



Do you have or want news of relevance to the TLC community? Hear it and say it in HEARSAY!

PETE WINS!

Some Words of Wisdom...

Nick Avila, 3L, SBA President 2008-2009

The office of the SBA President pales in comparison to those of your average national leaders, but the reality is that a student community of 700 law students can feel like its own planet. As we make the transition to a new administration, I'd like to pass along a few words of wisdom to the next SBA President...

Humility – Every President would like to be remembered as that one highly influential figure in history, whose political brilliance led the way to a new era of hope and prosperity. Or at the very least, one who negotiated the opening of a second point of entry into the library. But when things go wrong and spiral out of control, someone has to lay down their pride and take the blame. And the buck stops with you Mr. President. So take it like a penicillin shot and look away. It may sting a little bit, but it's for your own good.

Advertise – Don't be afraid to promote the victories you earn, because your shortcomings will be readily circulated. I learned this the hard way after I spent numerous late nights planning and juggling several pins at once, thinking those who worked closest to me would pass on the message. It didn't happen. Simply put, never trust anyone else to shape your legacy for you.

Advisors – Faculty can be a valuable part of the student community. This year, Professor Klein was a key player in the SBA's most successful events, and also provided a neutral viewpoint when student tempers flared. We all have interests outside of the classroom that make us unique, and professors are no different. In fact, they are actually sort of interesting when they're not droning on about the benefits of an equitable servitude that runs with the land, and thus is enforceable by the promisee's successors if the original parties so intended.

Prioritize – There were times when an over-caffeinated student would barge into my office fuming about an issue, proceed to insult the SBA, and then demand immediate action 15 minutes before my own midterm. Law students are trained to be very critical. So no matter how much planning and thought goes into any given plan, rest assured that someone in the school will spot an error and promptly bring it your attention. You simply can't please everyone, so as a student and a leader, your priority should always remain with the former.

Perspective – Ultimately, student government is meant to be fun. You will not be negotiating treaties with foreign regimes or managing the War on Terror. Yet there will always be those who say negative things or maneuver behind your back in order to gain self-recognition. Don't let it affect your enthusiasm or damper your willingness to reach out to students. Give it your best shot and let the chips fall where they may, because a law student already has enough to worry about. ♦

...to the New President!

Peter Valenzano, 2L, SBA President 2009-2010

Thank for you for the honor and privilege to serve as the next president of the Student Bar Association. Together, we will work to make this a student government that responds to the concerns of the student population.

There is considerable work to be done – and you can count on me to be a strong and persistent advocate to the administration for your concerns. I'm grateful for all those who worked on my campaign – your friendship, confidence, and faith is what truly made this election possible. I am especially grateful for the efforts Nick Avila and the previous SBA General Council have made over the past year in raising the student bar and making this the law school we all wanted it to be when we began our studies here. You have all made an indelible mark on student life at Touro Law Center and I can only hope to live up to the example you have all set.

I promise to confront the hard issues; the student retention rate, the dorm situation, and a lack of communication between the administration and the student body. I will not be deferential; but I will be respectful of the process. There is not a moment to waste and I promise to be there with you along the way. As I enter my third year of law school, I have not lost my passion, and I have not lost my motivation. I ask for your help to leave a positive mark on student life here that will never be forgotten.

We have an incredible facility; wonderful, accomplished faculty and a collective passion for justice. I'm proud to attend law school with every single one of you – and I ask for your participation in truly raising the student bar over the next year. The previous SBA General Council set a great example – let's take it one step further.

The administration is filled with decent, accomplished people; but there is much work to be done. This student government will lead on issues critical to the student population. I hope you will be there with me along the way. ♦



President Avila addresses the General Council one last time.



President Valenzano addressing the General Council for the first time shortly after taking office. May 5, 2009.

A New Chapter

Cheryl Van Dyke, Editor-in-Chief

Last week was bittersweet for me. My term as Evening Vice President ended and I was sad to see it go. It was my honor and pleasure to serve the student body and I thank each of you for your support. As part of the SBA Council, it is easy to get tunnel vision, succumb to rumors, and overshoot your goals. But I am excited to be taking on this new endeavor. I look forward to working toward our common objectives from another angle. The student body has a potential force. It merely needs to find its voice and use it.

One of the common themes discussed every year in the SBA and once again echoed through the SBA election season is the desire for more open communication between the administration and the SBA. This year, however, that theme evolved into how the communication seems to fail or at the very least how it is weak- not only between the administration and the SBA but also the SBA and the students they serve. The weakness, many pose, is the lack of transparency among those three bodies.

It is the inner-workings of the school of which you, we the student body, are unaware. What is being done to slow down transfer rates? Increase bar passage? Build new dorms? Enhance internship opportunities? Retain faculty? We are in this journey together- because this is our experience. For those of us that choose to be here, at Touro, a student lost hurts us to our core. We are concerned about passing the bar and the reputation Touro is trying to build because it is our legacy, too. We will not tolerate any one of us living in poor conditions. We want the same chances for advancement as the other guys. We deserve the best teachers as guides to ensure our future.

Knowledge is power. We should demand transparency from each other because there is no need for us to be divided. Through a more open dialogue, whether it is about how our money is spent, or why chewing gum is not sold in the bookstore, we can build the future together. Apart, we will remain at odds. We will continue to be suspicious of each others actions and assume that we are not working for the common good- our common good.

So, ask why and do not accept because. Learn. Be able to make better and different decisions because you know all the information, not just the rumors. Be a better communicator. Express your needs and wants to instigate the conversation and to keep the river of transparency flowing. You, we, are a part of the equation and should not demand anything of our administration and SBA leadership that we are not willing to give. We are in this together. This is our experience.

This is your paper. This is your voice.

To the Class of 2009

I offer congratulations and best wishes. Your class is truly special and will be missed. I also wish to extend this little tidbit of advice, advice that I wish I could take full credit for but is actually the wisdom of author Sarah Adams, "Be cool to the pizza delivery dude...Tip him well, friends and brethren, for that which you bestow freely and willingly will bring you all the happy luck that a grateful universe knows how to return." Take a few moments to look up her full, very short, prose. Not only will you enjoy it, but you will embrace it, and live by it. Goodbye my friends and colleagues.

Acknowledgments

I wish to thank everyone who supported me this year- my friends, family, professors, and deans. To my colleagues in the SBA thank you for your continued encouragement. To Mr. Malone- as always, the best thing I can say is the simplest, Thank You.

Editor

Mea culpa

(all corrections can be found in the online copy of *Hearsay*. http://tlcweb.tourolaw.edu/StudentPublications/pdf/hearsay_040409.pdf)

In the Volume 1, Issue 1, April 2009:

In *Fraudulent Grounds for Divorce in NY*, the footnotes were not connected in the text.

In *Student Spotlight*, Mr. Santos was credited with founding the Criminal Law Society. The Society was actually formed over 10 years ago, but Mr. Santos Re-established the Society as it is known today.

In *Persuasive Precedent* the last paragraph of Dean Glickstein's article was not printed.

In *Recess* the Team Roster was listed as *Rooster*.



HEARSAY

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The following was authored by Prof. Lewis Silverman and published in the October 1998 issue of *The Restatement*. *Matthew Shepard Died October 12, 1998.*

Yisgadal V' Yishkadash

Last Friday night, in a synagogue, I said Kaddish for someone I had never met, who did not know me, was not a relative and of whose existence I had been unaware until a week previously. I said Kaddish for Matthew Shepard.

Matthew Shepard died because he was gay. Pure and simple. Two bullies, intent on committing a robbery chose a victim who belonged to a group they perceived as a threat, and decided to kill him. Not much different from the recent murder in Texas of a Black man by three white men simply because his skin had a different pigmentation than theirs.

Bigotry and hatred, Racism, religious intolerance, homophobia, sexism. I am outraged. I am incensed. I am livid. It is not less wrong if the victim is one gay man than if the victims are six million men, women and children. But if I seek vengeance than I am no better than the killers. There must be a way that I, as a lawyer and gay man, can respond to these senseless crimes without further fanning the flames of prejudice. Throughout history demagogues have succeeded because of the human willingness to believe the unbelievable, to thrive on rumor, gossip, innuendo. Sometimes the legal profession has aided and abetted in the name of "free speech" or "personal liberty". Murder and robbery are wrong whether the victim is a gay man in Laramie, Wyoming, or anyone else. Among the Ten Commandments are: "Thou shall not steal" and "Thou shall not murder." God didn't tell Moses to create exceptions for homosexuals, or Blacks, or Jews or women. So why does our society create these exceptions? These are questions beyond the scope of a law school essay, dealing with issues social scientists have pondered for far too long.

The question that can be answered is what we, as lawyers can do to prevent these brutal activities. Lawyers are largely responsible for writing and enforcing laws. Sometimes laws may be offensive, such as a bigot's right to free speech. But there are limits, especially when rights are in conflict. And no one has a constitutional right to harass, injure or maim another human being. It is our duty as a profession to draft and enforce laws that resolve constitutional issues such as free speech without sacrificing the bodily integrity of individuals.

More importantly, we as members of the legal profession can and must take a strong stand against bigotry and prejudice. It is our duty and responsibility to lead the call for action for social justice and social tolerance. We must lead by example, making it clear that those who would denigrate others know that their actions are not acceptable forms of behavior. We must lead by example, by speaking in a positive manner about all people, by rejecting negativity, by condemning prejudice. Like the civil rights lawyers of the 1950s who brought about social revolution, we must be the force of change. We must make it clear that we will no longer allow the actions of a few paint the picture of our society, each person, whatever their race, creed, gender or sexual orientation, has all the basic human rights and the law will be used to protect them.

And we must never forget Matthew Shepard. ◇

Alumni Vox Vocis

Editors note: This section will feature articles on life after Touro Law from Touro alumni.

Patrick Finley, '08

"Good Morning Ladies and Gentlemen, my name is Patrick Finley and I represent the People of the State of New York in this matter." I'll never forget the first time I spoke those words to a jury in First District Court in Hempstead. The defendant had been charged with Driving While Ability Impaired by Drugs along with a host of other Vehicle and Traffic Law violations. I knew he was guilty, but now I had to convince 6 total strangers that he was guilty too. It's been about four months since that trial (defendant pled guilty to the entire docket after my direct of the arresting officer) and about 9 months since I first stood up in Court on behalf of the People of the State of New York, and that thrill you get saying those words still has not gone away. While I have been a prosecutor for less than a year, the journey to get to this point has been a long and somewhat interesting one.

I spent the first summer of college (1999) working with a high school friend at his father's law firm. The work was interesting, it was a Medical Malpractice defense firm in Garden City, but my primary responsibilities included doing the billing for the attorney's and making the occasional trip to pick up medical records. My second summer (2000) I was a summer analyst at Morgan Stanley in New York City. I worked hard that summer and was invited to participate in their full summer analyst program the next summer (2001). I returned to Morgan Stanley during the summer of 2001. Apparently I was able to make a good enough impression that they offered me a full time position after graduation from college. While I had always wanted to go to law school, I felt I could not pass up the opportunity to work for Morgan Stanley and I accepted, but told myself that one day I would make it back into the classroom.

"I represent the People of the State of New York... I'll never forget the first time I spoke those words"

After my 2nd year at Morgan Stanley I began to think about law school again. I told myself when I took the job at Morgan Stanley that I would one day go back and I was starting to feel like that day was coming sooner rather than later. I thought long and hard about it. I had a very comfortable lifestyle, I was making excellent money and had a good group of friends in Hoboken, but that draw to law school refused to go away. So I decided I would just take the LSATs, just to see what might happen. So I took the LSATs and then continued to work for another year.

Continued on the top of the next page, column 1

Welcome to Your Darwinian Job Search!

Matthew W. Daus, '91

TLC's April Alum of the Month



It has been 18 years since I graduated Touro Law School. Although there have been many changes at the school and in the practice of law since then, there are strong similarities in the current economic climate now compared to when I attended and graduated law school.

In the weak economy of the early 1990s, when I applied for law schools, it was a record year for law school applications and many people, like today, chose to try and wait out the economy while attending graduate school. Also, the show "LA Law" was a hit and it was ultra-trendy to be a law student and lawyer. With Scott Turow's books hitting the shelves, talk of mega summer and first-year associate salaries dominated the daily hopes of the student body.

