



THE COMMENTATOR

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NYU Law Welcomes New Professors For 2005-06 School Year

JULIA FUMA '07

An ever exciting and welcoming place for superior legal minds, NYU has hired 5 new faculty members in the past ten months. These five include 2 new entry level professors who began in January 2005, Lily Batchelder and Oren Bar-Gill, and 3 lateral professors, who while you may have seen or had them last year, officially began as NYU professors this fall, Samuel Issacharoff, Daniel Hulsebosch, and Stephen Choi.

The task of hiring new professors is not an easy one as many

Top schools are fighting for the same pool of talented scholars. NYU has won and lost in the past few years.

of top schools are fighting for the same pool of extremely talented scholars. According to Dean Richard Revesz, "we look for people who are, or have the potential to be, the leading academics in their field."

For entry level faculty, the process of hiring begins in the summer. Candidates submit their information to a database orga-

nized by the Association of American Law Schools. In November, the AALS has a conference in which representatives can interview candidates.

According to Dean Revesz, NYU Law interview about 20 candidates a year. Between 6-8 of these candidates are then invited back to the school for a full day of interviewing. These professors then have a full day of interviews at NYU. They have a number of interviews with groups of faculty, and then at the end of the day present to the whole faculty followed by an extended question and answer period.

After the day-long interview, the academic personnel committee solicits input from faculty and students who attended the presentation and then makes a recommendation on who to hire. The whole faculty votes on the recommendation.

In addition to Bar-Gill and Batchelder, the professors who have been hired this way in the past couple of years include Katrina Wyman, Cristina Rodriguez, and Rachel Barkow

For lateral professors, the hiring process begins with a stint as a visiting process. As Dean Revesz indicated, "we invite people to visit the school who we potentially want to hire. We do extensive reading of their work before we hire and we choose people who we believe will be one of the best in their field."

Moreover, when hiring lat-

erally, according to Dean Revesz, they consider student evaluations: "student reaction to the professor is among the factors we consider."

According to Issacharoff, the process of lateral hiring can be wonderful if it works and cumbersome if it does not. When hiring laterals, a school's faculty can get a sense of what they are like as academics from their writing, but the lateral visits so the faculty can get a sense of what they are like as colleagues.

However, according to Issacharoff, lateral hiring is increasingly hard to do, because most professors are in marriages where both people work and it is much harder to move around.

In addition to Issacharoff, Choi, and Hulsebosch, other professors that have been hired in the past few years include Deborah Malamud from University of Michigan, Jennifer Arlen from USC, and Kevin Davis from University of Toronto.

In addition to hires, NYU Law lost several professors this year. "Whenever someone leaves I am a bit sad, because the professors tend to be friends of mine, however, I am also happy for them, because in many cases it is exciting opportunities such as deanships at other schools," Revesz said.

Revesz also pointed out that NYU Law's retention rate is among the highest in the country.

THE 2005-06 CLASS

OREN BAR-GILL

With both a Ph.D. in economics and a law degree from Tel Aviv University, as well as a S.J.D. from Harvard University, Bar-Gill joined NYU's faculty after a fellowship with the Harvard Society of Fellows.

"The Society of Fellows is academic heaven. No obligations, just research," was how Bar-Gill described his time there. He expected teaching to be somewhat



will actually spend next year teaching at Tel Aviv University.

In addition to his commitment to his contracts class, Bar-Gill also teaches behavioral law and economics and the colloquium on economic analysis of the law. In the future he may want to teach a joint seminar with Liam Murphy on contract theory, with him exploring the economics side and Murphy exploring the philosophy side. Unfortunately, the class cannot be taught until the current 1Ls are 3Ls because Murphy is on leave this year, and Bar-Gill will be in Tel Aviv next year.



similar but it turned out to be very different. "It takes a lot of time, I teach contracts now and nothing else."

Bar-Gill chose NYU because of its great faculty, particularly in the area of law and economics. Additionally, NYU is very supportive of faculty research in terms of money and organizational support. Finally, he appreciated NYU's flexibility. The law school will allow him to spend some time teaching in his home country of Israel. He

LILY BATCHELDER

A 2002 graduate of Yale law school, Batchelder comes to NYU after working for several years in the tax department of Skadden Arps in DC.

Of the transition into academic life she said that "it is truly a luxury to be able to set your own

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BALSA Sponsors Symposium on Discretion in Judicial Process

EVA MICHELLE WHEELER '08

Is there any certainty remaining in the American criminal justice system? Who are the principal gatekeepers? Is there some discretion in the process? If so, who is responsible for exercising this discretion? Whom do we trust with this power?

On Friday, October 14, 2005, panelists and audience members grappled with these questions and more in Greenberg Lounge as part of the symposium "Prosecutorial & Judicial Discretion and Minorities: Where Do We Go From Here?" The Black Allied Law Students Association (BALSA) sponsored the symposium, with Professor Bryan Stevenson serving as moderator.

"The law giveth and the law taketh away." Prior to the institution of the Federal Sentencing Guidelines, judges had almost unfettered discretion. The Guidelines limited this discretion by supplying a sentencing range for particular offenses, and Mandatory Minimum Sentences further limited the discretion by imposing requisite minimum sentences for these of-

fenses. In *U.S. v. Booker*, the Supreme Court held that judges could again exercise reasonable discretion.

The symposium was divided into two panel discussions – one on prosecutorial discretion and one on judicial discretion – and a keynote address.

The first panel dealt with prosecutorial discretion and consisted of Avis Buchanan, Director of the D.C. Public Defender Service; Paul Butler, Professor at The



Keynote Speaker Deborah Peterson
Small of Breaking the Chains

George Washington University Law School; Robert Johnson, Bronx County District Attorney; and Sheri Lynn Johnson, Professor at Cornell Law School. The panel members discussed the power of prosecutorial discretion and the role of race in these determinations.

Keynote speaker Deborah Peterson Small suggested that prosecutors were the principal gatekeepers in the criminal justice system. She stated that since most criminal cases are settled in plea bargains and never actually go to trial, the prosecutor's charging decision will determine what ultimately happens to the defendant. Mandatory sentencing is an incredible tool for prosecutors to use to obtain prosecutions and defendants may be forced to plea bargain because of the intimidation of sentencing at trial.

The second panel focused on judicial discretion and how it was affected by the institution of the Federal Sentencing Guidelines and later Mandatory Minimum Sentences. The panel consisted of Michael Battle, Director of the Ex-

ecutive Office for United States Attorneys in the Department of Justice; Mary Beth Buchanan, United States Attorney for the

Chair of the United States Sentencing Commission; the Honorable Eugene N. Hamilton, Judge, Superior Court, District of Columbia; and the Honorable Myron Thompson, Chief Judge, United States District Court, Middle District of Alabama.

Prompted by the request of Professor Stevenson, Judge Castillo began the discussion by giving a brief history of how the Federal Sentencing Guidelines and mandatory minimum sentences came about. He suggested that mandatory minimum sentences "fly in the face of the Sentencing

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Is there discretion in the Criminal Justice System? Who do we trust with that power?

Western District of Pennsylvania; the Honorable Ruben Castillo, Vice

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agenda and study the issues that you find the most important and fascinating.”

“Some of the things that attracted me to NYU were its strong tax program, its tradition of public service, and its reputation as having a dynamic, brilliant and happy faculty and student body.”

Batchelder is currently teaching Federal taxation and a writing seminar on tax and social policy. In the next couple years she hopes to expand her seminar into a full year course so that students can produce a publishable paper.

