (jigarpatel@nyu.edu) and Moshe Orlin (moshe@nyu.edu) were elected as the new LLM Representatives.

If you see any of these people as your going to class or passing them through the hallway, be sure to congratulate them. But, you should also see them as an additional resource. Each and every one of them is committed to doing their part to make the school better, and they are all willing to work to effectively represent their constituents before the SBA and the administration. We are fortunate to have such a talented and dedicated group of representatives, and I hope you will get to know them over the upcoming weeks and months.

Finally, as we are heading towards the last several weeks of the semester, we want to remind everyone that the SBA is still here as a resource. Things have a tendency of getting much more stressful as we get closer to finals, but if there are things the SBA can do to make it better please do not hesitate to let us know.

SPRING BREAK: New Orleans Style



Continued from page 1

came back from Vietnam, he didn't know what to think about his country. 'But America is about this,' he said as he spread his hands. 'Not big policies, not the government policy in Iraq. Just little people helping little people, not even caring about the differences between us.'

For me, an unexpectedly touching aspect of this trip was the amazing number of student volunteers in New Orleans. There were over 400 law students in the region through SHN alone; in total last year thousands of students of various ages and education levels elected to volunteer in New Orleans during their spring break.

The students I met in New Orleans were affiliated with a diverse assortment of student groups, from SHN to Hillel to Students of Color associations to a twenty-something business school student who came to the city alone, explaining "I just had to do something." Even though I spent much of the week sitting at a desk with my laptop, I felt very much connected to all of the student volunteers. We were and will remain united by our common refusal to

ignore the pressing needs of the people and institutions in the Gulf Coast.

Inspired by the success of last year's trip and the overwhelmingly positive feedback from participating students and New Orleans legal services organizations, LSHR has institutionalized an Alternative Spring Break (ASB) program at NYU School of Law. Like last year, this year's ASB program affords the opportunity to: participate in a week-long internship with a public interest organization; experience new cultures; work directly with pressing legal issues; bond with a diverse group of NYU School of Law students; and network with NYU alumni and public interest practitioners. The 2006-2007 ASB program includes three service sites- New Orleans, Miami, and Bronx County, NY- with 12 students on each site. Each site was selected because it has extensive NYU School of Law alumni connections, unique legal issues, and multiple non-profit legal organizations which are able to ef-

fectively utilize spring break volunteers. Additionally, each site has its own issue focus: hurricane rebuilding in New Orleans; immigrant rights in Miami; and urban poverty in Bronx County. NYU School of Law has generously provided program funding to cover the cost of travel and to subsidize the cost of food for each participant.

If you are interested in learning more about the ASB program, please check out the information posted on LSHR's Blog at www.lshr.blogspot.com. If you have questions or are interested in applying to lead one this year's sites, email Mimi Franke at mimifranke@nyu.edu. Please note that site leader applications are due by Monday, November 13th at Midnight. Participant applications will be available in early January.



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The Great American Blackout

ERIC BRODER '08

Many believe that the power to vote and elect our officials is the core of our democracy. So how should we feel when we are faced with evidence of systematic voter disenfranchisement right here in America? And how should we feel when US Congressman Bernie Sanders tells us, "The media, large corporations, the people who control politically our country today, do not want you to participate—that's only bad for them. They want a low turnout of primarily upper-middle-class people. They want big money to dominate the political process. Their nightmare is that young people, lower-income people, working people, jump into the political process—they do not want that?"

American Blackout is a fascinating new movie about the state of the democratic process in America. Director Ian Inaba has created a startling documentary about the systematic voter disenfranchisement, largely unreported, that President Bush rode to victory in the last two presidential elections. Along the way, we get to see what it's like to be a dissenting voice in America, primarily through the story of US Congresswoman Cynthia McKinney.

The movie makes many specific factual assertions. Because of the subject matter's importance, I will summarize some key points in this review.

It appears likely that Al Gore would have won Florida in the 2000 election if not for erroneous, unverified, and discriminatory voter rolls prepared by Republican officials and private contracting. Five months before the 2000 election, Republican Governor Jeb Bush and Republican Secretary of State Katherine Harris ordered 57,000 names to be removed from the voter rolls because they were supposedly felons. In fact, 97% were innocent, and investigative re-

porter Greg Palast has the computer files to prove it. Next to each name in the database was each voter's race, and mostly blacks and Latinos were wrongly removed.