But then, when graduation came, none of those expectations met reality for many of my fellow graduates. The economy was still in bad shape and job opportunities contracted significantly – especially for the graduates of new law schools like Touro. I suspect that each of you are now, or will face, a similar reality when graduating within the next three years. But one thing that has changed are some benefits you will now have that we did not have at the time.

A more expansive network of Touro alumni exists, where now many of those who graduated in the early years of the school are now in significant positions with the ability to hire and provide fair employment opportunities and consideration to our graduates. Also, I cannot imagine that each of you do not have a competitive edge in terms of the resources and environment in which you learn every day. My fellow alumni were so envious when completing a tour of the new law school during our last class reunion, wondering how enhanced our experience would have been if we had the technology, facilities and resources that all of you now have. Moreover, the unique Court Observation Program at Touro provides you with a certain level of practical experience that other law school graduates do not have – and undoubtedly provides you with a competitive edge.

Make no mistake about it, you are getting a quality legal education at Touro. Over the course of my career I have interviewed and hired scores of lawyers and Administrative Law Judges, from the widest variety of backgrounds and law schools. I have supervised and worked with graduates of both Ivy League law schools and Touro, and found very little difference in terms of the legal knowledge and skill set they brought to the table. In fact, having graduated from N.Y.U. Law School, where I obtained an LL.M., I can tell you first-hand that our Professors at Touro were of the

Continued on the top of next page, column 2

After I got my bonus in 2005 I realized that if I didn't go to law school now, I never would. So July 15th, 2005, exactly 3 years to the day I retired from Morgan Stanley. One month later I moved out of my luxury building in Hoboken and was back in my parents' house in Garden City. Instead of the box for Knicks games and dinner at Peter Ligers I was in the Touro Cafe in Huntington ordering a turkey wrap and hoping for the best. Things had certainly changed.

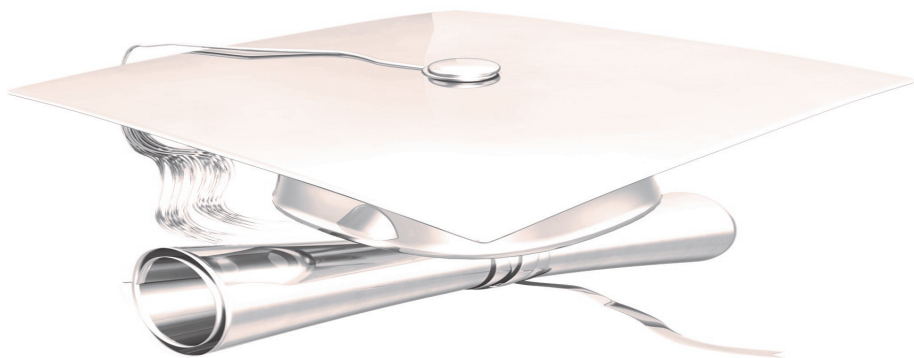
“I ...enjoy coming to work...and I can make a difference...”

When I started law school I knew I wanted to be a prosecutor. I wanted to be in Court every day, I wanted to wake up every day and do justice. I knew that getting a job at a District Attorney's Office would not be the easiest thing in the world so I had to figure out the best way to market myself. I spent the first summer after first year working at the Nassau County District Attorney's Office. I worked as an intern for free for 8 weeks and split my time working in County Court (felonies) and District Court (misdemeanors). The summer I spent in Nassau made me realize that this is the only job that I wanted upon graduation. Everyone I worked for at the Nassau DA office suggested working for another office the 2nd summer, so I spent the new few months figuring out where. During the application process I had been speaking with a professor of mine from Holy Cross who told me that his sister in law worked in the Appeals Bureau of the Los Angeles County District Attorney's office. I immediately called her and she put me in touch with the LADA. I sent in my resume, cover letter, writing samples and was offered an unpaid job that summer as a Certified Law Clerk. I had to make a special application to the California Bar and was admitted to practice under a special practice order. After finals were over in May of 2007 I got in my car and drove 3,000 miles by myself to Los Angeles.

While in Los Angeles I was assigned to work in the Pasadena office. My particular assignment to Preliminary Hearing. My second day on the job I was directing a police officer on a felony DWI and cross examining the defense witness. I knew for sure after that summer that the only job for me was that of a District Attorney.

When I returned to the TLC in August I worked as an intern in the United States Attorney's Office for the Eastern District of New York. My last semester at Touro I took part in the Judicial Clerkship program and interned for Federal District Court Judge Denis Hurley. During these two internships that I was interviewing at all of the local District Attorney offices. In the end Nassau County made the first offer. So, I went with the office that first believed in me and who gave me my first job as an intern back in 2006.

After taking the bar in July of 2008 I had about a month off and started with the Nassau County District Attorney's Office right after Labor Day in September of 2008. While it's only been about 9 months, I can't imagine doing any other job right now. I genuinely enjoy coming to work every day and feel that I can make a difference in the lives of the citizens of Nassau County. I can't speak more highly of the job of Assistant District Attorney and I encourage anyone who is thinking about following that path to do as many internships as possible and to get involved in the Clinical Programs that Touro has to offer. You can do anything you want with your time in law school but at the end of the day experience will often carry the day. ♦



same high caliber, and the only major difference between both schools was in the student body and the facilities (where N.Y.U. had many more students from out-of-town than Touro). Now, there are exemplary facilities at Touro, the same high quality professors, but you are still faced with the prospect of finding employment in a recession that will most likely still be in place upon graduation for all currently enrolled students. So, although you may be academically prepared to work, are you prepared for a truly Darwinian job hunt? Let me take a stab at providing some advice.

First, there is no substitute for enthusiasm, optimism, doing pre-interview research and having a “fire in the belly.” With the egos that exist in the legal profession, and the internet being an advantage you now have that we did not when first looking for a legal job, use it to research everything about your interviewer. Tailor your responses to highlight why you are interested in the job by weaving your knowledge of the firm, organization and the accomplishments and/or interests of the interviewer into your response to questions – but do not talk too much or go “over the top.” You need to strike a balance so you do not look desperate. Exude enough confidence, but not too much - as you need to also convey you are eager to learn and work hard, dropping highlights of where your strengths and interests are all along the way. Bring writing samples or publications if you are a good writer and cite pre-law school work experience, bilingual or other relevant skills if you have them. Also, make plenty of eye contact and try to be cheerful, even though it is really difficult not to get discouraged in this job market. You need to treat every job interview as if it is your last or only one – even if it is a job that may not be ideal in terms of where you want to be. This is the most important advice I could ever give, since this is the “only way” you can perfect your interview skills; and let's face it, how many times in your career will it be your professional responsibility to represent a person, cause or case that you do not believe in?

“Make no mistake about it, you are getting a quality legal education at Touro”

Second, and most importantly, how do you get that job interview? Easier said than done! This was the most discouraging part of the experience that my colleagues and I had when graduating. A little has changed since then, but not much. You have a plethora of resources on the internet, to find out at least where the jobs are. Mass mailings will get you down – so do not waste your time! The most important thing you could possibly do while in law school is to obtain internships (even if unpaid) and volunteer strategically to obtain experience and network. Networking still is the way of the business and legal world, and your best hope for surviving among the fittest. If you are not a “Type A” personality, you need to try to become one – or at least until you find a job. First, tap extensively into everyone you know – friends, associates, and family members who know lawyers or people who work with or employ them. Tap into any pre-existing, longstanding potential networks as well, whether cultural or religious institutions, community organizations, college fraternities, any place where there are people who can help. Place yourself directly into the fray by volunteering for not-for-profit organizations, Bar Associations or any place else where there may be other lawyers involved. This is your best way to make yourself known and get your foot in the door. Also, volunteering in areas of the law where there are fewer practitioners will increase your hiring odds as your experience may be more marketable since there will be less competition for jobs in that area. I could go on and on about this, but by now you get my point.

The thought may be crossing some of your minds as to whether you should start your own practice. Be careful on this one. I know some lawyers who started their own practices immediately upon graduation and were wildly successful – but this may be the exception to the rule, with lots of mistakes made along the way. If you do choose to do so, I strongly recommend that you share space with some experienced attorneys, where you can tap into their expertise and learn the ropes.

I have been very fortunate to work as a public servant for most of my career, and since Touro is a public interest school, I hope you will consider this option as well. It is tremendously rewarding and you do actually make a very concrete difference in many lives by choosing this option. Actually the best time to do so if you are interested is now – when you first start practicing – since the pay scale will make it impractical for you to work for the government after commanding private salaries for a period of time. The experience you will get will be extraordinary in terms of workload, litigation or being able to stand and walk on your own two legal feet, compared to many private sector jobs. The best way to approach this is to use your law school resources to find an internship early and perform work “above and beyond” the call of duty to impress your supervisor and anyone else who is watching. Remember, for you to be the “natural selection” for a job, all you basically need to do is work harder than the paid employees. Once your supervisor asks the question why he or she is paying someone else who is less enthusiastic, not as diligent and works less than an unpaid or underpaid intern, the rest is history!

The foregoing notwithstanding – please don't worry – because although the waters might be choppy at first, you will evolve, survive and thrive. I hope this helps you and – of course, good luck out there!

Matthew W. Daus was appointed by former Mayor Rudolph W. Giuliani and unanimously confirmed by the New York City Council on August 22, 2001 as the tenth Commissioner/Chairman of the New York City Taxi and Limousine Commission (TLC). On July 23, 2003, Commissioner Daus was reappointed to a seven (7) year term by Mayor Michael R. Bloomberg and the New York City Council, which expires on January 31, 2010. Mr. Daus is the longest serving Chairman in TLC history.

This section features contributions from invited faculty members that have earned the utmost respect and admiration from the student body.

In this issue *Hearsay* focuses on Prof. Myra Berman. Prof. Berman was named class professor and will be speaking at this year's graduation ceremony.

Myra Berman

Assistant Director of Academic Development Programs, Adjunct Professor of Law

I have been asked by your editors to write something about myself, about who I am outside of the classroom. The editors afforded me a great deal of freedom in terms of my topic: write a story that's personal or professional, about yourself or your favorite pet, about your experience with the Bar Exam. Write anything at all...except a topic that is about the law.

And so I debated. What is a teacher of law to write about, if not law? I could write about my three brothers who spend their days making the rest of us laugh (unintentionally, of course); or about my brother-in-law (the family "enforcer"); or one or more of my four sisters (who aren't particularly funny, but are an integral part of my life). Despite all of these potentially wonderful topics, I was fairly certain that my former dog Dakota, a beautiful white German Shepherd, was going to be the focal point of this note – until yesterday. Thursday, May 7, 2009. Yesterday, I experienced the reason I attended law school and, I hope, the reason you are attending law school. I have long comprehended that law is, or ought to be, a noble profession; but yesterday, I witnessed its nobility. I saw it. I felt it. And that's what I'd like to share with you in this note.

The older I get, the more I realize that every day presents new opportunities. And, the older I get, the more conscious I am of how I must try my best to grab those opportunities whenever I can. When I awakened yesterday morning, at 6:00AM, in order to make the lengthy commute to Brooklyn Family Court, I had no idea that I was going to have one of those opportunities thrust at me. As many of you know, I am currently enrolled in the LL.M. program at NYU School of Law. This semester I participated in the *Comparative Criminal Justice Clinic: Focus on Domestic Violence* which includes a fieldwork component. I was placed at Safe Horizon's Domestic Violence (DV) Law Project. Safe Horizon accepts DV cases from the Integrated Domestic Violence Courts throughout the city. Their cases generally involve felony assault charges as well as family court matters, such as custody, visitation, and child support. We represent the victims.

Having officially concluded the semester and the fieldwork component of my course, I was appearing in court yesterday "for fun," or so claimed the supervising attorney. Some of you know that I have never practiced law. I have written complaints, motions, memoranda of law, bench memos that were converted into judicial opinions, even appellate briefs, but I've never actually appeared before a judge, with a client, to advocate a case on that client's behalf. This was going to be it. It was to be a slam dunk. An inquest. Asking questions for which I'd prepared the witness. No adversary. Easy case.

And so it was. We were asking the Court to grant two motions: one, a final Order of Protection against the defendant, and the other, a final Custody Order to the mother, our client. I conducted two separate inquests and they went well. I asked questions; the client/witness answered; the Judge took notes and had no further questions. Excellent. She granted both motions. I breathed a sigh of relief, for the experience was over and had ended successfully.