Some of the research issues she plans to focus on in the next few years include how best to structure tax incentives in the presence of empirical uncertainty, whether and how we should try to promote household savings through the tax code, and what the advantages and disadvantages would be of enacting an inheritance tax at the federal level.

STEPHEN CHOI

Choi comes to the law school from Boalt Hall at the University



of California Berkeley. With a Ph.D. in economics and a law degree from Harvard, he is one of NYU's many professors with joint degrees. He will be teaching survey of securities litigation and topics in corporate and securities law. His research topics include corporate law and securities regulation.

DANIEL HULSEBOSCH

Hulsebosch also came to NYU for its great faculty, in his case, particularly the legal history faculty. With a Ph.D. in American History from Harvard and a law degree from Columbia, Hulsebosch teaches property, le-

gal history of England and the British Empire, and the Legal History Colloquium.

While he liked St. Louis University School of Law, he is very happy to be at NYU Law. “The Faculty here is much larger and more active than at St. Louis. It is almost like a liberal arts law school,



because there are so many specialties and so many people with joint degrees.”

Moreover, Hulsebosch is glad to be at NYU because of his connection to New York. He went to law school here, was a Golieb fellow at NYU Law in 1998-1999, and he even grew up here.

Hulsebosch has just finished a book called “Constituting Empire.” The book is on how Constitutionalism changed in New York from their British source to the American version. He is now starting a new book on the law of slavery in the imperial capitals in the 18th century and how the En-

He is currently teaching civil procedure and the law of democracy. For him, there is not much difference between the students he is teaching here and those that are at Columbia, although NYU students are “better looking.”

Issacharoff will continue working on projects he began at Columbia. “I work in two areas primarily. Complex litigation and pub-



lic law/constitutional law concerning the political process.” He is currently publishing a book on civil procedure and another one on comparative campaign finance.

“NYU is like a liberal arts law school, with so many specialties and people with joint degrees”

glish justified having slavery in the colonies while not permitting slavery in England itself.

SAMUEL ISSACHAROFF

Issacharoff has come to NYU from Columbia. He said that while both are excellent institutions, there is more overlap with the work he does at NYU Law.

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Professor Bell Discusses Race Relations At Latest Brown Bag Event

NICHOLAS KANT '06

Are there people who would advocate getting rid of all the black people in America? That's the proposition that prompted Visiting Professor of Law Derrick Bell to write what he called his “most read” piece of writing, “The Space Traders.”

Professor Bell spoke about “The Space Traders,” and read passages from his new book “The Derrick Bell Reader,” last Wednesday, the latest speaker in the “Brown Bags and Books” series



Visiting Professor Derrick Bell

sponsored by the Law School.

The flier that was passed out at the event says that Professor Bell is a “pioneer of the use of allegorical stories as tools of analysis,” and that is what “The Space Traders” is. It does appear to be his most famous work, and in fact HBO produced a movie, starring Robert Guillaume, based on the work.

In the story, visitors come from outer space, and offer gold, special chemicals capable of magically cleaning up environmental pollution, and a totally safe nuclear engine and fuel. All that they want

in return is to take all the black people in America back to their home star.

The proposition was put to the American people in a referendum, which passed. Then on Martin Luther King Day, the visitors'

“Without the blacks, some of the white people complain about being treated like niggers.”

ships were drawn up to the beaches, they gave America what had been promised, and the black people were loaded onto the ships. And that's where the story ends.

“That story has prompted, if you look on Google, there must be two dozen courses that don't use the whole book, but use passages of it,” Bell said. And it's true. A casual perusal shows the work is or was required reading in courses at Michigan State University, Northeastern University School of Law, Brigham Young University Hawaii, West Virginia University College of Law, and more.

“But they don't know about the follow-up,” Bell said. “Without the blacks here, some of the white people say, ‘Hey, they're treating us like niggers,’ and there were riots and revolts and what-not. Which are some of the things I'd like to see while we're still here, but I doubt I ever will.”

In “Back to the Space Traders,” the blacks end up getting

asked to return to America. But it turns out that the Space Traders just wanted to make the blacks equals and full partners back on their home star. If you'd like to know how the story ends, “The Derrick Bell Reader” is widely available in bookstores, including Amazon.com and the NYU Professional Bookstore.

The event was attended by about 45 people, and started with an introduction by Vice Dean Clayton Gillette. Professor Bell was somewhat soft-spoken, and wore a black shirt with a brown jacket and glasses. He spent most of 40 minutes reading passages from his book.

There was a short question and answer session at the end. One person asked about Professor Bell's use of the allegorical story.

“I find that, particularly since my views are very unconventional, that the story format is as effective if not more effective than the typical legal analysis,” Bell said.

Later that day I went down to the law library to check out “Faces at the Bottom of the Well,” Professor Bell's 1992 book in which “The Space Traders” originally appeared. When the man at the circulation desk realized what I was asking for, he said, “Oh, ‘Faces at the Bottom of the Well!’”

“You know it?” I asked.

“Yes, I read that book,” he said.

“What did you think?” I asked.

“He's a quiet man but he has deep thoughts,” the man behind the circulation desk said.

SBA Corner: Students Deserve To Read Good, Bad, and Ugly on Course Evaluations

SBA Pres. OLIVER CARTER '06

This year I am grateful to *The Commentator* and its staff for providing the SBA with space for a regular column. While the SBA weekly email provides a great way to compile and distribute a series of brief announcements, my hope is that this column will provide an opportunity for the law school community to gain a deeper understanding of those overarching issues that SBA addresses. By being thoroughly informed on such issues, I expect that students will be better-equipped to formulate and express their preferences to the SBA Board, whether by contacting individual Board members or by emailing law.sba@nyu.edu

In the next issue of *The Commentator*, Treasurer Asha Jennings will write about the problems with this semester's Professional Responsibility class. In this issue I argue that the administration should make available to students those comments provided

by their classmates and colleagues on the course evaluations distributed at the end of every semester.

I want to emphasize that this column is not the "official" policy of the SBA, and my words were not discussed and voted on by the Board. However, I do base many of my observations on conversations with many members of SBA, both constituents and representatives.

Currently, the law school administration distinguishes between the numerical feedback—that is, the part of your evaluation where you rank various aspects of the course on a 1-to-5 or 1-to-10 scale—and the written feedback—ie, the space where students write their own comments. The numerical feedback is compiled, albeit without standard deviation, and provided to students. The comments, on the other hand, are only shown to professors. The first reason given for this distinction was because professors worry that making negative comments

public may harm their professional reputations. To their credit, the administration has offered to consider more specific questions in the numerical portion of evaluations.

I believe that as students, we deserve to see our peers' comments on courses we are considering. I feel that a written statement can reveal far more about the author's opinion than even sophisticated polling. Students can review others' comments to see if they address specific concerns about the coursework, the professor, or the classroom environment. Some of our peer schools have a committee that reads these comments and condenses them into a one- or two- paragraph summary for convenience. To be fair to professors, some students may occasionally write personal insults or make flagrantly abusive comments, but—knowing my fellow students—I feel sure that these are quite rare; besides, I could live with some sort of censorship in the

realm of course evaluations.

The bottom line is that our professors play a crucial role in our legal education, and allowing students to give and receive feedback on professors is highly desirable. Sure, some professors are better at lecturing than others, some are better at leading discussion than others, and some professors are better legal scholars than others. Sharing students' comments with their peers allows us more informed choices, which is always a good thing, in my opinion. Some modest amount of feedback is traded over Coase's List, but I feel sure that the potential demand is much greater. Several students and groups have suggested setting up an "alternative" website for NYU Law, similar to those in place at other schools. While I do not rule out this option, I prefer to build a more institutionalized system because I think that a permanent, organized and integrated application will better address our needs as students.

