The Commentator

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Controversy and Lawsuits Fly as Gay Associate Sues S&C

Roberto Reyes-Gaskin '09

It promised to be an unusual case from the beginning. Aaron Charney, an associate in the M&A practice group at one of New York's most prominent white shoe firms, Sullivan & Cromwell, filed suit in the New York Supreme Court alleging discrimination premised on sexual orientation. Charney filed the suit *pro se* stating in the press that he could not obtain legal counsel willing to take on S&C (as this story went to press, however, Charney is no longer representing himself in the pending litigation and has referred all inquiries to noted employment lawyer Daniel Alterman (JD '69, LLM '71) of Alterman & Boop). Charney filed the complaint in New York state court under a NYC Administrative Code cause of action; federal employment law and Title VII civil rights law provide no cause of action for discrimination because of sexual orientation, unambiguously stated in *DeSantis v. Pacific Telephone & Telegraph Co.* (9th Cir. 1979).

In his complaint, a copy of which was obtained by the *Commentator*, Charney alleges a "systematic [pattern of] discrimination and campaign of retaliation by S&C partners," in his practice group and elsewhere in the firm spanning some ten months before the complaint was filed. The plaintiff charges that one supervising partner repeatedly made offensive comments regarding homosexual sex while another partner suggested that Charney was involved in a relationship with another male M&A associate, Gera Grinberg (which Charney denies); the partner further warned Charney that the "unnatural" association "needs to stop" despite there being no policy forbidding work colleagues from forming relationships.

According to Charney, the firm retaliated against him after he complained about his treatment. Charney was removed as a mentor for the summer associate program at S&C and was accused of overbilling. The plot thickens further. Charney's complaint also accuses John O'Brien, an M&A partner who is openly gay, of attempting to cover for the firm by supervising Charney in order to give S&C an example of an openly gay colleague who is happy at the firm. After filing the suit, Charney was promptly told he was "not wanted" at the firm and placed on leave, which he told Canadian business talk show *Squeezeplay* on January 17, was "not my preference…and I considered it further retaliation." Charney's employment was later terminated.

An affable and determined Charney also told *Squeezeplay* that he is filing this suit to "hold partners accountable" and ensure that "future generations of associates at my firm and other major firms will not endure this type of discrimination and not suffer in silence." The suit has caused quite a stir in Canada (S&C has a large Canadian practice), as Charney's complaint includes a remark allegedly attributed to a senior partner at S&C that the firm considers "all Canadians to be irrelevant" (Gera Grinberg is a Canadian citizen). During his interview with the Toronto news show, Charney said that remark "gives evidence to the kind of discrimination that is rampant at Sullivan and Cromwell." Legal blogs on both sides of the Northern border have both praised and denigrated Charney.

An organization dedicated to, among other goals, promoting the expertise and advancement of LGBT legal professionals, LeGaL, the Lesbian & Gay Law Association of Greater New York, courted controversy by weighing in on the case early on. The former president of the organization, Jack Scheich, was quoted by ABC News as saying "Sullivan & Cromwell is far from prejudiced in any way, I don't know Aaron Charney or the details of his case, but if I had to line up on one side or the other, I would have to line up with David H. Braff [an openly gay partner at S&C]" and the firm. Scheich later clarified his comments in an email to NYU alum Ivan Espinosa-Madrigal, saying "Who are we to believe? Mr. Charney who has never shown any interest in the gay legal community before this incident…OR Dave Braff, a member of LeGaL for over 20 years, also gay, and a big contributor to LeGaL in more ways than just money." As response, the boards of NYU and Columbia Outlaws, the LGBT law students associations, wrote an oped to the *New York Blade,* stating that Scheich's comments "fly in the face of the [LeGaL's] principles" and

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Moot Court Goes to Nationals, Doesn't Embarass NYU

By George Chikovani '07

[Disclosure: The author of this article, and the Editor-in Chief of this publication are both current members of the NYU Moot Court Board. They also harbor barely-repressed crushes on Brian Crow and Shaneeda Jaffer, respectively].

"Have *you* ever been arrested, counselor?"

It is not a question that a lawyer expects to hear from a Supreme Court justice during oral arguments, but it is exactly what Kartik Venguswamy faced from the bench during the 57th Annual National Moot Court Competition, while representing a criminal defendant who claimed that a police officer's decision to conduct a search of his bag violated the Fourth Amendment.

The team of Venguswamy, Brian Crow, and Shaneeda Jaffer had run through nearly a hundred hours of practice moots and four regional rounds to reach the national final of the competition, widely considered the most prestigious and competitive moot court in the US, yet NYU's hopes of moving on to the knockout rounds of the finals for the first time since 2000 hung in large part on the next ten minutes.

Venguswamy had made the argument dozens of times, without ever hearing that particular question. Although the question had little to do with the competition's certiorari question, evading an answer was not an option – the "judges" (usually attorneys volunteering in exchange for CLE credit) asking the questions are the ones who decide the winner, and deference and responsiveness to the bench are key judging criteria.

Venguswamy gave an account of being pulled over by a highway patrolman, before managing to steer the conversation away from his personal interactions with law enforcement and back to the Court's Fourth Amendment jurisprudence.

It was one of one of many tense moments for Venguswamy, Crow, and Jaffer in their run to the Elite Eight round of the Nationals competition. The trio of 3Ls, who were selected for the team by fellow Moot Court members after participating in other competitions last spring, produced NYU's most successful performance in the Nationals competition in 25 years.

The National Moot court competition begins with 165 teams in several regions. The team reached the national finals after finishing second in the 12-team New York regional round held in November, a performance that included awards second-place team brief and Best Oralist (Venguswamy).

Next the team competed against other regional winners in a National competition. While Crow and Venguswamy say they both gave below-par arguments in the round-robin portion of the national round finals, Jaffer was on her game, and the overall performance was good enough to finish as one of the top 16 in the 28-team field and reach the knockout rounds.

In the Octofinals (apparently, there are worries about trademark issues from the NCAA over use of "Sweet 16"), the team found its best form to defeat Illinois Institute of Technology-Kent (a school allegedly widely known as the Fordham of the Midwest) and reach the quarterfinals, where they were knocked out by the University of Washington, who went on to defeat Texas-Wesleyan for the championship.

See an interview with the team, page 3

Professor Fox: Woman, Lawyer, Human Being, Pioneer, Professor

By Ben Kleinman '08

The basics are simple: Eleanor Fox is the Walter J. Derenberg Professor Trade Regulation at New York University School of Law. The graduated from Vassar in 1956 and received her LL.B. from NYU in 1961. After giving birth to her first child in November of that year, she started working at Simpson Thacher & Bartlett in January 1962, became a partner in 1970, and joined the NYU faculty in 1976. She became a full professor in 1980, was Associate Dean from 1987-1990, and received her current chair in 1994.

The basics aren't nearly that simple. Professor Fox was one of only eight women in her graduating law class. When she joined her firm, there was only one other female associate – who left not long after. When she made partner, Fox was the third or fourth female to do so at a Wall Street Law Firm. And when she became a professor, she focused on antitrust law, which one wouldn't think of as "woman's work".

Professor Fox is well aware of the barriers she breached and the

stereotypes she's confounded. While she self-effacingly deflected the obvious characterization of herself as a role model by suggesting that people were free to choose their own role models, when asked quite directly (but hopefully not rudely) about why she was involved in anti-trust as opposed to something more stereotypically feminine or feminist, Fox provided an answer that gives insight into both her 'becoming an attorney' story and the history of anti-trust law.

Simpson hired her as a file clerk, a job that would today be done by a paralegal. Whether through fortune or fate, one of her first assignments was to plumb the files of Music Corporation of America. MCA, as you might know, went on to combine with Decca and Universal. In the 1960's, Simpson was counseling MCA during investigations into its "entertainment packaging business". Fox read files about loans and advances that the nominally rich and definitely famous were requesting from the agency and its management. She saw, from the ground up, how a company could extend its reach and exert control over competitors, suppliers, and even facially unrelated companies.