I was incorrect. I may have finished experiencing the methodology of lawyering, but I had not yet begun to experience the purpose of lawyering. I gathered my belongings and, with the supervising attorney and the client, left the courtroom. The client suddenly grabbed my hand, swung me around, and hugged me, whispering words of gratitude. How nice, I thought. But when I turned around and looked up into the client's tear-streaked face, I understood. I had not just successfully conducted an inquest. I had not just "won" a case. I had effectuated a complete alteration in this person's life.

For four years, this client had been living each day fearful of violent attacks, fearful that the perpetrator of this violence was going to be able to take her child from her or, at the very least, be granted the opportunity to visit with the child and, thereby, have access to her. On this Thursday morning, four years after the initial assaults began, the constant, all-consuming fear had suddenly disappeared and this woman was able to close a horrifying episode of her life and start anew. Remember in Civil Procedure I, how the professor was always talking about "relief requested"? What an example of relief! This client was given the full relief she needed in order to begin living as a free and independent person. She was empowered by these Orders and she was thanking me for what they meant to her. These Orders, the relief provided by the Court, gave her and her child the possibility of returning to a normal, happy lifestyle.

But me? What had I done? I'd just prepared a list of questions to ask her. I'd just prepared a final statement to the Judge, asking that she issue the orders. I didn't understand what I'd really done because I was focused on the work itself. The consequences of my work, the entire purpose of my work and its value, were lost to me --- until I turned around and faced that client, until I looked at her face and felt the whirlpool of emotions she was experiencing at that very moment. Being a lawyer is not primarily about standing up in a courtroom and competently doing one's job. The nobility of the profession is about why we do our job, not necessarily just how we do it. Being a lawyer is about serving people.

Perhaps each of us has to experience a May 7, 2009 event in order to fully understand, not only with one's mind but also with one's soul, why we do what we do. I hope that every single one of you has your May 7th.

Who would you like to see in Focus? Nominate your favorite faculty or send in questions to hearsay@tourolw.edu.

Student Spotlight

Hearsay posed ten questions to Kerry Fisher. Ms. Fisher is the presumptive Valedictorian for the Part-Time division's graduating class. Below are her responses.

1) As mother of 5 children, two of whom were born while you were a Touro student, please share with us some insight as to how you managed to allocate your time and duties so efficiently over the course of the last 4 years.

I decided to go to law school and I would not let anything stop me. I also wanted to have more children and at my age, I couldn't afford to wait. So I just did what needed to get done. I never worried that I would not be able to do it all. I simply did what I had to do. Sometimes that meant staying up late into the night, other times it meant not sleeping at all. During the semesters when I was pregnant, it meant doing all of my reading and outlining within the first 6 weeks of class. Yes, there were times when I was tired; yes there were times when I wondered how I would get it all done. Somehow, though, it all came together. The lesson I learned is that you really can do just about anything if you set your mind to it.

2) Almost by definition, evening students bring a certain amount of life experience to the table when attending law school. Which, if any of these life experiences helped you and how?

I think that it is universally true for all evening students that we have many competing responsibilities and there are a lot of things to balance. Once you have children and a family, you are forced to be organized. You also learn time management skills. These skills are invaluable when dealing with a law school workload. I managed to get through by compartmentalizing everything. Additionally, my kids helped me to keep law school in perspective. When I was at school, I was a serious student but when I got home I was just a mom.

3) Do you plan on practicing law upon admission to the bar and if so, what particular area?

I plan to take the bar in February 2010. I would like to spend the upcoming year doing pro bono work and writing. I want to really reflect on where I want to go. I have an interest in teaching, doing a clerkship or going into the District Attorney's Office. I have looked into each of these alternatives and they all look attractive to me. I just need some time to really ascertain what will give me the most satisfaction.

4) Many Law Students of a certain "maturity" are frequently asked why we decided to go to law school. Often the real question behind the pretextual one is why did we do so at this age... how do you respond to that?

I understand that many younger students look at more mature students and wonder why they are in law school. The funny thing is that I never really thought about myself as a more mature student until I actually started attending law school!! Law school was a dream I had held onto since I was a young girl. I just got to the point where I realized that I was not getting any younger and that I had to just go for it. I started off telling myself that I would just take the LSAT exam and that I would go from there. It has been a whirlwind ever since, however, here I am about to graduate! I don't think that you are ever too old to follow your dreams. If it is important to you, you should not let anything stop you.

Continued on next page

5) You earned a respectable reputation from your students as a Teacher's Assistant. What comments and or observations do you have to offer concerning that aspect of your law school experience?

I really enjoyed my experience as a Teaching Assistant. I think that this is an invaluable experience for any law student and I would encourage those students who have the opportunity to become a teaching assistant to take it. I enjoyed meeting the students and I have maintained a relationship with many of them. I was very surprised to see that I now understood a lot of the topics that had seemed such a mystery to me just two years earlier!

6) Tell us about your experiences in any of the Clinical Programs offered at Touro.

I participated in the Not for Profit Clinic. I thought this was a great experience because I wanted to get some hands on experience. I loved getting my file and reading through it. It made me feel like a real lawyer!! I found it very enjoyable to work with clients, discuss their cases and to figure out what needed to get done on their case. I learned that the wheels of justice turn very, very slowly, indeed! It was an invaluable experience.

7) Is there a specific methodology or approach to finals preparation that you would recommend to new students? What insights can you offer with respect to note taking and efficient course outlining?

Studying is very different for everyone. Each person needs to find what works for them. There are people who could just memorize an outline and do well while others would fail miserably if they did that. Personally, I find that listening in class and trying to keep up with the reading is invaluable. Most importantly, find a study group!

8) Are there any courses that you would have liked to have taken but could not because of either scheduling conflicts or the fact that they were simply not offered?

I wish that I could have participated in some of the other clinic rotations. I would have absolutely loved to experience the judicial clerkship clinic and the District Attorney's rotation. Unfortunately, I was unable to do so because of my personal time constraints.

9) Do you have anything additional that you would like to say to your classmates in this admittedly limited forum?

I remember those first few days of law school. Looking around the classroom, I was struck by how diverse the students were. There were people of all ages, different nationalities and religions. As the days turned into weeks, I began to realize that our differences were only on the surface. Underneath it all, we were the same. We had a common goal, a common dream. We were there to become lawyers.

During those early days of law school I was amazed at how intelligent and articulate my fellow students were. The more I got to know the other students, the more impressed I was. These were people who worked a full day, had families and somehow found the time and energy to attend law school at night. These were very motivated, amazing people. To this day, I believe that my classmates are truly the most extraordinary people I have ever met.

It is hard to believe that it is four years later, on the eve of our graduation. We did it! We have been through so much together as a class. We have laughed together and we have cried together. We have complained and we have commiserated. We have studied and studied and studied. We have been there for each other through marriages, births and deaths. We have become a family. Our journey together is drawing to an end. I would like to say that it has been an honor and a privilege to have gone through this incredible journey with all of you. I can't think of a more wonderful group of people to have done this with. Good luck to all. I wish you much success and joy in life.

10) Last but not least, Mrs. Fisher...if granted the opportunity to do just one thing different in your Law School life, what, if anything, would that be?

I would have gotten a babysitter!! I was so intent upon ensuring that my children did not suffer because I was in law school. I really put a lot of pressure on myself. I was the one who made sure that their homework was done and that they had a good dinner each night. If I could do one thing differently, it would definitely be to ask for more help from friends and family.

The truth is, though, that I would not trade my law school experience for anything. I learned a lot and I met many new friends who mean the world to me. I feel empowered. I know that I can do anything I set my mind to. Mature student or not, I know that there is a lot more that I will accomplish in my life. Law school was just the beginning for me.

Who would you like to see in the Spotlight? Nominate your fellow students or send in questions to hearsay@tourolw.edu.

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Dear Students, Meet Your Activity Fee!

Alex Shkolyar, 2L
SBA VP, Day 2009-2010

One of the hot topics from the recent SBA campaigns was the underlying sense that the SBA has no true power and that the source or lack thereof is due in part to our funding. Investigating a task of such magnitude requires more than one article. Hopefully, a series of articles can be written, informing the Student Body of what really transpires in and out of the SBA. Today, we'll focus on the SBA budget: its source, status and an outlook for the future.

Let's start with the source: the student activity fee. For anyone who is not familiar with what the student activity fee is, it's a charge above regular tuition that undergraduate and graduate schools across the United States use as primary source of funding for student activities (hence the name), clubs and programs. Mandatory student activity fees have been upheld, to some extent, by the Supreme Court¹. The Touro Law student activity fee is currently \$60 per semester and includes \$10 to fund students' automatic enrollment in Suffolk County Bar Association. The remaining funds are split between the Dean's Office and the SBA. Both entities have tremendous discretion on how to divide up their shares but all of it is spent on student related activities and events. Each year, dependent upon certain factors such as enrollment and projected spending, the student activity fee allocation varies. Using the 2009/10 budget projections, the general outline of distribution for approximately 700 students and a total student activity fee of \$84,000 is:

STUDENT ACTIVITY FEE			
Approx. Budget	Dean's Office	Suffolk Bar	SBA
TOTAL/Annual	\$20,000	\$14,000	\$50,000

SBA gets 59.5% of the overall fee. From the SBA's \$50,000, \$15,000 gets allocated to Barrister's Ball and \$8,000 on SBA E-Board scholarships (divided across the two semesters). A portion, usually one-half of the SBA allotment, is allocated to the SBA Emergency/Discretionary fund to give out on an ad-hoc basis. The remaining \$7,000 or so gets divided among Touro's approximately 27 organizations! Naturally, an important consideration for the SBA is to check on student organizations who claim they need certain funds but end up barely using them. The Finance Review Committee holds such responsibility on the SBA.

The Dean's office generously contributes its share to spending, including assisting with Barrister's Ball, the BLSA Dinner Dance, Student Disaster Relief Network and various competitions such as the VIS International Commercial Arbitration Moot Court. This year, the Basketball Society was almost entirely funded by the portion of the student activity fee controlled by the Dean. "I've always looked at the Dean's share of the student activity fee as an appeal process organizations can go to get funded if the SBA can't help them," Dean Raful said. A good point indeed, as many students would probably like to know that there is always someone to go to get funding. After all, SBA Councils change annually and different people might have different spending goals. A reckless SBA E-Board might frivolously spend resources left and right. On the other hand, a different Dean might not be so oriented toward students and that could mean trouble. So to whom do we grant control of the activity fee? The choice is for the next SBA Council to make. "If you want it all back, just vote," Dean Raful has said. However, the Council should consider the danger of limiting the Dean in the resource he has continuously been using to wholeheartedly support student activities. So what should the SBA do to maintain sufficient funds for students? The SBA could, for example, poll students and vote if we want to continue buying automatic Suffolk Bar membership with a portion of the student activity fee, or spend it directly on other student needs instead. Automatic Suffolk Bar membership is not without its benefits. The Bar offers potential networking opportunities with local employers and guest speakers. On the other hand, students who choose not to focus on Suffolk as their first choice of employment might not wish to automatically enroll there.

Alternatively, the SBA could attempt its own fundraising events with the hopes of yielding profits to spend on more student activities. Finally, voting to reasonably modify the student activity fee is a plausible option for the SBA Council. However, such a decision would only possibly impact 2010 incoming students as the tuition and fees for next year have already been set. The new SBA Council should decide what to do with the student activity fee or if there needs to be a change in how we handle the budget. The SBA's goal is always to remain and become a more autonomous entity with enough resources to support the Student Body's needs. ◇

¹ *Board of Regents of the University of Wisconsin System v. Southworth* 529 U.S. 217 (2000)

The SBA From the Inside Looking Out and Forward: A Reflective Critique

Timothy Shortt, 3L

While student governments do not handle serious affairs of life and death, they should be administered with a degree of competence and decorum respectful and equal to the trust students instill in it by their vote. It was my privilege to work for previous SBA President Todd Jones who exemplified these qualities. When I voted for, supported, and served under this year's administration I hoped for more of the same. Instead, I was continually discouraged and disillusioned with the actions and inactions of the SBA.