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The Commentator is still looking for news, arts, sports, and opinions writers, as well as a comic artist or crossword designer (computer program available to assist).

Contact chrismoon@nyu.edu.

Do it before the next issue.

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Guidelines" because they stifle even the limited discretion that the Guidelines afford to judges.

Judge Thompson called these mandatory minimum sentences "unbelievably unjust" and took it a step further in saying that they did not fly in the face of the Sentencing Guidelines, but rather in the face of justice," thereby imputing perhaps greater harm on the individuals they were instituted to protect.

There was a difference of opinion evident among the panelists on the issue of the objectivity of the Federal Sentencing Guidelines. U.S. Attorneys Battle and Buchanan said that the guidelines were instituted to eliminate the consideration of race and set out a structure where the focus would be on the conduct and not the person. Judge Hamilton, however, stated that while judges tried to fashion sentencing on the elements of the offense, the issue of race would unfortunately dictate the disposition. Judge Castillo said that most people would agree that race was a factor but that it was hard to prove intentional discrimination. He also stated that prosecutors have much more discretion than judges.

U.S. Attorney Buchanan insisted that individuals were charged with the most serious readily-provable offense based solely on their conduct. She further stated that this consistency was necessary to achieve "a system of justice that is truly just" and that individuals were being charged according to their conduct not their race. Judge Thompson responded that if there was a pattern indicating the consistent charging of more minorities, that this was an indication that the proposed system of justice had not been achieved.

Judge Thompson questioned whether there could be a positive role for race in the criminal justice system, but concluded that using race as a mitigating factor in sentencing decisions would open up "Pandora's Box".

During the question and answer period, various suggestions were made for how to provide a check on exercised discretion- including third party review of prosecutors' records to supplement the already available appellate review of judicial discretion. The panelists maintained their differences of opinion, but it was clear that all had their minds on justice.

Commentator Crossword

by J. Gonzalez '06

Across

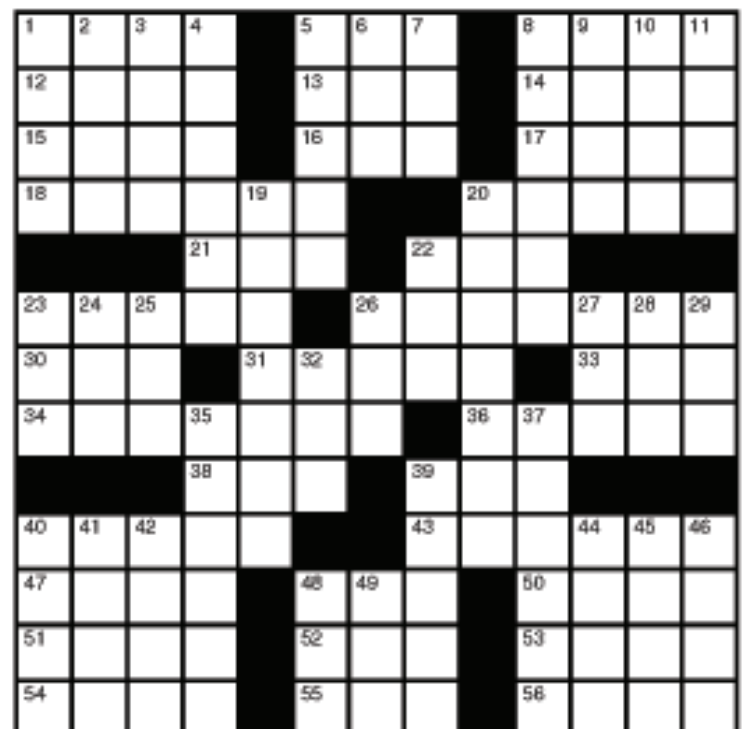
1. Thin, like Jim
5. "See you later."
8. Like a Ferrari
12. Roman wear
13. Allow
14. State of 2002 Olympics
15. Some actors get big ones
16. Monk and Dead Zone network
17. Part, as in a play
18. A step up from 48 down
20. Without contents
21. Eye shape
22. Santa ____, CA
23. Atkins no-no
26. Use incorrect moniker
30. Exploit
31. Local school of business
33. 2001 nemesis
34. Add in stages (2 wds.)
36. Sleep ender
38. Affix for "in advance"
39. ____, Lanka
40. Bad NYU gym
43. Some hippies' abodes
47. Region
48. Bambi's mom
50. Like some tales
51. Phobia
52. Inspire reverence
53. Norway's capital
54. Billions of years
55. Type of hairstyling product
56. Tidy

Down

1. Flower support
2. Forward mezzanine
3. Young Frankenstein's assistant

4. The NYU Bobcat, e.g.
5. Short news article
6. Affirmative answer
7. Basque separatist group
8. 2004 addition to NYU Law
9. Spin like __ (2 words)
10. Sea or Kosher, for example
11. She and he
19. Pencil tippers
20. Trap
22. What we breathe
23. Young dog
24. Fire result
25. Plenty of fish are in it
26. XY-ers
27. "I see!"

28. Disfigure
29. Shade tree
32. Common father's day gift
35. Britney ____
37. Banquet room of 48 down
39. Main industry of Mr. Carnegie
40. Esperanto on MacDougal, for example
41. Best dipped in milk
42. Little fat, as in ground meat
44. Soldiers may stand at it
45. ____, Fitzgerald
46. Narrow opening, like for mail
48. EIW location, for short
49. Must pay (a debt)



Is the \$125,000 dollar starting salary a good thing? (Part Two)

By CRAIG WINTERS, '07

In the last *Commentator* edition, I posed the following question: Is the lure of a \$125,000 dollar starting salary for first-year associates a bad thing for society?

My last column made several observations. The first observation was my homemade estimate of the pay differential between private sector and public sector legal jobs. I noted that the differential has ballooned from three-to-one in favor of the private sector during the late 1980's to nearly five-to-one in favor of the private sector today.

My second observation was that NYU Law is a particularly public interest-oriented school, and that given such an orientation, I found it slightly perplexing that eighty percent or so of the student body joined a law firm soon after graduation.

In "helping" students decide whether work to work at a law firm, I dutifully noted the massive, hungry elephant upending all of the living room furniture. Student loan debt, of course, "must be counted as a huge factor, if not the most significant factor," I said.

So where does the \$125,000 come from, and what are the consequences? Simply put, there are now more wealthy corporations and more superrich individuals who will pay higher-than-ever legal fees than anytime in the past.

I'd wager that country lawyers in Concord, N.H. or Greenville, S.C., haven't seen anywhere near

the salary boost their big-city, big-firm compatriots have. That's because Exxon, Morgan Stanley and Hank Greenberg haven't hired local, family law firms to conduct massive internal reviews of their foreign and domestic legal liability. Smaller firms can't rush fifty associates to a warehouse in New Jersey to review email correspondence and whip up overnight memos on the attorney-client privilege. That's New York's job.

Enormous new wealth has flowed into the coffers of corporate America and the brokerage accounts of the topmost U.S. households – an increase that far outpaces the rest of the country, and, indeed, outpaces rich folks anywhere else in the world. Consequently, law firms catering to the new hyperrich have become amazing profit centers in their own right. Billable hours are up. The price of six minutes of legal advice is way up. And the trickle-down effect is alive and well; even first-year Big Law associates are now paid princely sums, maintain 401(k)s and have fully-covered health care.