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Packed with Stereotypes, Snickers Dissatisfies (Some)

By Derek Topaz '08

During the Super Bowl, Snickers aired an ad which has since been condemned as an inexcusable act of homophobia. The commercial begins with an auto mechanic placing a Snickers bar in his mouth. A fellow mechanic, drawn by the undeniable appeal of a Snickers, begins to eat it from the other end. For a moment the two share a kiss reminiscent of *Lady and the Tramp*. After realizing what just happened, they react in disgust, declare they should "Do something manly!" and proceed to rip a patch of hair off of their respective chests. The Snickers website also features several alternate endings to the commercial that eager fans can vote on, the winning ending to be featured during the Daytona 500. In one alternate ending the men drink what appear to be motor oil and antifreeze, and in another they assault each other using a wrench and a car hood. Groups such as the Human Rights Campaign (HRC) and the Gay & Lesbian Alliance Against Defamation (GLAAD) have spoken out against acts they claim are homophobic prejudice.

But before jumping on the outrage bandwagon, let's take a moment and actually interpret the commercial. HRC and GLAAD claim that the commercial supports thinking that male-on-male kissing is disgusting and that it's acceptable to respond to homosexuality with physical violence. But that raises the question: which gay men are being assaulted? The commercial is clearly depicting the men as heterosexual. So perhaps the right interpretation is that heterosexual men kissing is gross; not an incredibly outrageous claim.

This is probably an oversimplification of HRC and GLAAD's objection though. What's causing all the outrage is that the commercial seems to indicate that you should act with disgust or violence towards those you suspect to be homosexual. But there's a hole in this theory: Snickers doesn't seem to endorse the men's response. When you see the men rip off their chest hair in an effort to regain their lost masculinity, you don't think, "Wow, those guys really do credit to the heterosexual agenda. Let's go get our guns and shoot some queers." The reaction Snickers

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NYU Law Celebrates Diversity in Poe Room

By the CoLR Board

On February 15th, when this issue comes out, it will be the last day of Diversity Week 2007. For these three days, the Coalition for Legal Recruiting (CoLR), the ALSAs and OUTLaw will have staged an important, informative, and hopefully incredibly fun week focused on diversity in law school and the legal profession. Our goals are to build community and to develop strategies for a more diverse NYU.

Why? The statistics help paint part of the picture. People of color, 30% of the population of this country, make up only 15% of lawyers. Women, who have made great strides in the legal profession in recent years still constituted only 14% of law firm partners, 19% of federal judges, and 19% of full professors at law schools in 1997, according to the ABA. The percentage of students of color who have matriculated at NYU law school have dropped significantly in the past few years.

But the statistics tell only part of the story. For years, CoLR, the ALSAs and OUTLaw have been on the frontlines seeking acceptance, tolerance and diversity for students of color and queer students. This struggle is the purpose of Diversity Week. The struggle is a positive one with simple goals: build alliances, foster community, and reaffirm our commitment to diversity. To this end,

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Fall Ball, Spring Fling Fall to Prohibition

By Johnathan Smith '07

I remember as a 1L I was fascinated by the notion of Fall Ball when I first learned of it. The thought of the entire law school (or at least the two lower floors of Vanderbilt Hall) transformed into a night club with dance floors, a karaoke lounge, and even face painting seemed both bizarre and a brilliant way for students to get to know each other outside the classroom. Indeed, going to Fall Ball during my first semester and seeing many of my classmates dressed in costume, and everyone having fun, was a sight for sore eyes. After weeks upon weeks of coursework, it was a welcomed reprieve. And in conversations and emails I have received over the last couple of weeks, I know many of you feel the same way. Many people have explained to me how enjoyable they have found both Fall Ball and Spring Fling to be, some even claim they have been the most memorable events they have had while in law school. There are very few who seem to deny that Fall Ball and Spring Fling are two NYU Law traditions that make our law school such a unique and enjoyable place.

This drunk, happy crowd might not be so drunk, or so happy, come next year.

Nevertheless, these events are not without their flaws. In conversations with senior administrators, the SBA has learned that there have been several incidents and events over the last several years that have raised a number of red flags. For example, during Fall Ball 2006 there was a considerable amount of property damage down to Greenberg Hall by students splashing red wine on the curtains and rugs. Additionally, in recent years there have been a number of times when students in attendance at these events have become extremely ill due to excessive alcohol consumption. Furthermore, the managers and staff of the residence halls often find vomit and other unwelcome surprises throughout the buildings. Obviously, these concerns are very serious. Not only does it cost the law school a significant amount of money to repair the damage done during these events, but the administration is rightfully concerned about the wellbeing and safety of students at these events. A number of proposals have been made to make changes at Fall Ball and Spring Fling, including banning alcohol at the events.

Many students have written to me to express their disapproval of banning alcohol at Fall Ball and Spring Fling. Members of the SBA share those concerns and have expressed them to the administration. Nevertheless, some changes have to be made in order to ensure that these events are safe and enjoyable for everyone. Over the next few weeks, the SBA will be meeting with some members of the law school senior administration about this issue. If you have any suggestions on how to improve these events, please let me know by emailing me at Johnathan@nyu.edu. I look forward to hearing from you.

Law School Asks Culinart to Drop Sweatshop Laundry Subcontractor

BY KEREN WHEELER '08

Taking a stand for workers' rights, NYU Law School has requested that CulinArt, Inc., the school's food service contractor, drop their current laundry service, New England Linen, because of a myriad of abuses at the laundry's facilities. According to the Office of Special Events, CulinArt has agreed, and will soon be making the transition to a responsible laundry service.

New England Linen has been fined $14,070 by the Occupational Health and Safety Association (OSHA) for a total of 23 violations of health and safety codes, 20 of them serious. OSHA defines a serious violation as "a hazard, violation or condition such that there is a substantial probability that death or serious physical harm could result." The OSHA violations included inadequate machine guarding to prevent accidents and amputations, dangerous electrical systems, flammable liquid storage, and inadequate emergency egress. Workers report that the facilities are overrun with rats, cockroaches, and maggots. Many are making substandard wages, even after ten years or more at the company.

Workers at the laundry are in the midst of a campaign seeking union representation with UNITE HERE, a union which represents 40,000 laundry workers throughout the country. Workers say that NE Linen has retaliated against them for their organizing activity. The company has actively opposed the workers' efforts, holding captive-audience meetings during work time and prohibiting union supporters from disseminating information on company property. Late last year the union filed charges with the National Labor Relations Board, claiming violations of the federal labor laws. Recently, the company settled with the Board, agreeing to post a notice in the workplace promising not to threaten, coerce, or engage in surveillance of the employees.

NYU Law administrators were first alerted to abuses at the laundry by a coalition of Law School student groups, who on January 25th hand-delivered a letter to the Office of Alumni Relations and Special Events and Deans Revesz, Gillette, and Bravo-Weber. The letter demanded that the Law School "ask that NEL agree to remain neutral during the [union] organizing campaign, so that NEL laundry workers can exercise their rights free from coercion" and stated that the students "do not wish to provide any more support for NEL's 'dirty laundry.'"

Seven student groups — Practice, Coalition for Legal Recruiting, the Law Democrats, South Asian Law Students Association, Law Students for Human Rights, the National Lawyers Guild, and the Review of Law and Social Change — signed on to the letter. The student group coalition took shape in just a few days, after members of Practice learned of the Law School's subcontracting relationship with NE Linen. Some groups signed on with the approval of their boards, while the Review of Law and Social Change took a full membership vote before joining in the statement.

Administrators responded quickly. In a January 29 email, the Office of Special Events alerted the students that Dean Revesz had instructed that office "to request that CulinArt Inc. change linen vendors for the Law School" and that "CulinArt has indicated that it will comply" with the request. The email noted that while the process could take a few weeks, the Law School had asked for a speedy transition.

Students at Columbia University, which contracts directly with NE Linen for a small section of its catering events, have been asking the school to drop the laundry service since last fall. Columbia administrators met with NE Linen president John Ryan several months ago, but have refused to take further action. Columbia students report that the administration has been unresponsive, even in the face of evidence of continuing workers' rights abuses.

NYU contracts with CulinArt to run the Wachtell and Golding Cafes and select catering events. NYU Law Catering uses Arrow Linen Supply, a company where workers have union representation and which has not been charged with sweatshop conditions. Students have provided the Law School with a list of responsible linen services in the New York area, and are awaiting notice that CulinArt has made the switch.

LeGaL President Resigns Over Comment in Charney Suit

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imply that that "LeGaL's seal of LGBT approval is for sale." Jack Scheich resigned as President of LeGaL on February 1, saying, "I should not have jumped to judgment. But I did and that was a mistake."