Under legal pressure from the NAACP, ChoicePoint/DBT, the company that created the list of alleged felons, admitted that it was contracted to produce a list with erroneous, unverified information. The company improperly identified over 90,000 suspected felons, an astonishingly high number given that the official margin of victory in the state was only 537 votes. "Florida was an apartheid election, a Jim Crow election—that's what happened," says Palast. But while mainstream media dwelled on punch-card ballots, hanging chads, and soap opera litigation, the stories of disenfranchised individuals eventually slipped, like their votes, down the memory hole.

The 2004 presidential election was tainted by improper allocation of voting machines, noncompliance with provisional voting laws, and myriad other biased screwups. In Columbus, Ohio, where black voters are concentrated, there was a shortage of voting machines even though Republican Secretary of State Kenneth Blackwell knew far in

advance that 102,000 new voters were registered in that county alone. One ward in Columbus had a 27% gain in voter registration but lost two of the five voting machines it had in 2000. One hundred twenty-five supposedly available machines were

rain, and countless others were deterred from voting. The systematic bias in favor of Bush made the situation especially alarming. Palast calls Ohio 2004 an "ugly little echo" of Florida 2000, with Katherine Harris basically reappearing as Kenneth Blackwell.

Intolerance for dissent is another theme in *American Blackout*, one that neatly complements voter disenfranchisement. According to Palast, we have "an apartheid news media system. If a subject is the black voter, it ain't the story." In general, the "political etiquette" of conventional discourse demands that certain types of difficult thoughts will be dismissed as "conspiracy nut stuff" and altogether "not proper" for discussion. "It's not just the information you put out, it's the question which is not permitted."

Inaba spends a lot of time following Congresswoman McKinney, an African American woman, and learning about her serious views on voting rights, the war in Iraq, and 9/11. She knows which talking points the current re-

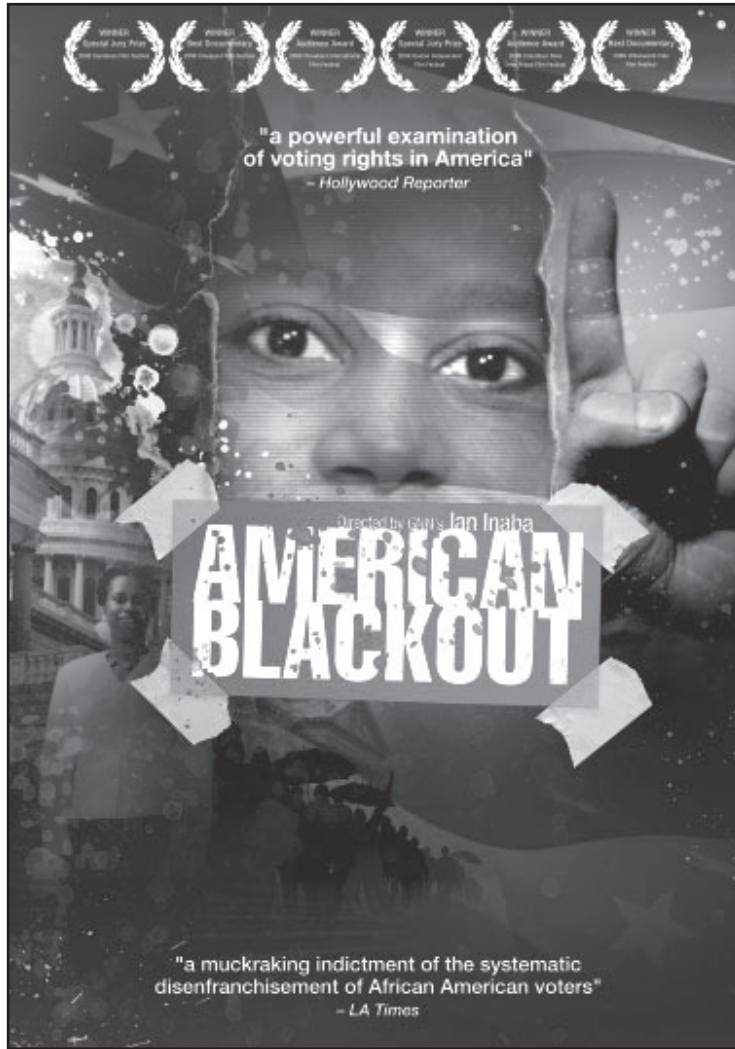
gime prefers, but she insists, "There comes a time when people of conscience are compelled to dissent. We love our country and that is why we dissent." We see and hear McKinney ask questions that are consistently reasonable and that relate to her core principles of democratic ideals, peace, and truth. As a result, this outspoken politician from Georgia is constantly under attack.