So why have I taken time out of my study schedule to draft this letter? It is the same reason I took time to sit at that election booth for two days straight and work for two SBA Presidents. I believe the SBA can be a force for good in our school. While I know it does not hold life-changing power, it does have the ability to make my life at Touro a little better and a little easier. While I'm sure the previous administration holds the same views, I think it is important to learn from the mistakes of this year so that next year the SBA can continue to be that force of good.

Call me obtuse, but student government isn't and shouldn't be that hard. You run on a set of promises, and by your election are obligated to fulfill them. Yes, the SBA threw a few social events, but they promised us more than that. They promised to be our student leaders. They promised, to "think big" and therefore achieve big. When candidates stand before us, asking for our vote so that they might lead us, we have a right to expect them to do just that.

Call me a stickler, but in a law school we should be able to run our government according to some system of rules. Future members of the SBA Executive Board should not be allowed to admit to having never read our by-laws and enjoy a year of operating without their limitations. Changing this unfortunate circumstance should be agenda item #1 for the next year's SBA.

The SBA must be held accountable for its actions or inactions. Requiring the President and the General Council to regularly report their actions to the students at large would be extremely helpful. This could be done by requiring the President to regularly publish articles in *Hearsay* laying out his goals, efforts towards those goals, and the ultimate outcome. Many of you may not know that the SBA General Council has its own, private TWEN forum. Opening that forum up to public scrutiny and making the remarks a matter of public record could only serve to ensure transparent, effective government. Finally, former SBA Presidents have held open town hall meetings, some times with the Deans, so that students could ask questions of both our student and administrative leaders about what progress they have made towards a better life here at Touro. While this still occurs it is not enough. Limiting the time we have to contact our leaders through strictly timed and formatted SBA meetings does not allow students who are not elected to become involved.

When I decided to write this article I discussed the SBA with my fellow students and some thought it was a dead organization that cannot do anything for students, others thought I was making an already bad situation worse. Neither is true. I can pinpoint the moment I became a fan of the SBA. Last year an evening class I was taking was cancelled at the last minute because of a snow storm, and we were not told of this until 25 minutes before the class was to begin. Standing in the atrium, angry about the last minute notice, I began to vent to my fellow students, and we began to talk about how other schools have text messaging notification systems for just such emergencies. One of the students I vented to that day was the SBA President, who also had his class cancelled. After further working discussions he submitted a plan to the administration outlining the need for a notification system and how to implement it based on those used at other schools. Those of us who have signed up for the emergency notification service will tell you it works and is a vast improvement. This is the work of the SBA, an organization that has and can make our lives at Touro little bit better. It requires leadership, but it also requires a student body willing to get involved. The hours I spent in the SBA office, working on student issues, and talking with people as concerned as I was about making Touro a little bit better are among the best and most rewarding memories I'll take away from law school.

The office of SBA President, and the Council he leads, is more than a social coordinator, or at least it should be. The office is a reflection not only of the man or woman who holds it, but of the body it is elected to serve. Success requires active and energetic participation on behalf of the elected and the electorate. We should all strive to pick the best candidates, but our efforts should not stop there. We must continue to help those leaders succeed by our support and our criticism. Ultimately leaders must reflect those he or she means to lead. At the dawn of a new administration I hope the student body takes this moment to consider what they expect from their new leaders and how they will help to make them better. I encourage and implore you all: go to SBA meetings, talk to your representative, run for office, ask what you can do to make a difference. I still consider my time and service to the SBA one of the best things I have done in law school. I hope each and every person who reads this responds by helping and challenging the next SBA to be the leaders that they deserve. ◇

"When candidates stand before us, asking for our vote so that they might lead us, we have a right to expect them to do just that."

Beyond The Walls of TLC

Ray Malone 4PTE

On August 29, 2005 Hurricane Katrina devastated much more than what was seen on the international news. The effects of the subsequent breakdown of the justice system in an already corrupt area notorious for its selective application of the rule of law are *still* being felt by tens of thousands of Americans living and working in the area.

***“We are savagely
under-enraged
by what is
going on here”***

Loyola University Law
Professor Bill Quigley,
in the aftermath of Hurricane Katrina

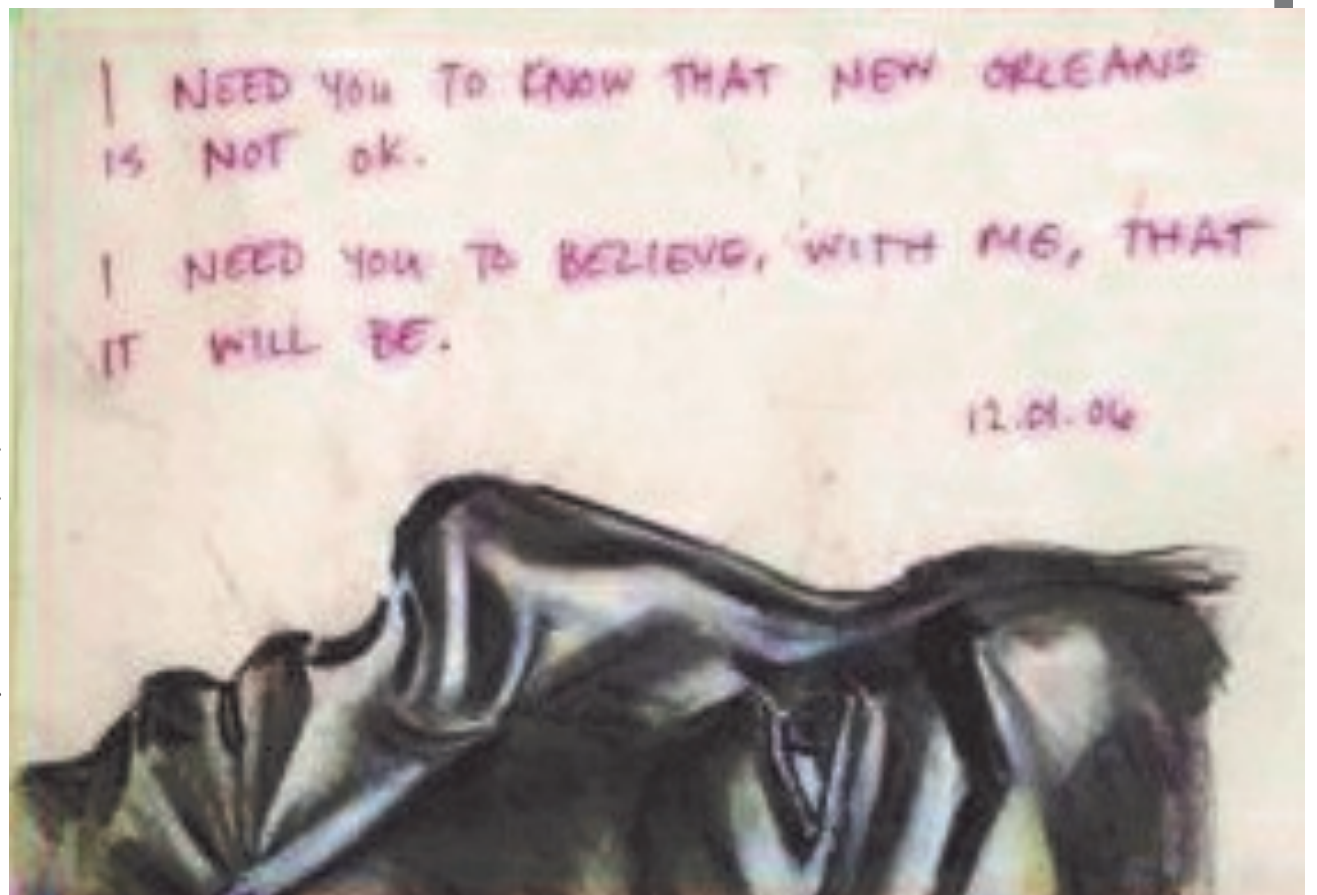
In April, 2007 Touro Law student Lisa Canarick ('07) organized what has now become known as NOLA I.¹ Thirty two Touro student volunteers spent our spring break working on legal issues that were directly caused by Hurricanes Katrina and Rita. We initially collaborated with the national coalition of law school students known as the Student Hurricane Network (SHN), founded by fellow law student Morgan Williams (Tulane '07). Since that first trip 2 years ago, Dean Raful and Touro Law Center have sponsored 4 more trips that have sent over 120 students and 4 faculty members back to the Gulf Coast to continue the work. Contrary to common misperceptions, the legal problems that exist in the Gulf Coast are still monumental in scale and despite our best efforts to date, are likely to remain so for the foreseeable future. Yet the Student Disaster Relief Network (SDRN) remains committed to addressing those issues as best we can for as long as we can. We do that with the tools we acquire right here in the classrooms and clinics of Touro Law School.

A great part of the learning experience of each of these trips has always been our excitement to share with our colleagues what we saw, what we felt and what we learned while we were away. On three of our five trips we have accomplished this objective through group presentations held in the FCR wherein we use slide shows to accompany our oral reports to the TLC community. Yet because NOLA III and Gulf5 were each scheduled so close to the end of the school year, final exams prevented our presentations from being delivered in that conventional manner. Todd Jones ('08), veteran of NOLA III, is in the process of producing a short documentary film that will feature SHN's work product from that trip. This special section of *Hearsay* will attempt to do the same for our most recent venture, Gulf5.

Between the more than 120 of us that have volunteered in the Gulf Coast over the past 24 months, there are countless stories that we are able to tell, and what follows is but a sampling. Some may make you cry out in pain, some may make you gasp in dismay and some may make you simply sit back and think in a way you might not have thought before. That is only part of our purpose, for if we do it correctly, *all* will motivate you to do more to help your fellow Americans during their time of need.

Interested students and faculty are invited to add the Student Disaster Relief Network as a TWEN course for further information and links related to our past, present and future activities.

¹NOLA is the widely used acronym for the city of New Orleans, Louisiana. For identification purposes, the first 4 Touro student trips to the area are referred to as NOLA I, NOLA II, etc. After NOLA IV, when SDRN elected to expand our *pro bono* work to include legal issues uncovered in Hattiesburg and Biloxi, Mississippi, the name of the trip was changed to Gulf5 so as to be more reflective of said expansion.



If you have come to help me you are wasting your time. But if you have come because your liberation is bound up with mine, then let us work together. - Aboriginal activist group, Queensland, 1970s

Asst Dean Tracy McGaugh

On my father's side, my family is Cajun, from southwest Louisiana. My grandmother's first language was a Cajun dialect of French, and this was the only language her parents spoke. Her difficulty learning English was blamed when her parents pulled her out of any formal education in the third grade. As a teen-ager, she married a construction worker from Orange, Texas, and that's when the expressive sing-song language stopped dead in its tracks. He forbade her to speak the language around "his children." It was World War II, and being a "foreigner" was dangerous in the rural south. She went on to have five children; my father was the middle child. Some of them finished high school; my father did not.

On my mother's side, a similar story. Her father was from rural central Texas and married an Australian woman he met while he was abroad serving in the Navy. He brought her back to Mexia, Texas (muh-hay-uh), where they had two children. My mother, the older of the two, has vivid memories of her mother suppressing an Australian accent to fit in. My mother graduated from high school and started work the following Monday in a flower shop.

Although both of my parents are well read, neither is well educated. And neither has been successful by any measure, unless you count my mother's marriage of convenience to a man who graduated from college. My step-father valued education and insisted that I do well in school. His displays of affection were reserved solely for academic achievement, so I achieved. But -- to quote Hanibal Lecter -- I'm still "not more than one generation away from poor white trash." And I don't ever forget it.

So in August 2005 when storm-soaked Louisianans began pouring into Texas, where my mongrel pedigree had been cleansed with a *Juris Doctorate*, I did what I could. The hurricane survivors weren't "those people" to me, as they were to so many Texans. But for my mother's fluke of a second marriage, their story would have been my story. What would I have done? No money, no gas, no food for my daughters, now no home, put on a bus to a city I never even wanted to visit. I would have wanted people to come out of the comfortable suburban homes, where their kids were clean and dry and fed, to come help me. So I went.