Further developments have been dizzying. Press reports indicate that as late as January 31, the firm was prepared to settle with Charney for an undisclosed sum in exchange for the former associate's willingness to destroy a hard drive on his personal computer that contained sensitive information. Charney did destroy the computer hardware in question. However, on February 8, Sullivan and Cromwell filed its own suit against Charney, accusing him of misappropriating documents from the files of a partner with whom Charney allegedly shared filing cabinets and leaking a PowerPoint presentation recommending improving partner etiquette to the *Wall Street Journal*.

Incriminations and counter-suits aside, Charney's case is interesting because of the implications it raises on the current and future status of diversity hiring in major law firms. Sullivan and Cromwell along with 81 other firms signed a Statement of Goals of New York Law Firms and Corporate Legal Departments For Increasing Minority Representation and Retention under the auspices of the Association of the Bar of the City of New York (ABC) in 1991. The statement set a goal of 10% minority hiring as a percentage of law firm hires by 1996, which was largely met at the associate level (2004 average is 21% for minorities, 1.7% Openly Gay) though not at the partner level (2004 average is 4.7% for minorities; Openly Gay stands at 1.4%). Whilst public commitments to diversity hiring is certainly a good thing, fostering a safe work environment is quite another. Benchmarks established by the ABC will remain lofty but toothless if the firm management does not commit to establishing internal mechanisms to address associate complaints (partner to partner claims would fall outside the remit of employment law as partners in a limited liability partnership are not employees of one another). Few, Charney included, would deny that a lawsuit such as his is not a career-ending move. This raises the important question of how to enforce commitments to diversity if litigation is not a palpable method of redress for most associates seeking to continue their careers.

The Nationals Team Speaks: Master Oralists in Their Own Words

Commentator: Spring 2006 was a banner year for the Moot Court Board, with national champions in three separate competitions: the Tulane Sports Law, Delaware Corporate Law, and the extremely prestigious Lefkowitz Trademarks. None of you were on any of those teams. Did you use your experience from the spring as motivation for your run this year? (Editor's Note: The moot court sends teams of 2Ls to competitions around the country every spring.)

Shaneeda Jaffer: Yes. Losing sucks.

Kartik Venguswamy: I was sick of people pointing out to me that I hadn't won anything, and I felt a driving need to justify my selection to the Nationals team. That and I'm naturally just one of the most competitive people I know, and I hate to lose.

C: On a related note, do you feel self-conscious about being the subject of fawning media attention when the national champion teams mentioned above have received zero recognition in the SLAP-biased NYU Law School media?

SJ: Yeah, why don't you go fawn them? They deserve the fawning!

KV: Do you feel self-conscious giving us this fawning attention when the hard-working people of the Moot Court Casebook Division successfully put out yet another publication with almost zero attention? And why haven't you taken steps to recognize the achievements of the historic 1963 Nationals team, that won the whole tournament for the first time in the hallowed traditions of our scholastic institution? How do you sleep at night, Mr. Media?!

Brian Crow: I never feel self-conscious about fawning media attention.

C: How did you feel about how your run ended in the quarterfinals?

BC: It was anticlimactic because I thought Kartik and Shaneeda gave the best performance I saw at any point in the competition. But Washington was pretty good too, and it feels good that the only two teams that beat us head-to-head (Texas Wesleyan was the other one) were the eventual finalists.

KV: We were really relieved just to reach the knockout round after struggling in the round-robins, and it felt good to perform better there.

SK: We generally were a lot more relaxed than our opponents; we spent the final minutes before our Round of 16 argument noticing that the bust of [former Chief Justice] Charles Hughes that was in the courtroom was a dead ringer for Lenin, which I think freaked out our opponents a bit.

C: Who were your most impressive opponents, and what made them good?

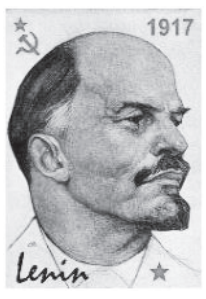
KV: Texas Wesleyan. They had this guy who was absolutely incredible on the Miranda issue for Respondents – I think he won Best Oralist in the final rounds. He had a great voice and great presence, and he was absolutely unflappable.

BC: That guy made Ghandi look like a child pornographer.

SJ: He was like Jesus. If Jesus was a champion mooter.

C: Describe the style of each of your team members, including yourself, in five bombastic adjectives or fewer (gerunds are acceptable).

SJ: Kartik: unflappable, poised, road-runner, bearded, arresting (get it?). Brian: articulate and bright and clean and a nice-looking guy... Oh wait, that's that presidential candidate...



BC: Kartik: cuddly, delicious, cudlicious, deluddly, and fast. Shaneeda: mean, lean, lean, mean, and exotic. Me: frightened, confused, frightfused, confightened, and red-haired.

KV: Brian: fantastic, hard-working, teamplayerish, hilarious. He's a good man, and thorough. Shaneeda: Amazing, unflappable, poised, funny. Attractive, and trust me, that counts.

C: How does it feel to represent the golden age of NYU moot court?

SJ: Dude, I thought we had gone platinum...

BC: I prefer to think of it as the gilded age, because I like gilding.

KV: [I]f people feel a need to give me money, food, drinks, or attention as a result of our performance, then I guess it's my duty as a gracious competitor to accept those gifts gladly. Never let it be said that I shirked my duties.

Fox Out-Foxes Unfair Competition

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In short, she learned antitrust from the trenches.

At the time, according to Fox, antitrust law was about discovering "who is marginalized by power" and controlling that power. With the Reagan revolution and the rise of the Chicago school, antitrust law became largely about efficiency and keeping government out of the efficient operation of monopolies and markets. Not coincidentally, this is also when Fox turned in earnest to international competition law, first European and now emerging markets. Even as Europe migrates to a more US-like model, emerging markets still "hunger" for ways to control excess power, and Fox responds to numerous invitations to speak at conferences and advice governments and think-tanks around the world. Though one might naively think of antitrust law as the cold and calculating domain of businesses and regulators, Fox describes it as very much analogous to civil rights law – it's "about the underdog," but in the commercial or corporate sphere.

Professor Fox enjoys her role as an advocate for the underdog in an increasingly conservative and stereotypically dour field. Which is not at all to say that she's not active in more direct ways in encouraging diversity and promoting civil rights and liberties. In fact, she's on the Executive Board and Board of Directors of the Lawyers Committee for Civil Rights Under the Law, which has been at the forefront of many civil rights cases through either direct representation or amicus briefs at the Supreme Court and appellate levels.

Fox is also incredibly committed to NYU. Under former Dean Norman Redlich, who she credits with having a commitment to diversity at the core of his being, and during John Sexton's first year as Dean, she was Associate Dean – a role that has since grown and is now shared between two Vice Deans. Fox rattled of a list of responsibilities ("faculty, curriculum, students, scheduling, courses") that seemed to only be the tip of the iceberg. The only question Fox seemed to struggle to answer was when asked to name the accomplishment or development of her tenure of which she was most proud. Admittedly, it's an unfair question. But it's striking that she remembered, as so many faculty do, the discussion and debate around the relationship of clinical and non-clinical faculty.

Her history as a litigator and her experience as an associate and then a partner give Professor Fox a pragmatic grounding that may not be obvious when perusing her online profile and reviewing the lengthy list of academic work she has published. Fox understands that many NYU students are committed to public interest, and is aware that some at the school, both faculty and students, view firm work with polite indifference and perhaps even with disdain for it's emphasis on doctrine as opposed to theory. But she is quick to point out that there are "many wonderful intellectual issues" that firm lawyers can explore and her history and ongoing (but limited) involvement with her firm is testament to that.

With a smile on her face, Fox expressed her love for her research. She quickly and firmly declared that she's doing what she wants to do, where she wants to do it. That said, she's also a novelist and poet so her love for writing transcends the legal domain. But her love for the law also transcends the doctrinal or even the theoretical. She is keen to work with students, and often spots her research assistants in her anti-trust seminars. Although she rarely works directly with 1L's because of the sophisticated nature of her academic work, that's an observation and not a policy – during the NAFTA debates, she recalls taking on a first year who expressed a strong interest in trade law and the impact on Mexico.

During a brief but engaging discussion on the changing nature of NYU Law, she speculated about the trade-offs between an emphasis on faculty research and student-faculty engagement. Related to this is the distinction between clinical faculty and 'academic' faculty and the relationships of each with their students. The conversation was interesting, not only for her perspective, but also because it's interesting to learn that our professors contemplate such things and are genuinely interested in the level of intimacy and familiarity that they have with students. It shouldn't be surprising though, especially when considering someone with such a strong interest in ensuring that lawyers remain human.