Note here, of course, that the average United States household in 2004 made \$44,000 dollars, and that 27 million people who worked *full-time* during all of 2004 lacked health insurance for the entire year.

As law firm compensation spirals higher, public interest legal salaries have stagnated, and job opportunities in some public

interest sectors have contracted. If you'd like to ruin an afternoon, go to www.lsc.gov and read the annual report of the Legal Services Corporation, the nation's largest funding agency for public interest law. The LSC is the federal government's vehicle for channeling money to lawyers who perform civil legal services for folks below the poverty line. In 1980, Congress granted the LSC \$300 million dollars, which in turn was sent to hundreds of local groups who supported thousands of dedicated lawyers.

The LSC, however, became a political punching bag for the Republican Party. In 1982, and again in 1996, the Congress slashed a third of the LSC budget, forcing thousands of layoffs. Today's LSC budget will come in around \$300 million, again; after the effect of inflation, however, that's less than half the money in real terms it was in 1980. (\$300 million in 1980 is \$683 million today.)

Instead of providing one lawyer for every 5,000 indigent clients, the LSC now provides only one lawyer for every 12,000. By any measure, this is a massive decline.

From a birds-eye view, the slashing of funds for public interest law and the ever-quickenning aggregation of wealth among the few may be opposite sides of the same coin. Broadly speaking, the same neo-liberal economic policies that have assisted the rich in getting richer, thus fueling higher as-

sociate salaries, have also demonized the public sector and helped make some public interest jobs scarcer and relatively less-well compensated.

Politicians from both parties who tore chunks from the LSC budget axed corporate tax rates with the same fervor, helping fuel a corporate earnings boom. (Though, to be fair, the Blue Dog Democrats who joined with the GOP to accomplish such have been replaced in many cases with fully credentialed Republicans.)

Thus, while funding for legal services nose-dived, the public was deprived and corporate equity enhanced. There were so many loopholes created in the federal tax system over this period that of the 250 largest U.S. corporations, one in six paid *no* corporate income taxes *at all* in either 1996, '97 or '98. The intellectual incubators of the Right (i.e., Heritage, Cato, etc.) continue to tout as fresh policy the need to eliminate the LSC and to continue to cut corporate taxes. These are the folks, mind you, who now run our government.

We've learned that laissez-faire economics comes with a price. Unfortunately, the poor and working classes are the only ones paying; for the rich, and for those entering Big Law, *you* are the winners.

Not just because any Big Law lawyer will make a ton of dough (which you will). But, in addition, the clients who butter

your bread are better off and richer than they ever have been. Big bonuses are possible. Expense accounts may grow. Flying first- or business-class, at least on long flights, is practically a right.

Meanwhile, it's tough to get a public interest job. As I've stated above, the supply of these jobs is static or shrinking, and those that are available pay about one-fifth as much as the going private sector rate for an NYU Law degree.

Is the present situation problematic for society? I'll leave it up to you. But anyone who says that the status quo is fine, or, perhaps, is merely slightly flawed, is someone very comfortable with the massive and increasing inequality in our country.

To witness these disparities, look no further than your own choices upon graduating from law school. Shall you take \$125,000 or \$35,000? Fly first-class or labor in a dilapidated government dump? Work for the wealthiest clients in the world or for the uninsured working class? Enjoy job security a year prior to graduating or wait until the summer *after* graduation to find out if your desired position secured federal or charitable funding?

How long can society tolerate these disparities? What's the long-term effect of the legal marginalization of over fifty million Americans? Does this seem fine to you?

THE WRITER CAN BE REACHED AT CRAIG.WINTERS@NYU.EDU

OMG! I'm totally nominated!

By MEREDITH JOHNSTON '06

Which of the following is NOT an actual quote from Harriet Miers:

(1) "I have stood by George W. Bush through thick and thin, that's the true test of a Conservative."

(2) "Someday, if I ever cook again, I will try some of the recipes!"

(3) "This is always a great weekend because we will all get an extra hour of sleep Saturday night. And given all that is going on, I have to say, we here at the White House are looking forward to that extra hour!"

(4) "You are the best governor ever – deserving of great respect!"

The answer is 1, which comes from a Harriet Miers parody blog. The rest are real quotes from the Supreme Court nominee, taken from her personal correspondence and a Q&A session with Ms. Miers on the White House website from October 2004.

For anyone who has read Harriet Miers' (unofficial) blog, the posts are simultaneously amusing and disturbing – both the real Miers and her internet avatar share an unnerving penchant for exclamation marks. Granted, it is not truly fair to judge a nominee based solely on personal correspondence she most likely expected to remain private (particularly the belated-birthday card featuring an apologetic puppy on the front).

But what other materials do we have to evaluate her candidacy?

As many commentators have pointed out, she has never written an opinion that might reveal her judicial philosophy, never argued a case before the Court or submitted a brief to it, never published an article on a constitutional issue. By all accounts, Miers lacks experience engaging



White House Counsel Harriet Miers

in the very debates we expect Supreme Court justices to resolve. Which begs the question: why did President Bush nominate her?

The answer appears to lie in the Democratic response to her candidacy. Some liberal-leaning politicians have suggested, off the record of course, that Democrats should approve her nomination. If Democrats succeed in rejecting her, the President will surely nominate a better-qualified and more radically conservative person. By

then, the Democrats will have wasted all their political capital battling against Miers and have nothing left to combat the next Scalia or Thomas. In short, these commentators recommend that the Senate accept the lesser of two evils.

This argument underestimates the costs of putting Miers

We must demand more than agreement with the party in power

on the court as well as the value of a good fight. Conservatives have been demanded proof of Miers' views, not because they question her conservative credentials but because they want to the President to declare his allegiance to them.

As a recent New York Times article argued, they are tired of the President speaking in "code." His denunciation of *Plessy v. Ferguson* in the 2004 debates sounded like a simplistic attempt to avoid controversy, but it was actually a message to many pro-life activists who consider *Roe v. Wade* to be a similar black mark on the Court's jurisprudence.

Harriet Miers may not have made many public statements, but no one should doubt her conservative beliefs. If she is confirmed,

we should expect her to remain true to that ideology. She is not "another Souter." Even knowing that she will vote conservatively is not enough; we also want to know how she will justify those decisions.

Will she side with Scalia and Thomas, or with the presumably more moderate Roberts? Will she be able to articulate principled reasons for her decisions with which future generations can reasonably argue?

Democrats shouldn't be afraid to engage in a real discussion of Ms. Miers' qualifications. Perhaps some are still reeling from the filibuster this summer and want to pick their battles more carefully. But the public deserves a real debate about what we expect from Supreme Court justices. We must demand something more from them than simple agreement with the ideology of the party in power. To allow someone to ascend to the bench who is less than exceptionally qualified turns the Court into a very slow-moving imitation of the other political branches.

Certainly, there are reasons to believe that Ms. Miers may be a political foil, but that does not mean Democrats should agree to play the White House's game. Hopefully Senators on both sides of the aisle will take the opportunity to rescue the bench from petty politics and demand a qualified candidate with well-documented views on issues that matter.

This Space Reserved
For Your Opinion

Send it to
chrismoon@nyu.edu

HAPPY HALLOWEEN!

TREAT YOUR FRIENDS TO CANDYGRAMS AND SCARE UP MONEY FOR KATRINA RELIEF

JAG Recruitment at NYU: At Least Two Sides To The Coin?