And in 2007 I came to New York to join the Touro faculty. I heard that a group of students was going to the Gulf Coast to help with legal issues. So I went. Because their stories are still my stories. "Those" people are still my people. Because, until they are liberated, I cannot be liberated.*

While attending Gulf5 I had the opportunity and surprising honor to work for Malik Rahim, a local community organizer in New Orleans who co-founded Common Ground. I say "surprising" because at first glance Malik and I stand at opposite ends of any political, economic or social spectrum. Malik Rahim is a former Black Panther, has spent time on death row, has run for City Council and Congress on the Green Party slate, and is now someone I call a friend. (Didn't see that last one coming did you?)

When I first received my workplace assignment for the New Orleans trip, I literally thought, "*Common Ground? ...great, have to go work for the poor people*" I did not know what poor was until I walked the broken streets of the lower Ninth Ward but that is not what struck me the most. Within one week Malik turned me around 180 degrees on one issue. What I saw and heard during that trip has given me a new perspective on the meaning of the term justice. My legal and internship experience had been limited to government and prosecutor offices, mainly because that is where I hope to work after law school. Admittedly, until now I have had little appreciation for those on the other side of the system. While I can still not claim to have walked a mile in their shoes, spending one week working as their advocate has given me a far greater understanding of how arduous their journey has been and will be in the future. My desire to practice law after three torturous years of law school, including one spent scrounging for employment, could be considered to have been waning at best, before this trip. Today, I find myself with new hope, not only for the people of New Orleans and their recovery but for myself as a person and a future lawyer as well. I owe a great deal of this to both Malik Rahim for inspiring such new confidence and to Touro for giving me such a significant opportunity.

Malik asked me to work on two projects. The first was to research the process of opening a neighborhood hospital capable of treating the most prevalent ailments in his community, such as STD's, diabetes and respiratory related diseases. The second was to research the process of opening a series of neighborhood vegetable stands, or green markets, the first of which was to be opened on a piece of property owned by a local church. He told me that the people of his community wanted to start helping themselves and just needed the tools to start, but they did not know where to begin. After a full week of research I learned that opening a hospital *is* as complicated as it sounds, yet was able to advise Malik that it *is* legal and he should start fundraising and planning for the type of facility he wants to open.

While at first blush, the process of opening a fruit and vegetable stand would seem like an easy enough task, I was surprised to learn that it requires the approval of at least three different government offices before the first tomato rolls off the stand. Malik and his organization are very vocal opponents of city and state administrations, and for these reasons and more, are largely ignored (Admittedly one of the main reasons they are ignored is because they are poor, black and in Louisiana). When he or his aides go to City Hall even for the simplest request, the day usually ends with someone being escorted out of the building by security.

While opening a hospital is among the noblest enterprises I have ever been a part of, opening a fruit and vegetable stand has amazingly been one of the most practical, interesting and rewarding aspects of my law school experience. Practically, it required me to research local zoning codes, file applications with the city, and to discuss zoning policy with the Director of Zoning for Orleans Parish. Interestingly, it also required that I attempt a southern drawl and let everyone know at the outset that I was "working for the benefit of a local church group." These two factors contributed significantly to my ability to move as quickly through the sea of red tape which had frustrated previous SDRN students' trips to City Hall months before. Since I had been fully briefed as to what had *not* worked in the past, I was better prepared to ascertain what *would* work at City Hall this time. Within 20 minutes of telling the first secretary what I was trying to do, I was sitting in the office of the Director of Zoning. I was then told by a man who had almost the exact same shirt (and accent) that something "*could easily be worked out to satisfy everybody involved.*" Whatever information I needed and more was immediately made available to me.

When I recounted this story to Ray Malone and Malik Rahim, they laughed out loud. They were shocked that such a simple tactic as a clean-shaven, white boy with a mediocre southern drawl, posing as a churchgoer (actually, I attend every Sunday, just not that particular church) had literally walked into City Hall and was promptly assisted. They were shocked not that it had worked, but that they hadn't thought of it before. In summary, I have had fewer more satisfying moments in my life than seeing the smile on Malik's face when he heard that his community could be selling their produce for profit as early as the next week.

Yet the victory was bittersweet for me with the realization that when I walked into that office I looked, spoke and acted like the man sitting across from me. And while I am happy I did so because it allowed me to do some good, it has troubled me since. Every American has rights. But not every American can assert those rights, either because they are ignorant from lack of education, unable from lack of funds or powerless by virtue of their place in society. What troubles me most after my trip is the last. Malik and his community are not ignorant; I met one of the smartest men I've known who is a former truck driver with only a GED.¹ Malik is an engaging speaker and an impressive fundraiser, so although money is a problem, it is not the real roadblock. I was raised to believe justice is balance and consistency. Fairness and balance went out the window every day I went down to the Ninth Ward from my hotel in the French Quarter, and as unjust as that is, I was not surprised. The consistency part is what bothers me the most. For something as simple as opening a vegetable stand, I and Malik Rahim should have the same opportunity, but we all know that had he gone before or after me he would not have met the same success as I did. I like to think that justice is blind, and she might be. But those who act on her behalf are not. So while I remain committed to a career in public service I have realized that I will continually need to rethink my conceptions of justice.

When the week was over and we landed at JFK, my father, a lawyer with 35 years experience, came to pick me up and as we walked out the terminal to the car he asked me, "*So do you think you managed to accomplish anything good down there?*" After I told him about the research I had put together on the hospital and steps taken towards opening a green market his reaction was astonishment. He replied with a degree of satisfaction and sincerity I have rarely seen; "*You know that's the thing about the law, you can actually do some real good for people.*" He then glumly continued... "*That's why I went to law school, but it's been a while since I've thought about it.*"

My week in New Orleans, particularly my experiences with Malik Rahim, have given me new hope. They have reaffirmed that three years of studying have not been wasted. Without the education I received at Touro I would not have had the necessary tools or confidence to research and push the issues as far as I did. That week taught me that going that extra inch, not even a mile, for your client can make all the world of difference to them and yourself. I would like to thank Ray Malone, Malik Rahim and most of all Dean Rafal for giving me the opportunity to serve such a worthy cause, and for bringing a sense of salvation to my last year of law school. I will forever be grateful to Touro for giving me the opportunity.

¹His name is Sherri Jones. SDRN is helping him to file suit against McGregor Lumber for contaminating the water supply of his community with creosote. (SDRN refers to this case as The Hattiesburg Project) Despite only having a GED, he understands the science of creosote contamination, every relevant name, fact and date in the case, and actually corrected a licensed attorney on Mississippi Civil Procedure. The only reason he can't do it himself is because no local attorney will take on the case because nearly all have some connection to McGregor Lumber.



Never would have I imagined that a city in United States would be so blatantly denied the basic constitutional protections and human rights that so many Americans take for granted every day. During this seven day hands-on learning experience, I was able to speak directly to victims of the storms, hear their stories first hand and see the destroyed areas with my own eyes. This perspective made me realize that my research was so much more important than any assignment for any class taken during my two years as a law student.

I can genuinely say that I was proud to be a part of this program because not only was it an academically educational experience, but it was also a self-growing experience. It has given me a renewed sense of self worth and confidence knowing that I have applied my legal skills to help people who are less fortunate than me. Whether it be on a local or national level, I look forward to assisting SDRN's efforts again during my next and final year of studies at Touro Law Center.

- Biana Boruhkovich, 2L



In the face of disaster, we as humans have a duty to extend the utmost compassion to our fellow citizens. As distinguished professionals, our duty extends even further to protect the unprotected.

-Chris Chimeri, 1L

Jeannine Farino, 3L

I was designated to work in the local Advocacy Center in New Orleans. I researched fire safety regulations for federally funded nursing homes. The people there were organized and they work on various kinds of cases. Toward the end of the week, we received an assignment that required intense research into disability law. Based upon this new project and the one that I had received earlier, it was evident that this center was lacking proficiency in disability law. Additionally, it revealed that the disabled and elderly in New Orleans are neglected and are not receiving proper care. As a student who participated in the Elder Law Clinic at Touro, this was something that deeply affected me. We decided to take the project back with us to Touro, and I hope to work on it as an alumna if it is possible.

Toward the end of the week I was asked to transfer over to help the Common Ground team with their

multitude of abstract assignments. I had the opportunity to meet Malik Rahim who was abundantly appreciative of our work. His work with the community is inspirational. I spoke with some of the people who work with him, and it was an eye-opening experience. I learned that medical care in New Orleans is so scarce that people have to wait six months for a doctor's appointment, and the closet hospital is about forty-five minutes away. This is yet another reason why many residents have not returned to New Orleans. I also learned that mental health treatment is also scarce. Many people are depressed and are unable to receive any reprieve. It is not a question of people's inability to pay for treatment; the community simply does not have the resources to treat them. Hopefully future efforts of SDRN will help alleviate that shortfall.*



Jaime Broderick, 2PTE

The Mississippi Center for Justice (MCJ) was surprisingly organized, interesting and much different than my experiences in New Orleans. Our supervisors gave us a detailed breakdown of what needed to be done for the week, why the documents were being created and how it would help Mississippi residents. This was unusual for me based on prior and current work experiences because supervisors normally just give you an assignment without the big picture.

After the completion of our initial task, our team was split into different groups. Rachel Weissman and I were sent to the City Records Department in Pascagoula to research the owner of an apartment complex that was sold to a private developer from MI Region VIII Housing Authority who was given the property from the Housing and Urban Department. The Pascagoula City Department was destroyed in Hurricane Katrina and has yet to be rebuilt. It is now being run out of a makeshift office in an old elementary school with its planning, zoning and other departments run out of trailers in the parking lot. Surprisingly, the records from 2002-present were available on a computer while anything beyond that were printed in books. As I am interested in working in real estate the assistance that our attorney gave us on how to research land records was extremely helpful and interesting.*

Rachel Weissman, 2PTE

With the expansion of our name to Student Disaster Relief Network as well as the places we travel to now including Mississippi I was excited to be assigned to Team Biloxi. Through resources and contacts from Dean Raful, we volunteered at the Mississippi Center for Justice; an organized, well managed and compassionate non-profit law firm committed to racial and economic justice. Although they help with many different effects from Katrina, our task was to help improve and rebuild the low income rentable housing which has seen little to no improvement since Katrina hit. Many landlords as well as the local government are hesitant to rebuild apartments for low to moderate income households. It was our task to research ways to pressure the government into spending the millions of dollars already allocated for this purpose but not being used.



Salvatore Calcagno, 2L

When the means are put in the right hands, there can be a successful and productive ending. This ending was our goal as we completed the preliminary steps to put pressure on municipal and state administrations to ensure that housing programs are best suited for a particular community's needs. The six representatives of SDRN compartmentalized the various tasks associated with filing requests for public records pursuant to the Mississippi Public Records Act. By obtaining these records, our office would be able to assess the current state of affairs within the state, its housing authorities, and its many agencies.

In the room where we worked there was a communal feeling—a feeling of belief in success. Each one of us under the tutelage of senior counsel understood the tasks at hand. There was no individual member above the rest, no senior counsel over a new associate. We worked as a team. Above all else, this is the challenge that Biloxi and the state of Mississippi face. The hope for everyone to be on the same page exists but the execution has stalled. The state, after its governor successfully lobbied for sizeable allocations of federal money for recovery efforts, is stagnant. We stand nearly four years after Hurricane Katrina came and went. The money sits in state coffers. With luck, our efforts will produce within three weeks the answer to the question, Where? Through the efforts of our gracious hosts, the Mississippi Center for Justice, we will find out the answer to the question of How? Yet, the most important question that we can only continue to fight for an answer to remains the most important. Why?*

Compared to the group working in New Orleans, we were a much smaller group that traveled to Mississippi. There were only 6 of us on Team Biloxi which made our bond grow quickly towards the one common goal of getting these victims the help they deserved long ago. We were able to not only start, but complete the task the attorneys assigned for us that week. We all shared a great sense of accomplishment and satisfaction in our completed work product.

The time spent in Mississippi was well spent. We did not just get the legal aspect from the law firm, but we also heard the attorney's personal stories of their own hardships faced since the hurricane hit. For me, real faces were now linked to those tragic stories on the news.