(The title of this article is taken without permission from Fox's "Being a Woman, Being a Lawyer and Being a Human Being– Women and Change," 57 *Fordham Law Review* 955 (1989).)

The Marden Competition

The Marden Competition is a tournament that allows students to work on their brief-writing and oral advocacy skills in 2L and 3L years.
Sign up now.

Tabling runs until Friday, February 16
Late registrants will be taken by email (dshih@nyu.edu) until Tuesday, February 20

Information packets will be given out to those who have signed up on February 26

Oral arguments begin in early April

Participants in the Spring Open Round will recieve one academic credit upon completion
Those who do well will receive cash and prizes

Homophobic? Grab a Snickers

Continued from page 2

would appear to be going for is more along the lines of, "Wow, those guys are a couple of morons." Snickers is making fun of them for overreacting to a pretty harmless act, and doing so in a nonsensical way. The message isn't, "Homosexuals are gross," but rather, "Homophobes are dumb." It would be a strange paradox for a homophobic company to show two men kissing on national TV, especially when the kiss itself appears very innocent and non-threatening.

What also seems to be upsetting some people is that the Snickers website featured several clips of Bears and Colts players reacting to the commercial. These videos are no longer on the site, so I haven't seen them myself, but after extensive Googling, it would seem as though the reactions only get as bad as cringing and an exclamation of "That ain't right!" I'm inclined to agree. You've got two heterosexual males, neither is at all attractive, and not only do they accidentally kiss, but they do so with a mouth full of a half chewed chocolate-caramel-peanut mush. That ain't right!

There's no doubt that homosexuals face an unjust barrage of discrimination and prejudice. But, if you're waiting for that discrimination and prejudice to come in the form of a candy commercial, you might want to... well, grab a Snickers.

Edgar Allen Poe Room Site of Diversity Celebration

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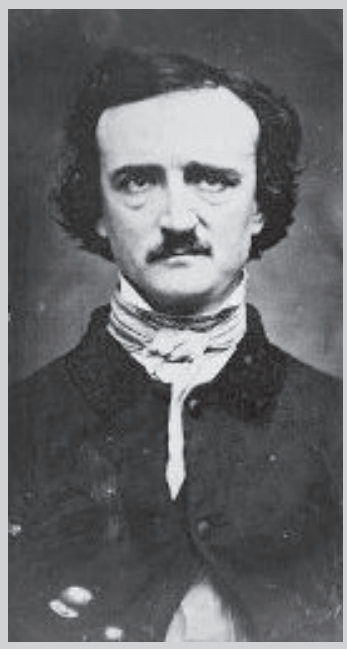
we will have transformed the Edgar Allen Poe room in Furman Hall into a vibrant location for all kinds of students to come together, engage with another, and celebrate.

One of the organizers, SBA President Johnathan Smith commented before the event, "Diversity Week is valuable because it not only celebrates the community we do have here at NYU Law, but it also allows us to come together and brainstorm ways we can advocate for greater and more meaningful diversity."

The most important theme of the week community building. By the end of the three days, students will have mingled with faculty at a wine and cheese mixer, participated in Outlaw sponsored cookie-decorating, watched movies, and discussed what it means to be a community lawyer. On Valentine's Day, there will be a celebration of the 40th anniversary of *Loving v. Virginia* (which ruled that interracial marriage is constitutionally protected) with cake, black and white cookies, and a discussion about the seminal decision's impact in the last forty years.

Not only do we hope that diversity week gives students a chance to socialize with alumni, faculty, and their peers, we hope to put people to work for a number of causes. For example, some will have joined Judge Doris Ling Cohen in knitting blankets for Purls of Hope, a program that works with HIV-positive newborns. APALSA member Carlin Yuen and founder of the knitting circle explained, "At this event, we will meet incredible NYU Law alumni and give back to the community at the same time."

After many panels, crafts, and events, and in the end, a celebration, we hope that students feel a stronger connection to NYU. Second-year student Diana Reddy, a planner of the event, said, "Diversity week is a wonderful event. We are creating a place where I can feel at home at NYU Law – where there is a thriving and diverse community."



When New York University built Furman Hall, it built over Edgar Allen Poe's former home, but created a lovely room - not actually named after Poe - that was used this week to celebrate diversity at the law school. I'm sure Edgar Allen Poe would approve.

NYU Review of Law and Social Change 2007 Colloquium
Alternatives to Mass Incarceration: Promises and Challenges

Tuesday, February 27, 2007
NYU School of Law
Lipton Hall
108 West 3rd St.
New York, NY 10012M
9am to 5pm

Free and open to the public.
6 CLE credits available (no pre-registration required).
For more information, contact 212-998-6370, or hennefeld@nyu.edu

The 2007 NYU Review of Law and Social Change Colloquium will examine the potential of and limits to alternatives to mass incarceration, such as alternative sentencing and restorative justice. The crisis in our prison system is nearing a breaking point, due to prison overcrowding, recidivism, and the harsh impact of incarceration on poor and minority communities. In this Colloquium, panelists will engage in serious consideration of the viability of structural alternatives to incarceration from theoretical and practical perspectives. We will encourage a lively debate about the prospects for change in how we punish and respond to crimes.

Panel 1:
Professor Todd R. Clear (John Jay College of Criminal Justice)
Michael Jacobson (Director, Vera Institute; former NYC Corrections Commissioner)
Professor Susan Herman (Pace Law School)
Professor Mark Umbreit (U. Minnesota Restorative Justice Initiative)

Panel 2:
Pat Clark (Center for Policy, Planning, and Performance)
Stephen Moran and Anne-Marie Louison (CASES Nathaniel Project)
Sister Simone Ponnet (Exec. Director, Abraham House)
Marsha Weissman (Exec. Director, Center for Community Alternatives)

Panel 3:
Professor Donna Coker (U. Miami Law School)
Dr. Victoria Frye (New York Academy of Medicine) and Mary Haviland
Professor Linda Mills (NYU)
Audrey Moore (Deputy Bureau Chief, New York District Attorney's Office)
Professor Adele Morrison (Northern Illinois University College of Law)