Never one to be mistaken as a conformist, McKinney asks, "What did this administration know and when did it know it, about the events of September 11th? Who else knew, and why did they not warn the innocent people of New York who were needlessly murdered?"

CNN added the words "...What do they have to hide?" to the end of those questions, after lifting the partial quote from a much different context in a different part of the long interview. A CNN pundit then went on to characterize her position as a "conspiracy theory" and as "accusing, essentially, the president of being an accessory to mass murder, and doing it for profit." They never had McKinney on to respond, but they immediately conveyed a statement by the White House Press Secretary: "the Congresswoman must be running for the Hall of Fame of the Grassy Knoll Society. I really don't have anything to say that would lend any credibility to what she said."

American Blackout is a movie that conveys information clearly and does so with a haunting and hypnotic soundtrack (featuring DJ Shadow). Up until now, director Inaba has been best known as the director of the pre-election Eminem "Mosh" music video, but he has already collected a handful of awards for this movie. He is also a co-founder of Guerrilla News Network Productions, which has been called a "PBS for the Hip Hop generation."

We may not have democracy, but at least we have alternative media.



also held back on Election Day after their ID numbers were blacked out on the machine allocation list in a blatantly discriminatory pattern. 74% of predominantly black wards had fewer machines in the general election than in the primary.

Some hopeful Ohio voters waited up to 6 hours, often in the

even asking the question which is not permitted."

Movies from the Past: *Daredevil* and *Elektra* Double Review

KARTIK VENGUSWAMY '07

Honestly, watching these movies made me rethink my stance of watching even shitty movies which I expect to be shitty. I didn't think it was possible to expect a movie to be terrible, and then have it fail to live up to my expectations.

First, there's the atrocious job Ben Affleck does in *Daredevil*. He would make a great superhero seem incompetent; with *Daredevil*, he takes a terrible hero and creates a character that is an embarrassment to all the whole superhero genre, comic books, and perhaps movies generally. I hate to say this, but Keanu would be a better *Daredevil* - neither one of them can act, but at least Reeves looks believable in action sequences (a la *The Matrix*). Affleck and Jennifer Garner have the chemistry of a lion and an otter and that interminable fight sequence in the playground looks like something I could choreograph and execute with two people off the street in a day or less.

All of this is not to mention the terrible story. I don't know much about the comics, and I understand suspension of disbelief is necessary. I know enough

about *Daredevil* to understand the radar/sonar/whatever he uses, but even besides that, I thought this story was just terrible. The character's actions do not conform to any normal human behavior. *Daredevil* is next to *Elektra* when Bullseye kills her. He may be a little hurt, but definitely not incapacitated. He senses that she is about to be killed. And does nothing. Even though they are in love at this point. Basically, the hero gets hit a couple of times, stabbed in the shoulder, and doesn't even make the attempt to save the girl?!

This movie is bad. I normally like Michael Clarke Duncan and Joe Pantoliano, but they were both limited in scope and screen time, and really didn't have much room to do anything. Jon Favreau is pretty funny, but every time I see him in anything, he just keeps getting bigger. I don't even know how to take it anymore - every scene I saw, it was a combination of "at last someone who's not actively trying to destroy this movie" and "how much bigger can his head get?" He's Barry Bonds! Oh, and congratulations to the director for completely stealing that roses on

the body/dropping the rose on the spot of the dead parent thing from Burton and *Batman*; no one noticed, I promise. Ass.

Let's move forward with an analogy. Movies are like a horse race. Some, like *The Usual Suspects*, not only win the race, but set an example for other horses. Some win, some lose. Some, like *Daredevil*, sort of quit halfway around the track, or trip and fall, or lose by more than the length of the race. And then there's *Elektra*. Imagine all the horses lined up to start the race in the gate. Then they shoot one. Then they make the jockey stay on the horse and whip it for the duration of the race, trying to get to the finish line on a glue factory surrounded by flies. That's *Elektra*.