Our week ended with a graduation ceremony where we were thanked by the entire staff of the organization. And for the first time all week I saw smiles that were filled with deep gratitude. I can only hope my story will inspire more law students to become involved in helping fellow citizens in the United States; whether it is in your own local neighborhood or traveling down south with SDRN. As future attorneys, we possess skills that are highly sought after and it is part of our professional obligation to apply those skills with the best of intentions in the worst of scenarios.*



I examined issues pertaining to a locked nursing home that is severely overmedicating patients. Notwithstanding the problems associated with the nursing home, the Louisiana Protection and Advocacy Center (the organization for whom our group worked) is reluctant to act because no better alternative exists for the patients. I believe that this requires the Advocacy Center to engage in litigation similar to that of *Joseph H. v. Hogan* 561 F. Supp.2d 280 (E.D.N.Y. 2008), in which the plaintiffs have argued that the community integration mandate of the Americans with Disabilities Act requires the state to move individuals from restrictive nursing home settings to less restrictive placements in the community. I also believe that this will require significant litigation and is a matter in which the Student Disaster Relief Network can, and should, assist on a long-term basis. A great deal of the required research may easily be conducted remotely from the school.

Professor William Brooks



This article first appeared in the Fall 2008 issue of *The Law Teacher*, Gonzaga University School of Law.

Professor Marjorie Silver

Thirty Touro Law students went down to New Orleans over Spring break this past year to help with the Katrina recovery efforts. When they returned, several gave a presentation about the work they had done, accompanied by a slide show.

Some of the students made extraordinary efforts to contact homeowners living elsewhere who had fled New Orleans in the wake of Katrina, to notify them that yellow signs posted on their houses threatened demolition unless they took immediate action. Others, upon learning how incredibly complex the requirements were for obtaining a permit to rebuild, decided to prepare a step-by-step manual. After they completed drafting, they took the manual down to City Hall to verify that the information in it was correct. The official who examined it was so impressed that he asked whether he could distribute copies from City Hall.

Police removed these signs from peoples lawns and homeowners were threatened with arrest if they replaced them. Touro students handed out copies of the 1st Amendment of the Constitution to fearful residents.

When I heard this presentation I *kvelled*.^[1] "This is why I teach," I thought.

In early May, I was in New Orleans for the AALS Clinical Teachers Workshop. On Saturday morning, a colleague and I hired a taxi, and had the driver take us down to the Lower Ninth, to personally witness the devastation. After driving around for about an hour and a half, we turned a corner and there were the headquarters for Common Ground. I recognized the sign from the students' slides that said something like: "Shame on you tourist for just driving by and not stopping to hear about my pain."



So of course there was no way we weren't going to stop! I got out of the taxi and walked up to a big, shirtless man with long dreadlocks (it was *very* hot!), and introduced myself: "Hi, I'm Marjorie Silver. I'm a law professor from New York." And just to make conversation, I added: "In fact, some of our students were down here a couple of weeks ago. . ." The man shouted "**Touro!**" I—quite taken aback, knowing that many students from many schools had been in New Orleans at the same time—said "Yes!" And he said, "Come here and let me give you a big hug! Your students were *wonderful!* They were *amazing!* They made a difference in the lives of at least 60 people!"

It was one of the most wonderful, most incredible moments of *my* life.

* * *

I am so proud of these students. They demonstrated outstanding problem-solving skills. They didn't wait for someone to tell them what to do. They identified real needs, and took meaningful action, using their legal training *and* their wealth of life experience.

This is why I teach.

[1] To *kvell*: Yiddish *kveln* to be delighted, from Middle High German *quellen* to well, gush, swell : to be extraordinarily proud : **REJOICE** (from <http://www.m-w.com/dictionary/kvell>).

Outside of the personal reward one receives while volunteering with the Student Disaster Relief Network, hiring law firms express a lot of interest regarding these volunteer efforts. On each of my interviews I've had with law firms, the initially tense process quickly went from formal questioning to intrigue and interest once the interviewer got to the part on my resume that references my experiences in New Orleans, Louisiana.

Erick Alahverdian, 4PTE

This is when I feel in my element on the interview because I get to speak with passion and share my experiences. Also as a side bar the atmosphere of the interview becomes very relaxed, so much so that most times I felt as if I was just talking to one of my friends about the things I did while I was down in New Orleans.

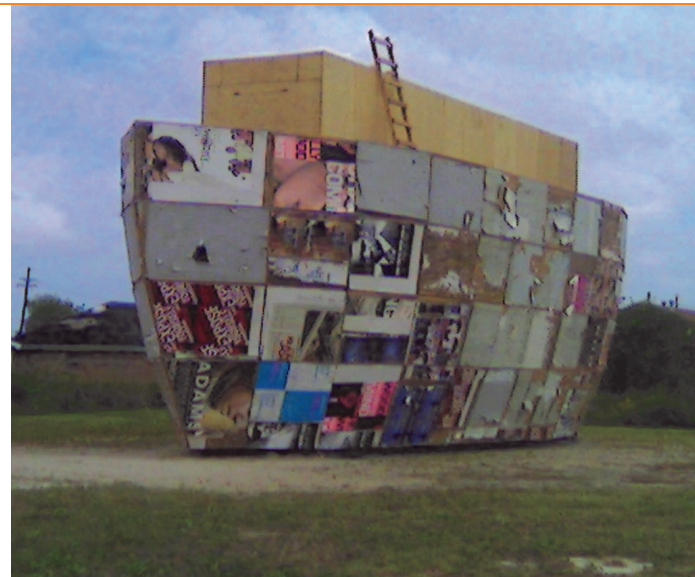
Most of the interviewers asked very simple questions about the volunteer work. Generally they ask the following types of questions: How was it down there? What work did you do? Is it really that bad? The interviewers only ask a few questions because they are more intent on listening to your story. Most just sit and listen in awe while you speak. I found the experience to be very empowering as well as confidence boosting.

Once the interview shifts away from the New Orleans experience, the entire atmosphere has been transformed. The interview process has now transitioned from a formal and tense setting to one that is much more relaxed. From this point forward you begin to feel much more at ease and with that you will be able to show the interviewer your true self. This relaxed and comfortable demeanor will speak leaps and bounds on your behalf, and the interviewer will notice it.

I am a firm proponent of *pro bono* work, especially the work that is related to the Student Disaster Relief Network. It was the pinnacle of my law school career and I am not only proud of the experience but feel blessed to have been a part of it. There are many benefits associated with this work that are applicable to many aspects of life, only one of which is the aforementioned interview process. *



NOLA I volunteers with Malik on his front porch, April '07. As this picture was being taken, a black Crown Victoria was being taken, its suited occupants taking their own pictures of us.



Danielle Pendl, 2L

I was granted the opportunity to attend a town meeting with one of the attorneys we worked with in Biloxi. My attendance at this meeting introduced me to the concept of environmental social justice. When projects and/or developments that adversely affect the environment are approved and constructed, most commonly they are placed in low income areas and in neighborhoods that don't have the monetary resources to fight the development. Therefore it is very often the lower income communities who suffer the adverse environmental, health, and monetary damages caused by such projects.

One of the greatest legal obstacles placed in front of these communities is the fact that the United States Supreme Court has held that only an environmental agency such as the EPA can bring a cause of action against a party for adverse environmental effects. Citizens, nonprofits, and other organizations do not have standing to bring environmental claims. This is an issue that is not easily remedied. Communities must rely on the very same government that authorized the projects, knowing that there is only so much that the local community can do. These environmental hazards are not in the backyards of the middle class or the rich. They are in the towns of the lower income and impoverished communities that don't have the resources to say no.

Yet they fight on. The passion and dedication I have seen from this local community eats away at my cynicism and provides a ray of hope for not only these local communities, but the entire class of impoverished Americans they are representative of. I consider it an honor to have assisted them in their search for justice.

Alice Jakyung Choi, 3L

At the Advocacy Center I was assigned to work on a project related to foster care facilities. After Katrina many families could not care for their children and either gave them up voluntarily or lost them to foster care. Unfortunately the foster care facilities are not in the best of conditions to provide proper care for these children. My first project was to gather data from the past five years of state inspections to determine what violations each foster care center had been cited for and whether they had been cured. I analyzed over 60 facilities through the state inspection reports. Many facilities had continuous and egregious violations. The Advocacy Center will use the results of my research to pressure these facilities for change under threat of legal action.

I also contacted clients that are elderly or disabled to offer help drafting powers of attorney or living wills, as needed. I drafted short memos, trying to figure out what they really wanted or needed and whether it was for health, property or both. Interviewing clients to figure out how I can help them was a meaningful application of my law school lessons learned.

Lastly, I conducted legal research on informed consent for mentally disabled individuals. A few mental institutions here in New Orleans are holding mental patients without any possibility of leaving the facility. The patients are not receiving adequate care, and are heavily medicated. I researched Louisiana statutes and case law to identify what rights these patients have, specifically on the topic of informed consent. Early indications suggest that this may be a huge project that Touro Law students could continue to be involved in from NY in the months to come.

Peter Giattino, 2L

During our breaks we are given time off to enjoy the holidays and prepare for finals, but some students take on more. It is important to weigh what is important in your life, to prioritize our tasks but we cannot forget that our profession commands that we continually take on more. We have always made it a point to begin every trip with a visit to the lower ninth ward. This allows us to introduce the new members of our organization to the devastation that has plagued the area, while reinforcing to all why we continue to travel so far from home. Walking in an area where people have been literally washed out of their homes and communities and abandoned by their government makes it impossible to forget why you have traveled so far over spring break.

This trip was slightly different than usual. After our initial walk through the lower ninth ward we split up our team of seventeen and sent a group of six to Biloxi to explore a new area and take on a new task. In Biloxi we teamed up with the Mississippi Center for Justice (MCJ), an organization that prides itself on its continual fight for social justice. Like New Orleans, Mississippi is heavily populated with low income minorities and others who have often been overlooked by the government.

Through MCJ we were quickly informed of an ongoing problem in the area... lack of action by the local government. The problem in Mississippi, like New Orleans, is that people of low economic status lack the financial ability to rebuild their homes. The federal government has dispersed \$5 billion of funding to help alleviate the situation, yet there are still no substantial developments using the Community Development Block Grants that the state is in possession of.

As law students our work at the Mississippi Center for Justice involved researching an explanation to this lack of State action. If the local government has the money to rebuild and the demand for public housing is at an all time high, why isn't the money being used for the purpose intended? This question is what we hope our work will begin to answer.

Trying to Survive

Mechelle Buksar, 2L

As I stood in the middle of a destroyed street at the heart of Common Ground, I stared at this woman, this mother, and could not stop myself from sadly keeping my eyes glued to her. Why? At that moment I felt so sad as my eyes welled up with tears as I watched her and then I became angry. Why? I ask myself that same question-why- but I ask it for different reasons than you may be thinking.

Let me tell you what I saw. A woman and a man with three children pulled up to their home on a corner lot- a shell of a home with no windows, no running water, no electricity, and who knows what furniture they had inside. The children ran into the yard, unphased, laughing and playing with each other. The adults hesitantly discussed something, then approached Malik. I wanted to know what they were talking about- and I got an answer. Malik obviously told them they could take a couple gallons of water. Water! My goodness. How can we let people live like this? How can we let such beautiful hopeful children continue to grow up in a home which is no longer theirs? This is when all of the emotions rushed through me- the tears, the anger, the shock. My focus was on that family and I still think about them. They don't know me but they have sure made a lasting impression on my life.

As I write this, I think about the next time I will go back. I wonder if I will see windows on their home. I hope that they won't have to ask for water, rather they will have running water in their home. The one thing I will surely see are those joyful children who still had a sparkle of happiness in their eyes. Sadly, I do know that if people in NOLA don't get real help soon, those children may become hardened by the world around them.

I hardly mean to sound hopeless about the situation. I merely mean to point out that help is needed. This is why I am a part of Touro's Student Hurricane Network. The harsh realities are sometimes ignored but for those who open their eyes---they can do anything.

(February 9, 2008.)

Albert Alexander Rylo, 4PTE

As a night student working 40-hours a week I seldom had the opportunity to participate in the various extracurricular activities Touro has to offer. Nor had I been a strong proponent of our school simply because I have always felt that night students have been overlooked by the administration and the SBA. For the past 4 years, my ordeal consisted of a traffic riddled commute from Brooklyn to Central Islip, dealing with several teachers whose antics I felt were questionable, and an overall lack of organization which demanded a great deal of self reliance ... all of which often hindered the learning process for me. The path toward graduation was not an easy one and prior to this trip one which I questioned every step of the way.