NYU Should Draw the Line

DAVID PETERSON, '07

The military's "Don't Ask, Don't Tell Policy," is a policy whereby queers are ferreted out, harassed, and dishonorably discharged. It is a violation of NYU Law School's antidiscrimination rules, which the military refuses to sign. If a firm were to follow the same policy of outing and then ousting their queer associates, they wouldn't be allowed on our campus.

But the Solomon Amendment, pushed by New York Rep. Gerald Solomon, was a successful attempt at forcing the military onto campuses around the country. It threatens not only the law school, but the entire university with the loss of *all* federal funds if the military recruiters aren't allowed on campus. Particularly because of our medical school, which receives substantial federal research dollars, this is a loss NYU can't bear.

NYU Law began allowing JAG recruiters on campus, but they also took the offensive by joining in a legal battle against the Solomon Amendment claiming that it violates their 1st Amendment rights of expression, compelling them to express the military's message of homophobic persecution. In November the Third Circuit Court of Appeals reversed a District Court decision, and held for the Forum for Academic and Institutional Rights (FAIR). We won!

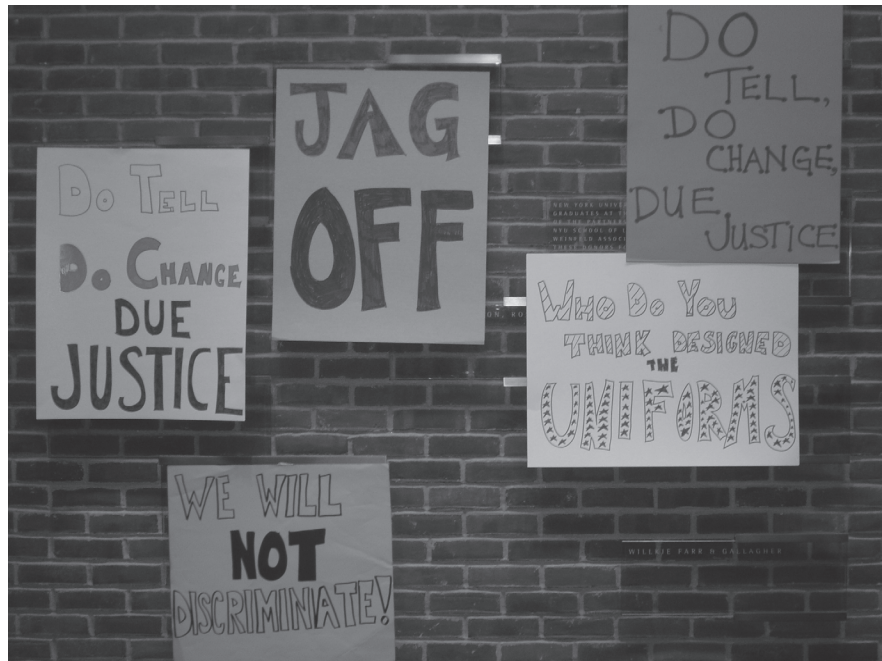
Come last February, and another round of on-campus job interviews, we found out that JAG recruiters would be on campus twice in two weeks, interviewing more (straight or closeted only!) students for jobs. This was sad and confusing news to us, but we soon got an explanation: the government had sought and received a stay on the issuance of the injunction, and NYU was not going to take any chances. They would wait, until the Supreme Court (sans O'Connor) made a final decision.

Not so in New Haven. Faculty members at Yale filed a separate suit in federal court in Connecticut. Yale won, and as of February 1st, they no longer allowed military recruiters on campus, based on the district court's injunction.

Different legal strategies lead to different practical results, but I contend that NYU shouldn't wait for the injunction. This isn't even a Thurgood Marshall case, where NYU is doing what is right and letting the law catch up. The school helped the law catch up, and still isn't doing what is right. Has anyone ever had their first amendment rights vindicated by a court and then waited around for an injunction to exercise those rights? "Never," says Professor David Richards, "but this is a law school. We follow the rules."

Many argue that we should play it safe. I fear that by waiting for the Supreme Court to let us do what is right, the politics of certain Justices might catch up with us — and with a vengeance. NYU shouldn't just be in the courtroom fighting for its LGBT students, but also doing what's right on its own campus and vetoing JAG recruiters now. Refusing to follow a law that has been deemed unconstitutional by two federal courts is hardly radical, nor is fighting for civil rights in the streets as well as in the courts.

NYU should challenge Solomon directly, by refusing to allow recruiters on campus. Perhaps we will lose federal money for the time being, but we can work with political allies to protest and challenge this, and highlight the injustice. With O'Connor gone, our victory could be overruled this coming session. If that happens, NYU might mourn a legal loss. But I hope the queer community will continue to organize a social victory.



How I Learned to Stop Worrying and Love Recruiters

PAUL KILLEBREW '07

Allowing the military to recruit at the law school with all of the non-discriminating law firms and public interest organizations strikes me as a more complicated idea than it first appears. On the one hand, there's every reason in the world to tell an employer who openly discriminates to take a hike, and the Solomon Amendment is a radical act of extortion to which the Third Circuit's injunction is a welcome response. On the other hand — and this is the hand I'll be dealing for the balance of this essay — the military needs lawyers from NYU Law School.

The United States military is a massive employer of marginalized groups, especially poor people and people of color, and one that has its own internal system for meting out justice. This fact alone deeply complicates the exclusion of the military from our campus. If military lawyers only come from schools on the other side of this question — schools that welcome the military's discriminatory employment practices — what does that say about the military's justice system? Did their lawyers and judges take

classes with professors like Derrick Bell, Nadine Strossen, Bryan Stevenson, etc.? If marginalized groups in the military don't have a front-line defense that's cognizant of social and political realities and sensitive to how powerful institutions perpetuate inequality, those groups will be let down.

This point raises the question of whether military lawyers can really have an effect on how marginalized groups are treated in the military's justice system, and we can find one answer in the case of the military lawyers assigned to defend the "unlawful combatants" detained at Guantanamo Bay. These lawyers, led by Harvard Law School alumnus Col. Will Gunn, have challenged the legitimacy of the military commissions set up by the Pentagon for unlawful combatants, in which the rules of the game have a pronounced tilt toward the prosecution. Col. Gunn and the other military lawyers who are bringing their claims into federal courts are guided by a sense that civil liberties are not negotiable, or as Col. Gunn told *The New Yorker*, "our first obligation is to insure fair and full trials ... I feel it's my obligation to hold

the government to that."

The military needs lawyers like Col. Gunn, and NYU makes a lot of them. But what does this have to do with whether NYU should allow the military to recruit on campus? As long as protesting the military's discriminatory employment practices means excluding military recruiters from campus, such a protest competes with the desire to have military lawyers with the kind of respect for civil liberties that we learn at NYU.

At some level, the deadlock between these competing values arises out of a single frustration — namely, a sense of political disability with regard to military policy. Asking whether that disability is better addressed by protesting a discriminatory policy or by infusing the military with better lawyers poses a false dichotomy — alternative forms of protest or recruitment would let us have it both ways. But as long as we're talking about excluding military recruiters, it's important to remember that the military is not the armed wing of the Republican party. I know it sounds funny to say it, but Uncle Sam might actually need you.

USA Has Moral Obligation to Intervene in International Conflicts

TUDOR RUS '07

The American Constitution was enacted to secure the fruits of liberty, prosperity, and representative government for those living within the United States. What the founders probably never imagined is how vital the "experiment" they set into motion would become to ensuring that the institutions from which these fruits blossom take root across the globe.