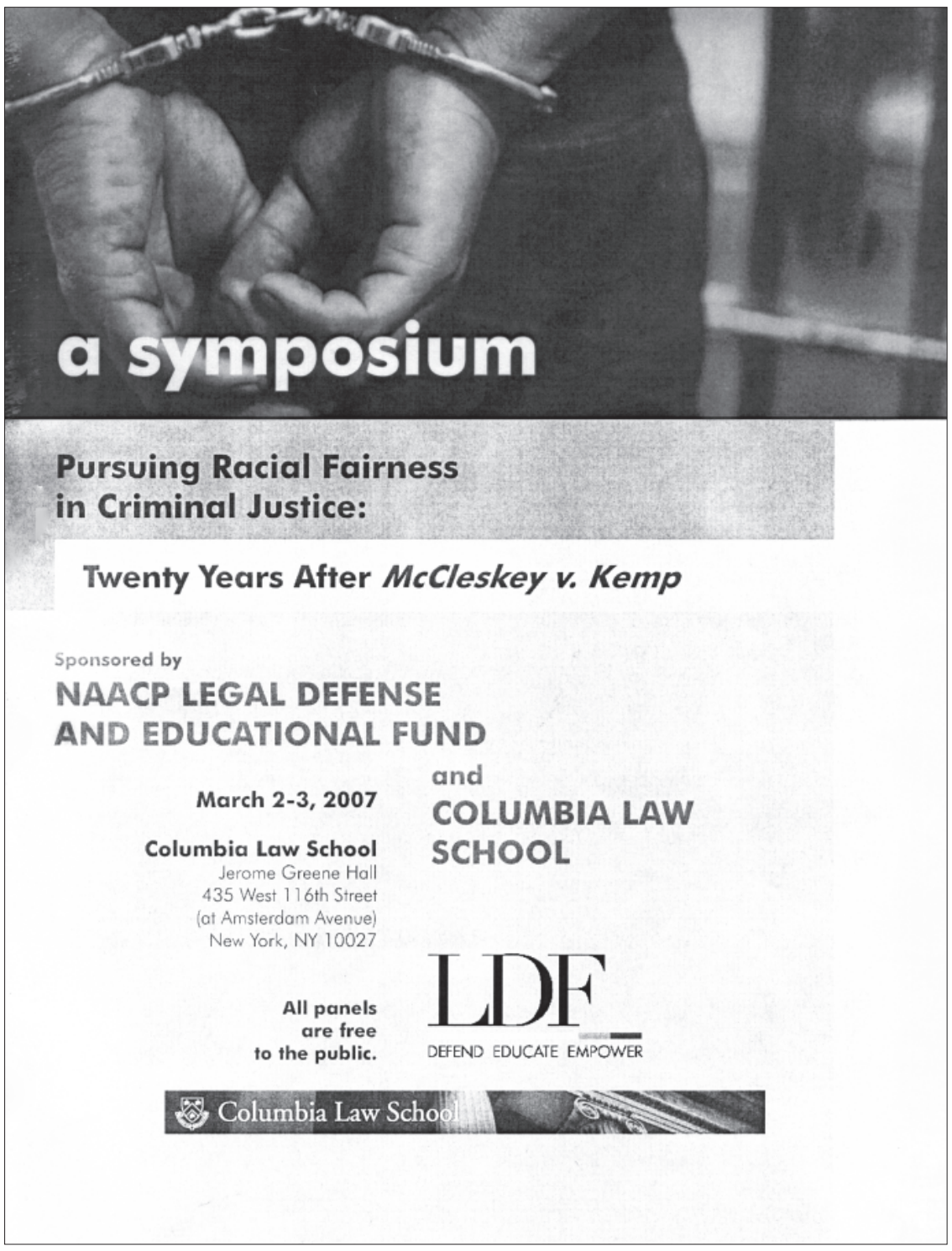
NYU Entrepreneurs Forum

Sponsored by the NYU Stern School of Business

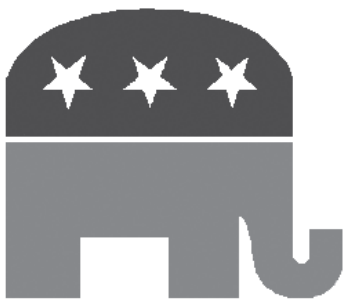
Want an opportunity to speak with students and alumni interested in entrepreneurship?

Francine Glick will talk about her experiences. After the speech, there will be time to network with students and alumni.

When: Wednesday, February 28, 7-9pm
Where: Kaufman Management Center, 44 W 4th St, Room 1-100



The Uncertain Landscape of Election Law: Where Does the Ballot Box Head From Here?



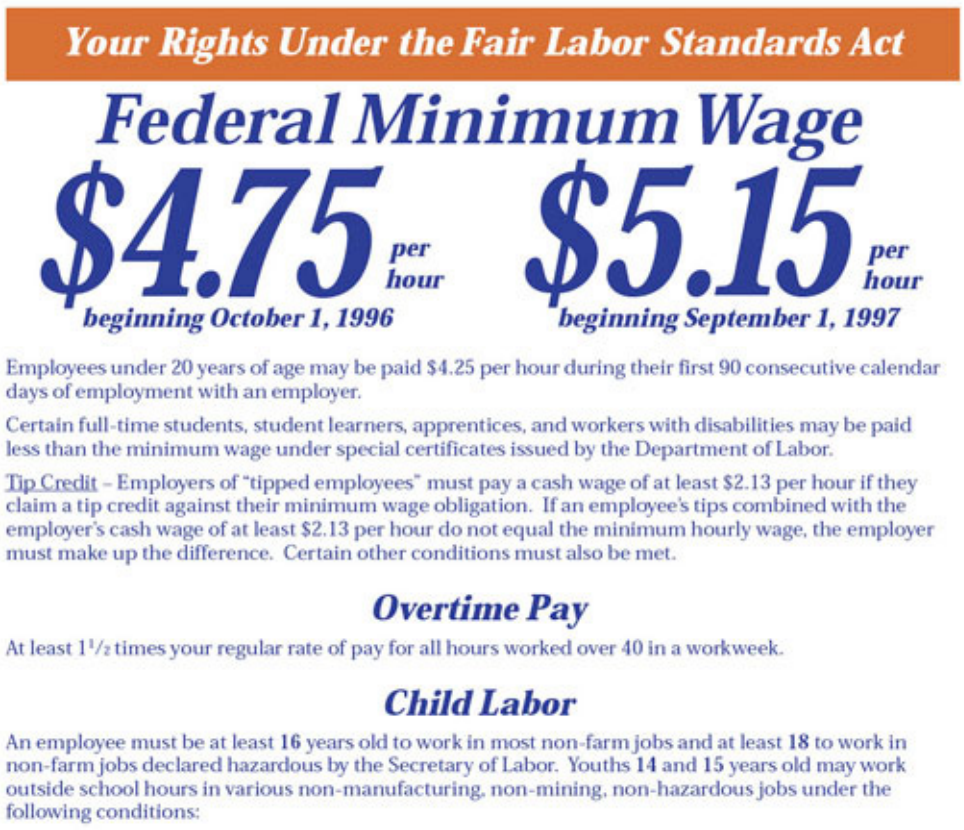
Friday, February 23, 2007

This symposium, sponsored by the NYU School of Law's Annual Survey of American Law, will focus on current election law topics such as campaign finance, partisan redistricting, and democratic integrity. The three panels include some of the foremost experts on election law from around the country, including Dan Tokaji, Nate Persily, Rick Pildes, Samuel Issacharoff, and Burt Neuborne. 9:00 AM – 4:00 PM. Greenberg Lounge, NYU School of Law, Vanderbilt Hall.

The Day's Schedule:

9:00	Registration and Breakfast
9:30	Welcome and Opening Remarks
9:45	Panel 1: Campaign Finance Law and the Future of Spending Constraints Sam Issacharoff (Moderator) Deborah Goldberg Burt Neuborne Mark C. Alexander Laurence Laufer
11:15	Coffee Break
11:30	Panel 2: Partisan Redistricting: From Justiciable Claims to Manageable Standards? Jonathan Nagler (Moderator) Nate Persily Richard Pildes Eric Hecker David Epstein
1:00	Lunch
2:15	Panel 3: Voting Access, Integrity, and the Trustworthiness of the Democratic Process Rebecca Morton (Moderator) Jerry H. Goldfeder Stephen Ansolabehere Dan Tokaji Debo Adegbile
3:45	Closing Remarks

REACH
Research, Education & Advocacy to Combat Homelessness



Featuring

Lily Batchelder, Assistant Professor of Law and Public Policy, NYU Law School
Daniel N. Shaviro, Wayne Perry Professor of Taxation, NYU Law School
Paul K. Sonn, Deputy Director, the Brennan Center for Justice
Seth D. Harris, Professor of Law and Director of the Labor & Employment Law Program, New York Law School

Tuesday, February 20, 2007 – 4:00 pm
Vanderbilt Hall Room 204
Reception to follow in Golding Lounge

What's the best way to help the working poor? Increasing wages, expanding tax credits, or some combination of the two? As Congress negotiates an increase in the minimum wages, join REACH and a distinguished panel of experts for a discussion and debate over the politics, economics, and advocacy efforts behind the minimum wage and the Earned Income Tax Credit. Our panel of professors, policy makers, and advocates includes Tax Professors Lily Batchelder and Dan Shaviro of NYU Law School, Paul Sonn, a leading advocate involved in efforts to raise the minimum wage, and Seth Harris, a former Labor Department official and currently a Professor at New York Law School.

MAKING WORK PAY: A DISCUSSION OF THE MINIMUM WAGE, THE EARNED INCOME TAX CREDIT, AND AIDING THE WORKING POOR

march 1, 2007

13th annual
NYU School of Law
Public Service Auction

The honor of your presence is requested at

Six o'clock in the Evening
Thursday, the First of March
Vanderbilt Hall
New York University
School of Law

Silent Auction ends at 10 p.m. or thirty minutes after the live auction (whichever is later)

Public Service Auction Ticket Sales

Ticket Sales in Wachtell and Golding Lounges:
Tuesday, Feb 20th, 11 am to 4 pm
Wednesday, Feb 21st, 1 pm to 4 pm
Thursday, Feb 22nd, 11am to 4pm
Friday, Feb 23rd, 1 pm to 4pm
Monday, Feb 26th, 1 pm to 4pm
Tuesday, Feb 27th, 11 am to 4 pm
Wednesday Feb 28th, 1 pm to 4 pm

Student tickets are $5 in advance and $10 at the door day of the auction
Each ticket holder is entitled to three alcoholic drinks
Save money on your bar review! When you buy your ticket you can also bid in a special Bar/Bri silent auction for Bar/Bri Coupons. Special Bar/Bri silent auction ends February 28th, and Bar/Bri coupons will also be available during the silent auction on March 1st.
Guest tickets are $15

Two trips to Jamaica, Gym memberships, Walking tours, Sporting event and concert tickets, Spa treatments, and more!