Seeing my classmates working side by side with Touro faculty as colleagues provided for a unique opportunity and glimpse into the future. The past week has been marked with accomplishment and personal growth ultimately culminating in the birth of a new found respect for Touro Law School, its faculty, and the affirmation that one man can truly accomplish anything he sets his mind to. Breaking bread with professors has enabled me to gain perspective, insight and understanding - all of which enabled me to better understand their plight and not merely judge them from an incomplete framework. As I get ready to walk down the aisle to graduation, I can and will now proudly proclaim to be a Touro Law School graduate.

This experience was gratifying both on a human and intellectual level. I was able to apply knowledge gained from the study of law, as well as my life experience attained from my full time job and extensive travels. It is this combination, properly channeled by the experienced organizers of this trip, that enabled me to forge the skill set I employed to accomplish that which was asked of me and more. Moreover, it is one that I will rely on in the future. Being granted the opportunity to apply that which I have learned in class to real life crises elevated both my understanding of the law and my confidence in the pedagogical choices that I so often questioned in the past.

Professor Louise Harmon

I volunteered to work with the Student Hurricane Network in April 2008 (NOLA III). The project that I worked on was the Mapping Project. We were split into two teams, and I was lucky enough to work with some of my favorite Property students, as well as with some others I had never met before. My partner was Megan DiMeceli, a third year student who was just weeks away from graduation. I wondered if she was disgruntled that she had gotten a professor as a partner---it could be considered a grim prospect by some, the thought of staggering around in the unrelenting sun and ninety degrees through the overgrown, deserted streets of the 8th Ward with a nigh-on-sixty-year-old wild woman who grades blue books and lectures on the Rule Against Perpetuities for a living. But Megan took her burden in stride, and the two of us constructed an excellent working relationship. We worked hard, and I came to respect her integrity, her determination, and her kind heart.

Working side by side with all of the students who were on my team was a wonderful experience. I came to see them in three dimensions, as committed, often raucously funny young people who were trying to make sense of a world that seemed painfully senseless in the devastation of New Orleans. We went from home to home, photographed what sat on each lot, sometimes just a foundation, sometimes a newly built home. We interviewed the cautious, tentative people who lived behind the doors we knocked on, and once they figured out we were on their side, they opened those doors and told us amazing stories. Stories of shameful contractor fraud, stories about days spent on the tops of their roofs, of waiting to be rescued, stories of drowned pets and rotting neighbors, stories of rebuilding, and sometimes, of redemption. I was moved by the determination of those people to return to their homes, their stubbornness in the face of terrible odds against them, their resentment at being abandoned by their country, and their faith that some day everything would work out fine, even when clearly that some day was far away.

Those of us in our mapping group laughed a lot during that week, in the car, over lunch, over gallons of coffee and Dunkin Donuts. I wonder whether that laughter was a substitute for tears that had no place to go. This fall, I can't go back to New Orleans because too much is going on in my life right now---a new house, a new job, but I will return if the Student Hurricane Network will have me. It was an amazing experience.

An Open Letter to the TLC Community

None of the individual accounts from the GULF5 trip included in this issue, not to mention the 120 or so law student lives that have been impacted by their involvement with Student Hurricane Network (SHN) and/or Student Disaster Relief Network (SDRN), would have been possible without you. We, the current and future Executive Boards and the members, would like to extend our special gratitude to you for all of your support and efforts, financially and otherwise.

Although we are not solely involved in SDRN for personal reasons, there is a very deep personal aspect to what we do. When we look into the eyes of that client who hasn't enough money to support her own children, and we hold that child's hand, we realize why we are there. We are there because as fellow human beings we must be there. If not for *your* continued support, we would not be there at all.

Through your continued interest in our organization, we have all shared in experiences that have augmented our education beyond what any of us could have expected at a law school. Your support for our cause has put our education into perspective again and again, and has helped many, both SDRN members and non-members recognize that through our combined efforts we *can* truly change the world for many of those who need it.

We as the incoming Executive Board are all equally excited to be a part of the expansion of SHN to SDRN. The larger name is perhaps symbolic of our larger purpose. Your generosity and support has made our growth possible, and we look forward to continuing to work for those who are underserved and facing social injustices. We hope that you will not only join us on an upcoming trip but we extend an open invitation to stand beside us in addressing disaster relief issues here in New York as well.

We would like to thank all of the Touro faculty and administrative staff for helping us with the enormous amount of administrative tasks that facilitate our work. To those professors and staff members who have taken an interest in our cause, joined us on our trips, provided assistance from home, and supported our recent expansion; your guidance helps us, motivates us, and centers us in accomplishing our mission. We are also thankful to the student body for the continued interest and generosity towards our organization, for without that continued interest and generosity, we would not exist. Finally, we give special thanks to Dean Rafal. His generosity and belief in all of us has inspired us to look beyond the four walls of our law school classrooms and make our education broader, our lives stronger, and hopefully even a little part of the world a little better.

Gratefully yours,
SDRN 2009-2010 EXECUTIVE BOARD
Salvatore Calcagno, President
Kerri Brugger, Day Vice President
Rachel Weissman, Evening Vice President
Jaime Broderick, Secretary
Christopher J. Chimeri, Treasurer

Dear Student Hurricane Network Members:

You may never know how many thousands of spirits were lifted by your solidarity and work. You may never know how many thousands of people are better off because of your advocacy. You helped make the Gulf Coast a better place because you joined us in our struggles and you still join us wherever you are and whatever you do for justice.

Peace love and justice,
Professor Bill Quigley
Loyola University Law School

In Appreciation

Malik Rahim

Founder and Executive Director of Common Ground

From the bottom of my heart I thank the students of Touro Law Center for what you all have done for us. Not only did you help us here in New Orleans, but you've helped people as far away as Hattiesburg Mississippi and now Biloxi as well. There are so many communities that you have helped, so many individuals that you have touched - people who had no way of finding any form of assistance on legal matters or on how to put anything together to better their crumpled lives. So many communities were so down trodden and about to give up all hope and all of a sudden you all came and you made it happen, you made it easy, you made it simple. You made it easy for people to get a permit to start re-building their destroyed homes. You made it easy for local farmers to sell their fruits and vegetables to their neighbors when we were being told it was impossible. You showed us that we need not be subjected to the illegal tactics of collection agencies and banks that are trying to take away what little we have. You made it easy for community organizations to see that yes we do have rights, and that those rights cannot be denied to us!

I think the most valuable gift you continue to give us is that of hope. Once the people in these communities became aware of what is was that you folks were doing down here, the simple knowledge that no, we have not been forgotten by our fellow citizens of America - that word spread like wildfire and re instilled the sense of hope that nobody should have ever been denied in the first place. And you all did not just come here for one week and forget about us like so many others have. No, as sure as the birds fly back and forth from your communities to ours every fall and every spring, we know we can count on Touro Law students to fly back here as well. Words cannot express how much we appreciate that you come all the way across the country to make sure that other citizens who have been denied access to basic human rights are granted those rights. I mean you all are the essence of what made this country great. You don't just preach civic responsibility, you talk the talk and you walk the walk, and in doing so you have helped bring some justice to an unjust situation. May God bless each and every one of you.



Dissents and Concurrences

How do you like Hearsay so far? Good, bad, or indifferent, this is where you express yourself via a letter to the editors. hearsay@tourolaw.edu

A Note from Lauren Hanley 2009-2010 SBA Presidential Candidate

I would like to thank everyone who participated in this year's SBA election, especially my supporters; I really appreciate your hard work and would like to thank you all for voting for me. I also would like to congratulate Peter Valenzano on his election as SBA President. I am confident that the SBA leadership is in capable hands. Next year should really be an exciting year and I encourage all those who have not participated much in the SBA this past year to become more active next year. For those who did participate, keep up the good work! I look forward to seeing you all around school in the fall. Have a terrific summer!

- Lauren Hanley, 2L

Marty Tankleff, and Due Process: Will anyone stand up for Det. McCready?

Gerard McCarthy, 4PTE

The relationship between the Marty Tankleff case, the findings in the State Investigation Report and the ensuing 1983 civil litigation is not well known. Clearly, if one goes to the Marty Tankleff websites, the sites hyperlink the reader to this report as part of Marty Tankleff's "story". For sure, it is a critical piece of the Marty's story, in that it details the findings of the State Investigation Commission (SIC) as it relates to the findings of Det. McCready's "perjury". Hence, the reader is led to believe that the "perjury" must be true because the SIC has made a determination, and therefore any disputes between the accounts of Marty's interrogation should in fairness be resolved in Marty's favor. Perhaps. Then again, perhaps not.

As our own Professor Davis noted in an op-ed piece in Newsday, the SIC drumbeat of police and prosecutorial sins was relentless. Professor Davis then goes on to cite the findings of the SIC report which among other things include the observation that the Court of Appeals had overturned eight cases investigated by the Suffolk County Police Department and prosecuted by the Suffolk County District Attorney's Office. Again,

we are informed by both the SIC and Professor Davis that six of these cases were homicide cases. It should be noted that this is found in the very opening pages in the SIC report and is the prologue to the introduction of the "cast of characters" that are discussed in the report, including Det. McCready. Similar to *Hamlet*, we are introduced to an ominous plot, that the SIC author(s), and Professor Davis, and the Marty Tankleff team wants us to have as background to understand the later homicide cases. However, unlike the *dark prince*, we have more concrete evidence for our inspection- the cases cited by the SIC and Professor Davis. And here is where the plot really begins to thicken.

"Similar to Hamlet, we are introduced to an ominous plot... to have as background to understand the later homicide cases...And here is where the plot really begins to thicken."

While the SIC report both informs us of facts, in my view it fails to inform us with sufficient qualifying material and prevents a reader from appreciating the unsettled law of the Fifth and Sixth Amendments right to counsel. For example, while it correctly refers to *People v. Hobson*, 39 N.Y.2d 479, 384 N.Y.S.2d 419(1976) in a footnote on page 6 of the SIC report, the SIC author(s) fail to inform us that the Court of Appeals in *Hobson* reversed its prior precedent, on right to counsel cases. A mistake? Possibly, but then consider that the SIC author(s) took representative samples from other cases that also omit qualifying material. For example, while it cites a quote from *People v. Pinzon*, 44 N.Y.2d at 465, the authors also missed the fact that *Pinzon*, specifically cited to *Hobson*, and *Pinzon* specifically noted that *Hobson* overruled precedent. Another mistake?

Most remarkable however, is the way the SIC author(s), describe *People v. Bartolomeo*, 53 N.Y.2d 225, 440 N.Y.S.2d 894(1981). The SIC author(s) again blame the police and prosecution for the questioning a defendant regarding a homicide who was represented by counsel on an unrelated arson. Of course, the reader would be surprised to learn that only four months before this decision, the Court of Appeals had held that when a defendant had counsel on an unrelated charge, the police were not barred from questioning him on the unrelated charge. See *People v. Kazmarick*, 52 N.Y.2d 322, 438 N.Y.S. 2d 247, 420 N.E. 2d 45 (1981). Another oversight? Would you be surprised to learn that the very same day that *Bartolomeo* was decided, the Court of Appeals in *People v. Miller*, 54 N.Y.2d, 616, 442 N.Y.S 2d 491, 425 N.E.2d 879(1981), threw out a confession taken by an upstate police department that was also relying on precedent. Yet another oversight by the SIC? How about the fact that the Court of Appeals specifically found in *Bartolomeo* that despite the allegations by the defense that the prosecution had engaged in misconduct, it was the defense that made these allegations despite

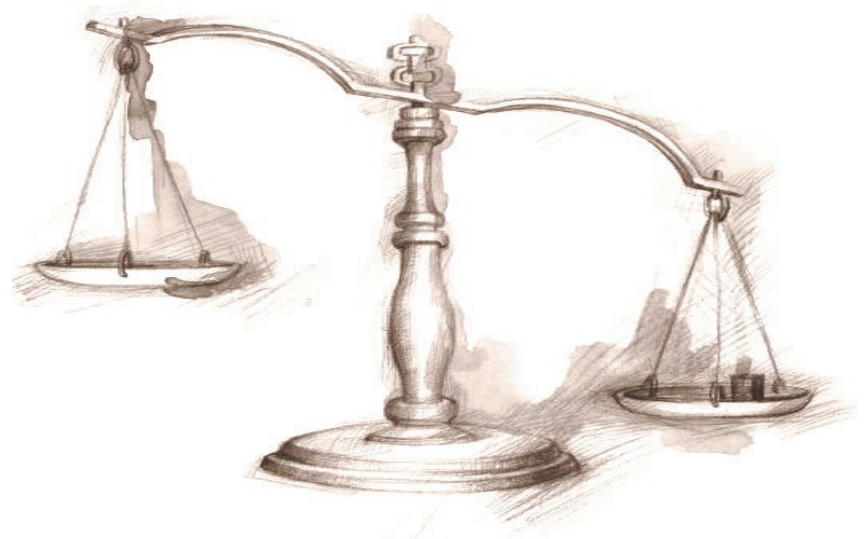
having knowledge to the contrary. See *Bartolomeo* at 126 A.D. 375 at 388, 389.