Quite the opposite, George Washington warned about the dangers which "permanent alliances with any portion of the foreign world" would pose to the United States, and counseled his countrymen to "steer clear" of such hyperactive participation in the international arena.

Since the end of the Second World War however, the involvement in the United States has been indispensable to the spread of freedom and democracy to new and distant places. The entanglement of the American diplomacy, American business, American civil soci-

ety and of the American military from the Federal Republic of Germany to the Republic of China (also known as Taiwan) has helped millions to throw off the yoke of tyranny, and provided them with the tools necessary to build robust market economies and healthy republican governments.

Most of Eastern Europe (with a few unfortunate exceptions such as Belarus) would have never been able to escape from under the heavy steel-tipped boot of dictatorship without direct American aid.

Diplomatic pressure placed upon the Soviet Union caused Gorbachev to give the people of Romania, Poland, and Hungary some breathing room. It prevented the U.S.S.R. from providing military support to the communist dictators felled by the popular revolutions of 1989; there was no repeat of the spring of 1968. The threat of American military might reinforced that diplomacy, placing our leaders in a negotiating posi-

tion which allowed them to secure these very concessions from the U.S.S.R.

Interactions with American citizens and society, through letters, through underground organizations, and through religious institutions motivated many dissidents in these countries to continue fighting for their ideals. So did secret aid provided by American intelligence agencies like the CIA.

Eastern Europe, though a clear beneficiary of an internationalist American foreign policy, is not alone in the world. Taiwan and South Korea also developed into free, economically successful republics after decades of clear American commitment to their respective regions.

The same can be said about Central America, which as recently as the 1980's was raging with civil war. Today, the people of these countries have exchanged their swords for ploughshares, and their people will soon reap the eco-

nommic benefits of free trade through the Central American Free Trade Agreement.

But what should the future hold? Should we retreat, as George Washington would have likely suggested, from the world and save ourselves from the burden of spending blood and treasure (and the accusations of imperialism)? Or should we continue as we have for the last 50 years, actively supporting democratic, free-market principles around the world?

In many ways, a retreat would be immoral. We could not withdraw our troops from Iraq on the mere hope that the recently voted-upon constitution would prevent massive bloodshed in the form of civil war. Even accounting for the Sunni insurgency, our active presence there prevents bloodshed and nurtures democratic institutions.

Nor could we withdraw with clean hands from South Korea and Japan, leaving these nations at the mercy of a nuke-wielding and

sometimes delusional Kim Jong-Il. Any lives lost in the power conflict that would follow our retreat would weigh heavily on the American conscience.

As the only world power capable of bearing the burdens of international leadership, we must continue to do so into the near future. Not doing so would destabilize gains made in the name of individual rights, freedom, and representative government, and deny persons living under dictatorial regimes the hope they need to challenge their oppressors.

It is certainly a heavy burden to bear, and it is almost certainly not one our founders intended us to undertake. It is however the choice we should make if we truly believe in the principles of representative government, liberty, and the pursuit of happiness for all.

In an amazing coincidence, two Commentator staff members wrote articles this week decrying cheap food and cheaper service. The lesson? Do NOT mess with the Commentator's food critics. Lesson #2? Sometimes it's better to be treated nice than to get cheap food.

Bleecker Burger Joint Fails to Live Up to Spectacular Restaurant of Same Name.

BRIGHAM BARNES, '06

About a year ago I "discovered" and "reviewed" the Burger Joint at Le Parker Meridian for the Commentator. At the end of the summer I noticed that a new hamburger establishment was opening on Bleecker between MacDougal and Sullivan, also named "The Burger Joint."

When I first saw it I assumed it could not have anything to do with Le Parker Meridian Burger Joint (why would a magnificent lowlife burger spot hidden inside the lobby of a luxury hotel choose to open an outpost on Bleecker?). However, it was called "The Burger Joint." So, out of pressing curiosity, I finally visited this new local establishment last week.

I learned so much!

First off, it turns out that our new Burger Joint is an offshoot, not of the Parker Meridian Burger Joint, but of another "The Burger Joint" located at 3rd Avenue and 20th Street. The first thing that you'll notice about the Burger Joint's menu is that it is small: it offers hamburgers, cheeseburgers, doubles of either sandwich, onion

I was thrilled by these prices before I realized low prices could only mean one thing: little burgers

rings, and French fries—oh, and the menu also indicates that pickles may be added to any sandwich for an additional twenty-five cents.

The next thing you'll notice about the menu is that the prices are *low*: hamburgers are just a buck, cheeseburgers a buck twenty-five. I was thrilled by these low prices for a second before I realized that low prices could mean only one thing: little burgers.

Even as a mid-westerner known to engage in the occasional White Castle binge, I've never understood the draw of the little burger. Why settle for several little hamburgers when you could eat a single big delicious burger? The Burger Joint burger does little to advance the argument for little burgers. Much like a White Castle slider, the Burger Joint burgers are square shaped and served with lots of cooked chopped onion. The meat is fine and the onions fairly tasty, and somewhere between the onions or the meat there's something peppery going on with the

burger's taste.

If I have any major gripe with the burgers it's that they're served on yellow dinner rolls that are far too large for the little patties of meat found between their layers

By my last Burger Joint cheeseburger I was ripping off and discarding pieces of the roll to get at the meat hidden inside. On the whole, I'd say the burgers were quite marginal and didn't leave me with much of a reason to plan to return to the restaurant any time soon, although the French fries were fairly good.

One other thing that the Burger Joint had going for it, though, was a soda fountain with unusual selections, featuring, among others: RC Cola, IBC Root Beer (you know, the root beer that's usually only offered from a bottle), and chocolate soda. According to the internet, the Burger Joint offers free refills, but I didn't notice anything indicating that fact inside the restaurant, and the guy behind the counter certainly didn't tell me there were refills.

If I have any key complaint to make about the Burger Joint is that its "guy behind the counter" was close to the most unpleasant "guy behind the counter" I've ever encountered, and I've been eating cheap food all over New York for over two years straight now.

I'm no stranger to unpleasant people behind counters. This guy though, treated my lunch companion and I as if we were an absolute burden to be dealing with. Maybe that's not the best attitude to have when your establishment is next to empty at the height of the lunch hour.

After taking my order and giving me my change he called me back to the counter and strongly informed me that I owed him another dollar because he had given me too much change. I gave him the dollar he asked for and then counted my change a few more times before I was certain that he was mistaken and owed me that extra dollar. When I informed him of the mistake he argued with me for a moment before giving me my dollar back.

I don't mean to use the Commentator as my forum to be disgruntled about a small misunderstanding involving a single dollar, but I offer this bit of advice to restaurateurs: when you demand an extra dollar from your customers, you'd better be right; and if you're wrong, you better be ready to acknowledge that mistake, especially if all you offer are tiny burgers on big rolls.



Mamoun's Falafel Restaurant: Overrated Food, Awful Service

Mamoun's enjoys a reputation for cheap, good food that the other 27 falafel restaurants on Bleecker Street don't have. Our reviewer says it is undeserved.

NICHOLAS KANT '06

There are two reasons that Mamoun's Falafel Restaurant can kiss my ass. The first reason is that their falafels are extremely low quality and they give me a stomachache every time. The second reason is that they don't appreciate my business, and they don't make me feel welcome, judging by the way that they are completely and totally lacking in courtesy.

Whether you are a brand-new 1L, or a "veteran" 3L, you probably know about Mamoun's. And if you don't, I'd say that you should, except that it is a horrible place. So don't go there.