Visit our website at www.law.nyu.edu/studentorgs/psa
for an exciting list of items to bid on!

Going Once, Going Twice, Public Service Auction Draws Near

This year's Annual Public Service Auction will be held on March 1 and will be conducted by a professional auctioneer from Christie's.

By Brian Ascher '09

The Annual Public Service Auction – the social and philanthropic event of the law school year - is fast approaching and ticket sales start soon! Co-chairs Dave Edwards and John Infranca have led a record-breaking donations drive and now aim to set new marks for ticket sales. Students can purchase tickets in Wachtell and Golding Lounges on Tuesday, Feb 20th (11 am to 4 pm); Wednesday, Feb 21st (1 pm to 4 pm); Thursday, Feb 22nd (11am to 4pm); Friday, Feb 23rd (1 pm to 4pm); Monday, Feb 26th (1 pm to 4pm); Tuesday, Feb 27th (11 am to 4 pm); and Wednesday Feb 28th (1 pm to 4 pm). By purchasing tickets in advance students will have the chance to bid on Bar/Bri coupons in a special silent auction! Additional Bar/Bri coupons will be available during the silent auction on March 1st.

Students should get their tickets soon to ensure the opportunity to bid on some of this year's incredible items. The various donations committees have brought in some fantastic items from NYU Law graduates, corporate sponsors, local businesses, and law firms such as: vacations in Maui and Jamaica, tickets to the NCAA Tournament Elite Eight including car service to the Meadowlands and dinner in NYC, NASCAR tickets, a weekend at a cabin in the Catskills, opera tickets, spa treatments, dinners at some of New York's finest restaurants, and tickets to a variety of sporting events. Ticket holders will also be able to bid on some exciting items donated by the NYU Law community. NYU's own students have offered a cornucopia of baked goods, language lessons, shopping assistance, private cooking instruction, personal training, homemade beef jerky, an evening with Section 3's Tommy Haskins, and the jewel of the action—an enlightening dinner with Auction Co-chairs Dave Edwards and John Infranca. Law School faculty and staff donated items sure to fetch a nice price include: wine and cheese tasting with Vice Dean Gillette; brunch in Cobble Hill and a walking tour of Red Hook with Professors Holland, Guruswamy, and Myers; dinner with Professors Dworkin and Nagel; a six course meal prepared by Professor Weiler; poker night with professors Estlund, Isacharoff, and Waldron; six chess matches with Professor Hills; and a weekend at Professor Stewart's country home. Meanwhile, the Corporate Donations and Law Firms Committee have brought in major sponsors, including Bar/Bri and the law firms of Paul Weiss, Clifford Chance, LeBoeuf, Orrick, and Kramer Levin

This year's auction will be held at 6 p.m. on Thursday, March 1st in Vanderbilt Hall, and will be conducted by a professional auctioneer from Christie's! The 13th Annual Public Service Auction is the largest student-run event at the Law School. Proceeds from the auction support NYU's commitment to guarantee summer funding for public interest work. Through the generous contributions of local and national businesses, law firms, alumni and other members of the NYU community, over $120,000 was raised during last year's auction to support over 300 students as they engage in public interest work throughout the world.

Items suitable for all price ranges will be available at the auction. The event features both a silent auction in Greenburg Lounge and a live auction across the hall in Tishman Auditorium. Student tickets are $5 prior to the day of the auction and $10 if purchased at the door. Regular admission is $15.

Donations from the law school community, including students and their families, faculty, and staff can still be made until the end of the day on February 15th. Individuals interested in donating an item should contact Annie Railton or Emma Deacon at law.psa.community@nyu.edu. To find out more about the auction visit the Public Service Auction website at www.law.nyu.edu/studentorgs/psa/. There you can view a regularly updated list of auction items, further details on the event, and stories of past recipients of summer public interest grants.

Bake for Justice

The Annual Public Service Auction is looking for donations of items and services – particularly silent auction items donated by law school students or their family and friends. We have already received some great student donations, including language, cooking, music and dance lessons, baked goods, special dinners, an evening violin serenade, and a pair of custom-made earrings. Particularly creative items or services are especially welcome. Your donation can make a vital contribution to the Public Service Auction.

To make a donation please contact:
Anne Railton and Emma Deacon at
law.psa.community@nyu.edu

The Annual Public Service Auction will be held at 6 p.m. on Thursday, March 1st in Vanderbilt Hall.

march 1, 2007
13th annual
NYU School of Law
Public Service Auction

Visit our website at www.law.nyu.edu/studentorgs/psa for an exciting list of items to bid on!

The *New York University Journal of International Law and Politics* is proud to present the 11th Annual Herbert Rubin and Justice Rose Lutan Rubin International Law Symposium

"The Mirage of the State: Fragmentation, Fragility, and Failure and the Implications on Law and Security."

Thursday, March 1, 2007, 9:30AM – 5:00 PM
New York University School of Law
Lipton Hall, 108 West Third Street

Co-Sponsored by the ***Institute for International Law and Justice***
and the ***Center on Law and Security***

9:30 – 10:00 Registration and Continental Breakfast

10:00 – 10:30 Opening Remarks

Clayton Gillette, *Vice Dean NYU School of Law,* **Herbert Rubin**, *Founding Partner, Herzfeld & Rubin, PC,*

Gina Magel, *Senior Symposium Editor*

10:30 – 12:00 Panel One: Defining the Problem: the Characteristics and Consequences of State Weakness

Panel includes: Aziz Huq (moderator), *The Brennan Center for Justice at NYU, and Professor of Law at NYU*, **Patricia Taft**, *The Fund for Peace*, **David Bosco**, *Carnegie Endowment for International Peace*, **P.L. deSilva**, *Lighthorse Partners*

12:00 – 1:30 Lunch Break

1:30 – 3:00 Panel Two: Weak States in the International System

Panel includes: Benedict Kingsbury (moderator), *Professor of Law at NYU*, **Rosa Brooks**, *Los Angeles Times*, *Georgetown University Law Center* and *Open Society*, **Mohammad-Mahmoud Ould Mohamedou**, *Director, Program on Humanitarian Policy and Conflict Research, Harvard School of Public Health*, **Doug Brooks**, *President, International Peace Operations Association*

3:00 – 3:15 Coffee Break

3:15 – 4:45 Panel Three: Fashioning a Solution: Policy Alternatives for Dealing with Weak States

Panel includes: Bruce Jones, *Center on International Cooperation*, **Rick Barton**, *Center for Strategic and International Studies*, **Kirsti Samuels**, *Internatioanl Institute for Democracy and Electoral Assistance*, other panelists to be announced.

4:45 – 5:00 Closing Remarks

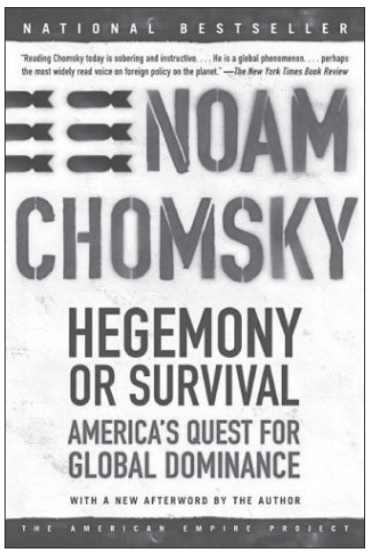
5:00 – 6:00 Reception

This event is free and open to the public. No pre-registration is required.
Five CLE Credits will be available for full day attendance.

For more information and program updates, please visit:
http://www.law.nyu.edu/journals/jilp/symposium/

Noam Chomsky's 2003 Book Discusses War in Iraq, the Israli-Palestinian Conflict, *and* is Loved by Hugo Chavez

By Eric Broder '08



A funny thing happened when Venezuelan President Hugo Chavez gave a speech at the United Nations last Sept. He held up *Hegemony or Survival*, by Noam Chomsky, and raved about it for a little while. Chavez called it "an excellent book to help us understand what has been happening in the world throughout the 20th century, and what's happening now, and the greatest threat looming over our planet." He was speaking to the whole world, especially to "our brothers and sisters in the United States, because their threat is right in their own house."