The plot's not that complicated. She's an assassin, who was brought back to life (seriously) and trained in martial arts. She's supposed to kill some bratty kid, has a change of heart, and protects said kid and father from some supernatural assassins who answer to Shang Tsung in a really random role. Clichés ensue.

Seriously, this movie is awful. The acting is terrible and the plot (that part of it that isn't full

of gaping holes you could film whole other movies into) is cheesy and predictable. I mean, when you have to start your movie by bringing your hero back from the dead, and you think you've got a winner, you should probably find a new line of work. Garner is completely unconvincing as an assassin with a heart, the father is a wall, I have no idea why Shang Tsung was even in this movie, and what backstory there was didn't make any sense. As for the repeated, interminable references to her finding her mother's body, they get old after 2 references, and after 10, I was happy I didn't have anything nearby to gouge my eyes out with.

Now it's not often that I rail against a movie like this, but there are limits. The Director's Guild should have taken a hit out on Bowman for this atrocity against moviegoers. Here's an example. A big guy named Stone brushes off a shotgun blast and is impervious to *Elektra*'s sais. He swings at *Elektra*, misses, and breaks a tree trunk. The tree starts falling, and *Elektra* starts running up the tree. Stone sort of half-lumbers away from the falling tree, but

Elektra either (a) manages to redirect the falling tree to aim for the lumbering Stone by the way she runs up the falling tree (which, by the way, looks like the General Sherman and looks like it's pretty large) or (b) doesn't affect the tree falling, but it doesn't matter, because Stone can't be bothered to simply sidestep the falling tree. Let me repeat that. Sharp pointy things and gunpowder propelled buckshot don't pierce his skin, but a club turns him into green smoke. From the way the shot is filmed, only two conclusions are possible. One, *Elektra* can redirect a falling tree to hit a person by running up its length as it falls. Two, Stone is so dumb, he hits a tree, causing it to collapse, then moves along its length as it falls, single-minded in purpose and oblivious to his own destruction. Let us not forget that he is one of the hand-picked supernatural assassins that the main baddie trusts to bring down *Elektra*.

If it weren't for the fact that I've seen *eXistenZ*, I'd say this is the worst movie ever. As it is, it's getting close to that level, and I'd say it easily passes *The Talented Mr. Ripley* as my second least favorite movie.

Student-Lawyer-Athletes Gear Up As SLAP Season Winds Down



After 7 weeks and with only one more game per team in the regular season, the light contact football league standings are in. And boy, are they exciting. Really, they are. There are 25 teams competing this year - far more than in any other year in recent memory - competing for only 8 slots in the playoffs. With such stiff competition, any team with more than two losses does not have a chance. Good luck with your final game guys, but please drop any hope of living out your dreams of drinking beer from a giant golden cup.

Traditionally, 1L teams do not do well in flag football, according to league commissioner Jim Medek. Apparently success at law school flag football takes practice and experience. Much like the law. This year, however, the top team in the league, the Flag Burners, is actually made up of a bunch of 1Ls. "They are pretty athletic," said Medek. I'm impressed.

- JULIA FUMA '07



Light Contact Standings

Team	Win	Loss	Score
Flag Burners	6	0	30
Crow T Robot Likes Pizza on a Bagel	5	0	25
Little Lebowski Urban Achievers	5	1	25
Death Angel Punishment Massacre	5	1	25
Red House	5	1	25
Barely Legal	4	1	20
The Real Balendras	4	1	20
Carla's Team	4	2	20
The Electric Mayhem	4	2	20
The Baby Choppers	3	2	15
Joint Tortfeasors	3	3	15
The Testatrix	3	3	15
Jones-Peacekeepers	3	3	15
Section 4	3	3	15
Todres's Tortfeasors	2	2	10
Law Talking Guys	2	4	10
Miller's Maniacs	2	4	10
Crazy Naked Octopus	1	4	5
Section 6	1	5	5
The Grassy Knowles	1	5	5
The Island of Crete!	2	3	0
Rodeo Clowns	1	5	0
Pierson v. Post Route	1	3	-5
No Quarter	0	6	-5
Our Name Escapes Us	0	6	-10

Full Contact Playoff Bracket