Mamoun's is of course the tiny falafel restaurant at 119 MacDougal Street, just behind the law school. The place gets very busy around lunchtime, and it gets plenty of press coverage. I've seen rave reviews in The L Magazine and Washington Square News.

But if it is so crappy, why does everyone love it so? I'll tell you. It's close and it's cheap. It's just two dollars for a falafel sandwich. But just because it is cheap, is it then worth eating? I could get some cardboard for a dollar, does that mean I should eat cardboard?

And there is a reason Mamoun's can sell falafels for two dollars while everyone else sells them for more. The obvious reason is that they save money by using lower quality ingredients.

The Washington Square News article about Mamoun's is headlined "Mamoun's Falafel is a village staple." It is written by Tegan Neustatter, who really couldn't sing much higher praises if famous chef Julia Child herself was selling falafels for a quarter.

Neustatter apparently interviewed Nedal Chater, "Mamoun's son and now co-

owner with his brothers Galal and Kinan." Chater says that the falafels are low in price due to buying in bulk and low overhead from him and his brothers "being out here busting our butts."

Well, I don't know who Nedal Chater is, but Mr. Chater, let's be honest, your falafels are low in price because they are crappy. And I don't know if the meathead behind the counter is Nedal Chater or not, but whoever he is, he is rude.

Here is what it is like getting food there:

"Next!" says the meathead behind the counter.

"One falafel and a water please," I say.

"That's three," he says. Or maybe just "three."

He takes the money, puts a falafel on the counter next to him, and yells, "next!"

I say "thanks," but he's not listening.

Would it be so hard for him to say "thanks," or "here you go," or just to smile?

My favorite food place in the world is back in Boulder, Colorado. It's a little Chinese/Vietnamese takeout place called "Kim's Food To Go." What makes it so great is not just the low prices, the healthy food made with quality ingredients, but also the fact that I felt welcome and appreciated. And they wouldn't do much more than say "hello," "here you go," or just smile when they HANDED me my food.

So, to quote Levar Burton on Reading Rainbow, "You don't have to take my word for it." Go to Mamoun's and see for yourself. It will only cost you two dollars for a stomach ache and another encounter with a pushy New Yorker. Or do take my word for it, and go somewhere else.

Advertisement Israel Study Abroad Session This Friday

On Friday October 21st, from 4-6 p.m., Professor Michael Bazylar will be speaking about his summer study abroad program in Israel. Professor Bazylar's session will be held in Furman Hall, room 326. Refreshments will be served.

I attended the program last summer and it was sensational. The classes, held at Bar Ilan University and taught by both American and Israeli law professors, were interesting, informative, and represented a diverse array of viewpoints on topics such as: religion and the state, human rights in the age of terrorism, the law of genocide, and law in the middle east. The legal trips and optional excursions were amazing.

Professor Bazylar's program is more than just academic. Professor Hallie Ludsin, an international human rights scholar specializing in women's rights, has extensive contacts in Israel and was able to place students in internships at public interest organizations, law firms, and in various governmental bodies.

In short, the Program is an incredible opportunity for personal, professional, and academic growth. Professor Bazylar is an incredibly talented professional.

Below are other details about the program:

Whittier Law School's summer abroad program was the only program to take law students to Israel for the last two years. Not only that, but the program had the largest group of law students every to come study law in Israel: 66 law students from 28 different law schools throughout the United States and one each from Canada and Australia.

For this year's summer program, Whittier is offering scholarships to law students from law schools affected by Hurricane Katrina.

Students are also placed in volunteer legal internships before/after the program, which will take place in July 2006.

Website: www.law.whittier.edu/israel

Please feel free to contact me if you have any questions.

Warmest Wishes
Jocelyn
jocelyn0102@gmail.com

NBA Eastern Conference Preview: In the Land of the Insane Shaq & Wade Will Reign Supreme

CHRIS MOON '06

After some spectacular prognostication last year, topped off with the prediction of a Minnesota vs. Indiana final, I'm back with more predictions. I guess I'm a glut-ton for punishment.

Of course, to be fair, nobody could have predicted that Ron Artest would start a riot in a basketball arena and be suspended for most of the season, taking down Jermaine O'Neal and Stephen Jackson for shorter suspensions with him. I mean, we all knew he was crazy, just not "riot-starting" crazy.

So, who is this year's top choice to come out of the East? Let's count down the conference legal style, looking at each team's major "issue" and then my "holding" on how the season will turn out.

15. Toronto Raptors

Issue: Is anyone on this team any good?

Holding: Chris Bosh is a good prospect, but there are probably at least five young power forwards or centers in this conference I'd rather have on my team in the long run (Dwight Howard, Al Jefferson, Andrew Bogut, Tyson Chandler, and Emeka Okafor off the top of my head). So, to simplify things, no, nobody on this team is any good.

14. Charlotte Bobcats

Issue: Were Raymond Felton and Sean May really the best picks available in the draft?

Holding: No. Drafting players just because they went to the local university is a bad idea. I'm not saying that either one is a bad player, but there were a lot more talented players on the board. The Bobcats should be looking for franchise players, and neither one of these guys fits the bill.

13. Atlanta Hawks

Issue: Can Joe Johnson play point guard?

Holding: You mean, in the NBA? Um, no. At least not without a small guy to guard the real point guards in the league. But hey, 30 wins would be a success with this team.

12. Philadelphia 76ers

Issue: Will Iverson and Webber get along?

Holding: Not on the same court, although they are kindred spirits. Iverson has the body of a point guard and still plays like a shooting guard, while Webber, blessed with all of the tools of a power forward, acts like he's a point guard. This can't end well.

11. Orlando Magic

Issue: Speaking of shoot-first point guards, how's Steve Francis look?

Holding: He looks a bit confused with four other point guards on the roster. Turns out nobody in the Magic organization thinks he can play the point anymore, except for him.

10. New York Knicks

Issue: Will Stephon Marbury last in New York?

Holding: Notice a pattern here? Three teams in a row with

guys who refuse to make their team better. If we're looking for patterns, we might also notice that Stephon Marbury has been traded away three times now, and the team he was traded away from has gotten better every time. Well, if history is any guide, the Knicks should look to trade Marbury for anything. The team he gets traded to will finish with 30 wins. And Marbury will still proclaim himself the best point guard in the NBA.

9. Boston Celtics

Issue: Speaking of trades, is Paul Pierce going?

Holding: Maybe. With Boston rebuilding, he could go midseason. If he does get traded, this pick is a bit high. Actually, it's probably too high anyway, but all Red Sox fans need the hope of almost making the playoffs.

8. Washington Wizards

Issue: Was letting Larry Hughes go a mistake?

Holding: Not for that amount of money in the long run. But they might take a step back this year, while still being competitive.

7. Milwaukee Bucks

Issue: Bogut for rookie of the year?

Holding: Not while Chris Paul is healthy. Luckily for Bogut, he walks into a great situation, with a great shooting guard, good forwards, and (hopefully) a healthy T.J. Ford. He'll get his 12-15 points and 9 rebounds, but other guys who need to lead their teams in scoring, Paul especially, should put up better numbers.

6. Chicago Bulls

Issue: Was letting Eddy Curry go a mistake?

Holding: Not a huge one. Michael Sweetney is an adequate replacement, and Chandler, at 7'1", now has the size to play center against anyone not named Shaq. Combine that with the growth of the other Bulls, and this is a playoff team again.

5. New Jersey Nets

Issue: Is this team for real?