Hegemony or Survival shot to #1 in the Amazon rankings. While the mainstream media nearly tripped over themselves in the rush to report Chavez calling President Bush "the devil," I read the Chomsky book to learn what Chavez was raving about. What I found out is that Chomsky is a hardcore populist-he really cares about democracy.

Hegemony or Survival, published in Nov. 2003, talks about public opinion concerning the War on Iraq. Outside of the US/UK alliance, "support for a war carried out 'unilaterally by America and its allies' did not rise above 11 percent in any country." Bush's propaganda framed Europe as torn between a bold "New Europe" and a wimpy "Old Europe," but this was a dishonest argument. In New Europe, "opposition to 'the United States' view' was for the most part even higher than in France and Germany, particularly in Italy and Spain." Former Communist countries also joined New Europe. Within them, "support for the 'United States' view,' as defined by Powell-namely, war by the 'coalition of the willing' without UN authorization-ranged from 4 percent (Macedonia) to 11 percent (Romania)."

The case of Turkey is particularly interesting because of the way neoconservative leader Paul Wolfowitz reacted to democracy in action. The Turks also strongly opposed the war ("about 90 percent in January 2003"), and their government "acted in accord with the will of the people." After a brief stint as part of New Europe, "the Turks proceeded to teach a lesson in democracy to the West. Parliament finally refused to allow US troops to be deployed fully in Turkey."

Wolfowitz showed us what he thinks about democracy. "Let's have a Turkey that steps up and says: 'We made a mistake…Let's figure out how we can be as helpful as possible to the Americans'…[The Turkish military] did not play the strong leadership role that we would have expected." I know the Israel lobby will call me anti-semitic and self-hating for saying this, but I don't like Paul Wolfowitz.

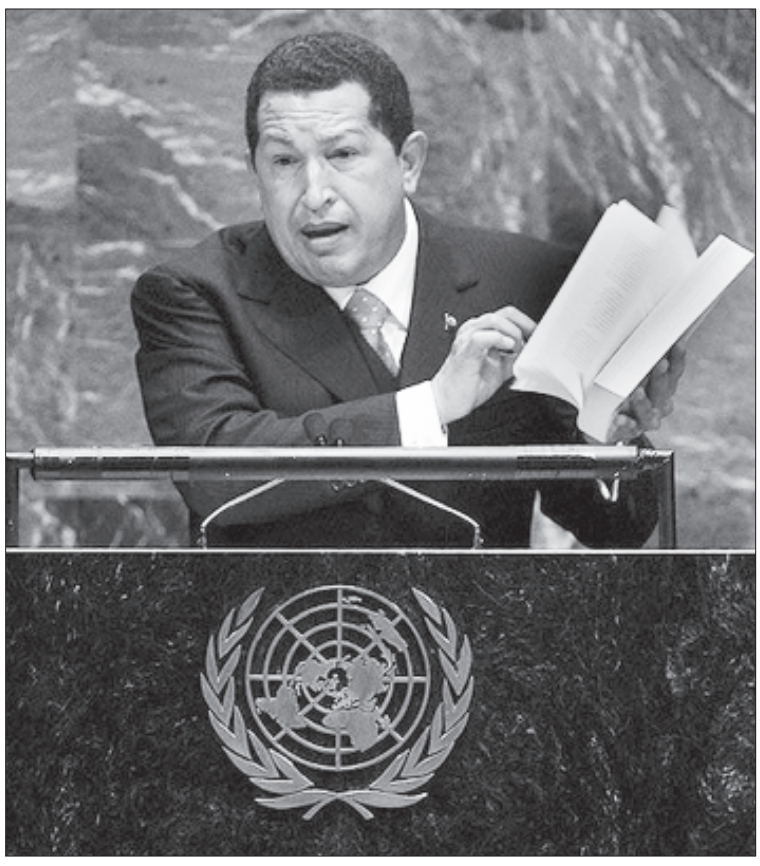
Remember Afghanistan-Bush's first blood for oil adventure? Opponents of the War on Afghanistan apparently included "the great majority of the population of the world when the bombing was announced." World opinion strongly favored diplomatic-judicial measures over military action. "In Europe, support for military action ranged from 8 percent in Greece to 29 percent in France." In Latin America, where people are very familiar with US intervention, "it ranged from 2 percent in Mexico to 11 percent in Colombia and Venezuela," except for a peak of 16 percent in Panama.

Chomsky is not afraid to address the Israeli-Palestinian conflict, one of the most important foreign policy issues in the world today. Chomsky recommends viewing a map to simply evaluate whether or not the Clinton/Barak Camp David offer in July 2000 was a "generous" one. "No map has been found in US media or journals, apart from scholarly sources and the dissident literature…In Israel, maps did appear in the mainstream press, and the proposals are commonly described as modeled on South Africa's Bantustans of forty years ago."

Barak's offer was turned down by the Palestinians, and negotiations later resumed in Taba, Egypt, in January 2001. Chomsky is optimistic about where the Taba talks could have led: "These appeared to be making considerable progress...the basic differences were narrowed...progress was real and promising, even if not formal."

Chomsky's work is inspirational, for he points out the ability of organized people to create progress. For example, the peace movement in America has come a long way since 1962. That year, "public protest was nonexistent," even though the US had been officially involved in the War on Vietnam for years. When the War on Iraq was about to begin forty years later, there was "large-scale, committed, and principled popular protest." This reflects a "steady increase over these years in unwillingness to tolerate aggression and atrocities…The activist movements of the past forty years have had a significant civilizing effect in many domains."

Neoconservatives may not like democracy, but the people certainly do. In the words of Sander Hicks, "taste the clash of history, and you'll know which side you're on."



Venezualan President Hugo Chavez touted Noam Chomsky's Hegemony or Survival *as "an excellent book to helpu us understand ... what's happening now, and the greatest threat looming over our planet" while ranting and raving at the UN.*

Calamity Physics is a Mystery Full of Ideas (But Not Physics)

Special Topics in Calamity Physics *tells the tale of Blue van Meer, a sixteen year old who since the death of her mother, has been trying to grow up in semester-sized chunks.*

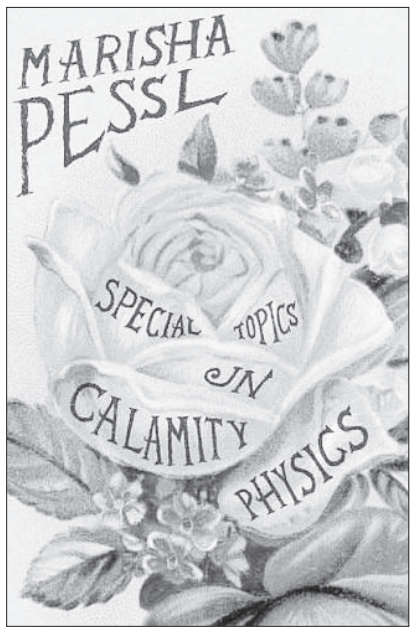
By George Mustes '09

In *Special Topics in Calamity Physics*, Marisha Pessl surrenders to structural gimmicks. Not only are there footnotes and visual aids, but a syllabus, which names each of the novel's chapters after a literary masterpiece, begins the book, and a final-exam ends it. The packaging of Ms. Pessl's debut novel is unfortunate because her narrative would be most effective as a titleless manuscript crammed into a brown paper bag and left on the street for unsuspecting readers. The author crafts characters who, despite their embellished eccentricities, come across as our friends and neighbors. As the narrative unfolds, Pessl's success at convincing her readers that these individuals, who are initially arresting in their self-centerdness, have a capacity for previously unimaginable action is disarming, to say the least, and potentially subversive. If a reader found this work on the street, she could be forgiven for trying to convince herself that it was all true.

Special Topics in Calamity Physics tells the tale of Blue van Meer, a sixteen year old who, since the death of her mother, has been trying to grow up in semester-sized chunks. Her father, a minor celebrity in the world of political science thanks to his radical politics and weathered good looks, rarely accepts a teaching position for longer than one term. For this reason, the only constant in Blue's life has been her father, Gareth, who is every bit as pretentious as the structure of the book. His only true love is knowledge of the eminently quotable variety, so father-daughter conversations usually disintegrate into rapid-fire referencing of all works classic, obscure, and invented. These cultural references are accessible to all readers, but bibliophiles will be particularly pleased until they realize that their inability to resist feverishly pouring over the text just destroyed any chance they had of getting a date for Friday night.