Holding: They will be real fun to watch, but without a legitimate low post threat they lack the all-around game to compete for the championship. Interestingly enough, you'll notice that three Central Division teams are ranked ahead of the Nets. With the horrible seeding system in the NBA, where the conference champions get the first three seeds, it is likely that this team, despite having the fifth best record, will end up with the third seed and draw an much easier first round match-up than the 4/5 series, likely to be two of the three Central Division powerhouses beating each other up literally and figuratively.

4. Cleveland Cavaliers

Issue: Can LeBron James make his teammates better?

Holding: Lost in last season's collapse of the Cavaliers was just how bad LeBron played to end the season. Sure, he got his points, but at the expense of his team's overall success. New GM Danny Ferry has significantly up-

graded the Cavs roster, bringing in players that should complement LeBron's game spectacularly. With Damon Jones and Donyell Marshall raining in three pointers, Larry Hughes on the wing, and Ilgauskas in the pivot, this team is almost guaranteed to make the playoffs. How far they go will depend on how quick LeBron can make each individual player on his team better. As mentioned above,



playoff seeding could kill the Cavaliers chances, taking home court advantage away from them while the Nets jump to the 3 seed.

3. Indiana Pacers

Issue: How crazy is Ron Artest?

Holding: Crazy enough for me to place a team that I really think should go to the finals in third place. The off-season acquisition

of Sarunas Jasikevicius makes their guard rotation one of the best in the league, and Danny Granger should be a rookie that can contribute immediately. Unfortunately, Artest and Jackson form the craziest combo in the league. Who would you rather have taking shots at the end of a game, someone with ice water in their veins, or Ron Artest? Yea, I just can't pick them again.

Actually, one of the highlights of my first year at NYU Law School was one of my fellow classmates telling me how Ron Artest had asked her to the prom, but that she didn't want to go with him because he was too crazy. And this is the man to lead the Pacers to the finals?

2. Detroit Pistons

Issue: Why can't this team threeppeat in the East?

Holding: They stand a great chance, I just think that maybe their luck has run out. The last couple of years they have had an incredible string of good luck, with no major injuries during the playoffs, while other teams have had horrible bad luck against them. I ran down last year how they rode injuries to irreplaceable players on other teams to the finals.

Last year they continued their luck, outlasting Miami only after Shaq missed a couple of games and Dwayne Wade could hardly lift his arms in game seven.

Also, with Detroit trying to work younger players like Carlos Delfino and the infamous Darko into the rotation, there is the chance they lose more games in the regular season, which could cost them home-court advantage. Besides, it was just a couple of years ago when Rasheed was the craziest man in the NBA, I'm sure he's itching to take back his title.

1. Miami Heat

Issue: Will their off-season moves push them over the top or over a ledge?

Holding: So they let Eddie and Damon Jones go, replacing them with Jason Williams, Gary Payton, Antoine Walker, and James Posey. The last player on the list should fit in as a great defensive stopper, taking pressure off of Wade. The first three all love to have the ball in their hands. I hate Antoine Walker's game. He's maddening to watch. Basically, he does enough good stuff to counteract all the bad things he does, making him an average player. He's almost like the basketball version of a schizophrenic.

However, this is a team lead by two stars, but now they have 7 players around them instead of 4.

Coming next issue, find out who will come out of the West to take on the Heat in the finals. I'll give you one hint: sometimes everybody already knows the correct answer.

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SLAP Continues In Downpour

CONOR FRENCH '06

It rained. It poured. For eight straight days, drizzle and downpour dampened the fields, but not the intensity of two consecutive Fridays of flag football. With a thin layer of water covering the turf, the fields resembled great big slip-and-slides, albeit ones that left the legs and arms of those daring enough to hydroplane with nasty gashes and burns. In many cases, the weather took its toll on offenses as teams recorded a handful of shutouts. In other cases, the weather sent players rushing to hospitals and other medical practitioners with a host of physical ailments and discomforts.

While weather prevented some games from taking place, the lightened schedule was more than offset by a bevy of make-up games to account for the dreaded approaching date when all 3Ls must submit to the MPRE (this ethics exam is said to include such brainteasers as "can you date your client?").

In the Full Contact League, the past two weeks have transformed the largely open field into a two-horse race. Unfortunately for all those who cheer for the underdogs, those two teams were the same two teams tabbed as co-favorites at the season's onset. Malicious Prostitution continued its

improbable run toward a shutout season. Having surrendered nary a point in five contests, Malicious Prostitution also took it upon themselves to bounce upstart, Gans & Co., from the ranks of the undefeated.

Their primary competition, Minimum Contacts, brought 3L overachievers, People's Army, back to reality in a double-digit victory. Perhaps the fiercest rivalry in all of flag football flared up off the field between the two main contender's notoriously venomous quarterbacks, Charley Vandenburg ('06) and Ryan Eney ('07). Following news of Minimum Contact's convincing triumph, Vandenburg awoke from his post-game meditation and proclaimed Eney as "not very nice. Not very nice at all." Eney then turned up it out."

In deep contrast to the clarity of its counterpart league, the Less Contact League decided to mire itself in some form of rankings system. The usual byproducts of such a system were in full effect on these two Fridays as teams suddenly realized how crucial running up the score would become to their coveted ranking. Persuaded by iconic team captain, Bukola Aina ('06), to "score, score, score a lot more," the aptly-named Bukola's Team solidified its #1 ranking by rolling up 55 points in

its two games.

Still topping the Solicitor's Division, Title IX kept pace in victories if not in points, accruing more momentum as the playoffs approach. Among the fallen stars in the Less Contact League, marquee defensive back, Robert Silvers ('06), backpedaled to his season's demise. After leaping to garner a heroic interception, he slipped on the sodden turf, fracturing his collarbone (that the interception occurred on fourth down and would have been better simply batted down does nothing to disturb this author's opinion of the heroism involved).

Some final notes: does Malicious Prostitution honestly believe that constantly attributing a horrifying disease, "rabies" (remember this is what doomed Old Yeller), to its team captain constitutes a sign of respect...how much fun would it be to make fumbles live balls and watch as hoards of young J.D. candidates clawed and kicked at one another in a great big pile...does it seem a bit strange that one team, Pass/Fail, not only decided to keep track of all its interceptions, but also but also continually keeps the entire league updated...and, lastly, what we all must learn by November 4th, can you or can you not date your client.... The road to the playoffs begins here. Let's get aggressive.

Scores

Full contact league

Week 4

Gans & co. 6, The Wobblies 0
Tim Meyer's Team 28, Pro Boner 14
Malicious Prostitution 30, Dirty Briefs 0
Minimum Contacts 27, People's Army 14

Light Contact League

Week 4

Battery chargers 24, Flag Burners 12
Jang 19, Deep Impact 6
LLUA 20, NC17 0
Gans & Co 20, Barely Legal 6
Pass/Fail 34, Auditors 20
Just the Tip 20, NC17 6
Just the Tip 20, Rodep Clowns 0
Learned Hand Job 18, Agency 8

Week 5

Rodeo Clowns 25, Auditors 19
Jamg 28, Reasonable 18
Barely Legal 7, Deep Impact 0
Title iX 26, Pass/Fail 6



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TUESDAY - COLLEGE NIGHT

\$7.00 DOMESTIC PITCHERS

\$2.50 SHOTS OF JAGER AND SOCOLIME

ASK YOUR BARTENDER ABOUT OUR OTHER COLLEGE SPECIALS
8PM—4AM

THURSDAYS

\$7.00 & \$10.00 PITCHERS

ALL SHOTS JUST \$3.00

8PM—4AM

HALF PRICE HAPPY HOUR MONDAY—FRIDAY 4 PM—8 PM