Blue continues moving from one obscure college town to the next until Gareth decides that his daughter will spend the entirety of her senior year at a North Carolina prep school, The St. Gallway School. It is here that Blue meets Hannah Schneider, a part-time film teacher who cares less about education than she does about coddling a select group of students who frequently enjoy cocktails and dinner at her home. Hannah shoehorns Blue into this veritable Brat Pack with a single-minded determination that the other members find off-putting. Blue's attempts to balance the demands of her new friends with those of her father frame her investigation into the two mysterious deaths that punctuate the novel.

While Pessl flirts with heavy literary questions concerning authorship and memory, her novel is, at its core, a straight-ahead whodunit. The book's central mysteries hook the reader thanks to Pessl's prose. Blue's playful references and self-aware reflections lighten subject matter that, in the wrong hands, could devolve into a melodramatic after-school special. Pessl's plot twists are so carefully planned and delicately foreshadowed that she could have composed an equally gripping mystery featuring illiterate fisherman, but she would have had nowhere near as much fun writing it.



Everyone Deserves Their (Valentine's) Day in Court

By Jeremy Fischbach '09

Jack v. Jill
214 U.S. 214 (2007)

Justice SCALIA delivered the opinion of the Court.

On the evening of February 14, 2006, petitioner and respondent, formerly boyfriend and girlfriend and currently classmates at New York University Law School, were "enjoying" — or, more accurately, "eating" — a meal at the Dallas Bar-B-Que (hereinafter "BBQ") establishment located at 21 University Place. BBQ certifies itself "New York City's most popular barbeque restaurant," (http://www.bbqnyc.com) and attributes this theoretical popularity to their guarantee that, for less than $8, customers can depend on entrées arriving with a choice of potato — *their* choice of potato.

In addition, as counsel for respondent conceded at oral argument, customers receive cornbread.

But of more consequence than the upscale eatery itself is the sequence of events that unfolded in the twenty-five second span after petitioner ingested his "half chicken" (made available in a "honey basted format for only $1.00 above the standard fare of $6.99) and before petitioner swallowed, without authorization, respondent's complimentary piece of cornbread. The record reflects that, at that juncture, petitioner had already consumed his own cornbread.

Within the critical twenty-five second window, respondent was made unwittingly privy to the reason she was seated at a table for three, and why that third seat was occupied by a coffin-sized box (hereinafter, "Box"). Box bore the seal of Home Depot, where, allegedly, "[y]ou can do it, but (they) can help." Brief of Amicus at 2. Lest there be any confusion, petitioner by this time had also requisitioned Box's complimentary cornbread.

There and then, and at a moment when American and European lovers of all seasons exchanged confessions of infatuation and trophies of tenderness, petitioner gesticulated toward Box, pulled a box-cutter out from, in the words of respondent, "God knows where," and maladroitly propelled the honey-basted box-cutter across the table to respondent.

Respondent understood the sensual gesture to indicate that within Box dwelled her Valentine's Day gift, and that access to the gift required an industrial-strength blade that she, the gift recipient, would be required to wield.

That was because petitioner's hands were conveying a fourth round of cornbread into his mouth.

The contents of Box are the source of the rather unique dispute we are pressed to resolve. Specifically, we are asked to discern the meanings of two seemingly unrelated phrases — "Valentine's Day" and "Delta Machinery 16-1/2 inch Floor-Standing Drill Press."

I

Respondent — who ceased being petitioner's girlfriend the moment the contents of Box were transmitted through her optical nerve to her brain — argues, quite boldly, that no definition of Valentine's Day supports petitioner's theory it was "kind of appropriate, I guess" to commemorate the "holiday of love" with a device that contains a standard 3-jaw, 5/8-inch capacity key chuck that accepts a variety of standard bit sizes.

Indeed, she finds "no connection whatsoever — seriously, are you kidding?" between the nationally recognized day of romantic remembrances and a drill press buttressed by a 14–inch by 14-inch cast-iron table which can be tilted 45° in either direction for angled drilling. And, in respondent's opinion, the patent impropriety of the gift is exacerbated, not mitigated, by the 195-pound device's 16 spindle speeds, ranging from 215 to 2,720 rpm, and its quill-stroke of 4-7/8 inches, which facilitates drilling without repositioning, allowing the user to "[sic] save results and achieve better time." App. Ex. 35 at 17 (instructional manual).

Respondent marshals in support of her position a legion of etymological tomes, including familiar favorites Merriam-Webster's Dictionary, American Heritage Dictionary, Oxford English Dictionary, Encyclopedia Britannica, World Book, Wikipedia, Glamour Magazine, Allure Magazine, US Weekly Magazine, People Magazine, 1800flowers.com, and "(expletive)-ing common sense — seriously, one last time — are you kidding?"

We need not exhaustively scrutinize this catalogue of reference literature and assorted tabloid knickknacks to extricate merit from the rantings of respondent.

For example, Merriam-Webster defines Valentine's Day as: "February 14, observed in honor of St. Valentine and a time for sending valentines." Dictionary.com, meanwhile, defines it as: "February 14, a day for the exchange of valentines and other tokens of affection." (But see www.dungeonsanddragons.com, which provides no stand-alone definition for the term, but provides the following synonym: "thumbscrews.")

Respondent further buttresses her claim with a library's worth of definitions of "valentine." To draw illustrations at random, Wikipedia defines "valentines" as "mutual exchanges of love notes," and American Heritage Dictionary defines "valentine" as "a gift sent as a token of love to one's sweetheart on Saint Valentine's Day."

II

Unfortunately for respondent, it is at this juncture where her case completely unravels.

Apparently under the false impression that this Court is so myopic as to adhere unbendingly to the narrowest strictures of dictionary definitions, respondent asseverates that the universe of "valentine" is bounded on the northern border by "flowers," on the southern flank by "teddy bears," and ("would it have killed you to fork over after three years) diamonds" in between. Why? Simply because those examples reflect the most obvious, common, plain, ordinary, everyday, unambiguous, manifest and widely-accepted conception of the word "valentine."

But, as sure as my middle name is "Gregory," this Court has never been — and will never be — hamstrung by such literalist myopia.

One man's rose is another man's Venus Fly Trap. One man's teddy bear is another man's bottle of pepper spray repellant for actual bears.

And one's man diamond is another man's Delta Machinery 16-1/2 In. Floor-Standing Drill Press.

Respondent's insinuation that "valentines" and "love" can be encapsulated by the black words of ancient encyclopedias and the 0's and 1's that encode modern-day encyclopedic websites would surely shake another box: the coffin of Geoffrey Chaucer, the Founding Literary Father of Valentine's Day. It was Chaucer who coined the earliest description of Valentine's Day in his *Parlement of Foules,* composed around 1380, which takes place:

"on Seynt Valentynes day,

The Delta Machinery 16.5 inch floor-standing drill press—the gift at issue in this case.

Whan every foul cometh there to chese his make."

Although Chaucer committed any number of manifest spelling errors in this passage, the Court believes it hardly requires a leap of imagination to conclude that "foul" is a reference to chicken (probably "half chicken"), and that "make" is a provincial term used to describe factory machinery (including, but not limited to, the 14th Century English equivalent of a Delta Machinery 16-1/2 In. Floor-Standing Drill Press.) Thus, the entirety of the evening in question — from petitioner's decision to eat half of a chicken to his pioneering presentation of the Delta Machinery 16-1/2 In. Floor-Standing Drill Press — ensnared the essence of the unequivocal "legislative history" of Valentine's Day.

Naturally, respondent urges us to pay no mind to "legislative history." She argues that only the ordinary meaning of phrases should govern their interpretation and, furthermore, that there is no such thing as "legislative history" when there is neither a legislature nor a history of that non-existent legislature.

The Court is not persuaded by such blatant sophistry.

Neither Law nor Love has been — or ever shall be — a "tether ball" tethered to the tethering pole of primary definitions, formalistic interpretations and what respondent refers to as "common (expletive) sense — I mean, c'mon, let me at least appease my mother, you know how she is — seriously, you're kidding, right?"

In fact, every one of us (other than Justice Breyer) believes that Romeo himself — instead of yelling at Juliet from beneath her balcony — would have bestowed upon her the Delta Machinery 16-1/2 In. Floor-Standing Drill Press had there been a Home Depot in the same city as the Capulet mansion, or at least within delivery distance.

And we believe Juliet would have graciously accepted the gift, and perhaps even invited Romeo upstairs for "half chicken."

And Tybalt's cornbread.

Judgment reversed.