Ironically, we have the Court of Appeals exonerating the district attorney's office of charges of misconduct in *Bartolomeo* and the SIC author(s) finding them guilty of it. Of, course, you do not have to take my word for it, you can ask the honorable Sol Wachtler (retired), as you pass him in the halls. It was his lone dissent in *Bartolomeo*, in which he sided with the lead detective, Dennis Rafferty, and the District Attorney, Patrick Henry, that would ultimately be vindicated in *People v. Bing*, 76 N.Y.2d 331, 558 N.E. 2d 1011, 559 N.Y. S 2d 474, (1990). In *Bing*, the Court of Appeals expressly recognized its own shortcomings in the *Bartolomeo* analysis, and again reversed itself. Here, Professor Davis made a mistake in his op-ed, by failing to note that one of the eight cases cited, *Bartolomeo*, had been overruled.

I mention all these mistakes for a reason. Specifically, the SIC author(s) rejected any conclusion that Det. McCready had merely made a mistake in his testimony, Yet, understandably they, along with Professor Davis, would want us to believe that they merely made material omissions by mistake, without any intent to mislead. And indeed, that would be a good thing, for the SIC commissioners were acting peace officers, as well as officers of the court. Hence, their oath of office as peace officers as well as their obligation of officers of the court would preclude them from intentionally engaging in conduct and causing misrepresentations. In fact the SIC author(s) were highly critical of the SCPD for filing misleading affidavits that contained in their view, material omissions.

It should be noted that the SIC report of 1989, has been admitted in several federal cases in 1983 actions for the truth of its assertions, that the police department and district attorney's office had engaged in or tolerated misconduct. It was allowed in under the *Hearsay* exception of "public reports". The courts noted that these reports are presumptively reliable, because among other things, the skill level of the commissioners and the fact that they had met over 75 times to discuss the case. To be sure, the Tankleff team will attempt to use it against McCready as evidence of his "perjury" and against his supervisors as evidence of their tolerance of police misconduct.

Does the SIC report really deserve such a presumption considering its own material omissions? And if Due process includes a reputation injury under a "stigma plus" test, shouldn't we demand that Det. McCready be given due process and the ability to challenge the presumptions of the trustworthiness of the SIC report. And shouldn't Professor Peter Davis be the one to champion the cause? After all, when he wrote his op-ed, he did not do so with the intent to mislead the reader, he had just made a mistake. He both relied on the report, and forgot that *Bing* had overruled *Bartolomeo*. Essentially two mistakes in one line of an op-ed., clearly demonstrating that anyone is capable of being mistaken. ♦



GRADUATING STUDENTS AND ALUMNI

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This section extends an open invitation to any TLC Dean to comment on the subject matter of their choice.

Professor Deborah Waire Post

Interim Associate Dean for Academic Affairs & Faculty Development

When I consider the career path I have followed since my graduation from law school, there are several things about which I am certain. I have learned to tackle one thing at a time, to apply myself conscientiously to whatever I am doing and to keep my eyes open for opportunities.

When you graduate in the middle of what many think is the deepest recession we have experienced in recent memory, there are many reasons to be apprehensive about the future. I've found the best strategy when I hit a rough patch is to stay focused on my immediate objective. Generally I believe in keeping your eyes open and watching what is happening in the world, but when times are hard and a little scary, sometimes it pays to put on those blinders. Keep your eyes focused on what is immediately in front of you, keep moving ahead and think in terms of concrete objectives.

For the graduate that usually is the bar examination. This rite of passage for graduates of law school is an ordeal, that is true. Putting a positive spin on it, it

“Keep your eyes focused on what is immediately in front of you, keep moving ahead and think in terms of concrete objectives.”

should become something about which you are completely obsessed. It consumes all your time and attention for six weeks or more. You work day and night and you don't have time to think about anything else. If you can't think about anything else, you can't worry about anything else.

When it comes to looking for a job, however, you need to take

those blinders off and think “out of the box.” If you have a job, just remember, doing well in this first job give you mobility when you decide to move on. Everybody moves on. The first job is seldom the last you will have in a very long career. I had dinner Friday night with several attorneys. One young man graduated in 2003 and is now pursuing a fellowship at Columbia. He had been in practice at a firm for four years. Two others had done the same, practicing for four or five years and then entering the teaching profession but there was also one person who was moving in the opposite direction – moving from teaching to practice. Some of my classmates from law school now work for corporations, not as inside counsel but as officers managing the business, classmates who are judges, and classmates who entered politics. Sheila Kuehl was in my class – the California legislator better known as Zelda from the T.V. series *Dobie Gillis*. Who knew that politics would be her calling? (For pictures of Shiela Kuehl in *Dobie Gillis* you can visit

http://www.tvacres.com/char_gillis_dobie2.htm; For Sheila Keuhl the legislator and civil rights activist you can visit

http://www.nytimes.com/2006/05/14/us/14gays.html?_r=1&oref=slogin

A law degree is a great credential for any number of jobs. A few weeks ago I had lunch with one of our alumna, Angie Howard, whom I came to know well when she attended one of our first summer programs in China. Two years ago she hosted us at the American Consulate in Hong Kong. Angie didn't take the bar exam. She took the foreign service examination and wound up back in China. I am not sure she planned this at the time she entered law school.

Certainly having a life or career plan is a good idea, but this is where my last piece of advice comes. Life can also be very good if you develop a talent for improvisation. Keep your eyes and your mind open. You may not have considered a possibility that come to you completely serendipitously. That person next to you in line at the movie theatre may be an attorney and if you strike up a conversation, you could end up with a job. I ended up in teaching because I met a faculty member from the University of Houston at a cocktail party I attended with members of my firm.

I had no idea when I began my journey that I would end up in practice in a city where one of the big events of the year is a rodeo – complete with cowboys herding cows through city streets past enthusiastic spectators waving flags. (you can find the Houston rodeo at <http://clickthegoodnews.blogspot.com/2009/03/houston-rodeo-parade.html>) I had no idea that I would end up teaching only ten miles or so from the college I attended, or that in the course of my career I would travel all over the United States and internationally to Mexico City, Moscow, and Beijing. Because I grew up in a small city that had only 26,000 people in rural upstate New York, I still have trouble believing this is my life.

My final words of advice to this year's graduates would be the following: As you make choices in life, don't forget to take risks, to embrace the unexpected and be sure, because you know you will have to work very hard, that you are doing something you really enjoy. ◇

Strange Faces at Commencement

Lauren Chite,

Assistant Dean for Student Services

Dean McGaugh is the wordsmith in this department. I am not one for fancy speeches or articles. What I enjoy most is one-on-one conversations with individual students. I am telling you this because there are so many students that I have yet to meet! I am always saddened at graduation when I see students walk across the stage that I do not know. I feel as if there were lost opportunities to form relationships.

I went through law school without having had more than one conversation with a Student Services professional. It is such a shame that I did not take advantage of the resources that were available. Through professional conferences, I am *now* friendly with the OSS staff of my alma mater--but it's a little late!

What I know is that Dean McGaugh and I can help. If we can't help, we can find someone who can. Whether it's course counseling questions, a problem with another student, an illness, a substance abuse problem, a relationship issue, a complaint, or just a general question, we are here to help. I can't promise that we'll always have the answer you are looking for, but I can promise that we will listen, treat you fairly, consider your wishes and explain our decisions.

The most rewarding part of working in the Student Services office is learning about all of you as individuals, not just law students. I am amazed when a student tells me that she is a volunteer firefighter or when a student tells me how he has to fight his local school board to obtain services for his autistic child. I can remember a student recently telling me that she is raising her brother and sister because their parents passed away. Wow. The strengths you all possess individually are what makes the student body as a whole such a special group. It's through my individual meetings with each of you that I come to know the talents you hold.

So, it's a two-way street. You enrich our lives by sharing a bit of your knowledge and personal experience. In return, we are here to help you navigate your way through law school. All we ask is that you come in to talk. Please do not be an unfamiliar face on graduation day!◇

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New York State DEC's Guidance Factors: Have They Gone Too Far? Developments in the New York State Brownfields Law

Robert Dooley, *APTE*

New York's Brownfield Program was designed to reward owners of contaminated property for remediating their property. Where the real estate market has belly flopped and unemployment continues to rise, now is a good time for the government and its agencies to encourage activities, such as those authorized under the Brownfield Program, which catalyze the slightest rebound in our economy.

Ideally, the Program would admit *any* real property, the development or reuse of which may be complicated by the presence, or even the potential presence, of contaminants¹. To promote the cleanups, our legislature provides tax rebates and liability limitations to the participating landowner. Problematically, a division of the DEC is responsible for determining eligibility.

When I first read the broad language of the Program and the property that should qualify under it, I couldn't imagine how anything could be denied admittance. There certainly wouldn't be any public outrage for someone cleaning up dirty land. My thought was that the Department of Environmental Conservation would want to encourage environmental conservation. The Brownfield Program gives the DEC a way to help. Why then is the DEC making admittance into the program insurmountable?² I don't have an answer to this but the Court's have certainly flexed some muscle on the issue.

"Why then is the DEC making admittance into the program insurmountable?"

The DEC gave itself 'guidance factors' that provide a way to exclude contaminated properties from the Program's statutory qualified land, which is "any property". A State Supreme Court Justice offered a spirited opinion on the DEC's guidance factors stating that "[i]t turns out that the 'guidance' is no guidance at all."³ "[D]ecisions [are] being made arbitrarily and without grounded reason." Multiple State Supreme Courts accused the DEC of attempting to re-write the Brownfield Program and of acting "without legislative authority[.]"⁴

The DEC's overreaching will, if it hasn't already, effect local communities. It makes no sense for a State Agency to not encourage private development in a community where increased job availability and increased property values result. This is before touching the public health benefits of removing hazardous waste. The division of the DEC has been cutting off circulation to tools that could help our economy.

The higher level State Courts, such as the Appellate Division or the Court of Appeals will have to evaluate a case addressing the DEC's guidance factors before the DEC can be 'nudged' to permit the development to continue with State support. Until then, we can only publicly urge the DEC to be more responsible in its decision making.

¹New York State ECL § 27-1405(2).

²See e.g., *HLP Properties, LLC, v. NYS Dept. of Env. Cons.*, 864 N.Y.S.2d 285, 286 (N.Y. Sup. Ct., New York Cty., Sept. 12, 2008); *DestiNY Dev., LLC. V. NYS Dept. of*

Networking Websites— Job Opportunities or Kiss of Death?

Andrew VanSingel, *2L*

In the beginning, networking was simple. You had to go and make connections the old fashioned way—start real conversations, swap business cards, or even share your juice box with someone at recess. When we laughed out loud, we actually did it, we didn't scribble down "LOL." And along came Facebook.

Five years ago, Facebook was nothing more than a medium in which Ivy League students could stalk each other from the comforts of their own dorm, all while passing it off as "networking." I have to admit, I drank the punch about four years ago, and created a profile, and it has been a wild ride ever since. I have been able to reconnect with old friends, kept unnecessary tabs on friends and acquaintances, and saw pictures which would make a manager of a mall kiosk weary of employing such individuals.

Now Facebook has over 140 million subscribers worldwide, racking in more than five million visits to the website per day. Facebook's reception has been so widespread that a judge in Australia recently ruled it was an appropriate forum for serving notice of repossession to a defendant.

With the success of Facebook, others sites have emerged in hopes of capturing another target audience (my apologies for not mentioning MySpace, who actually predated Facebook). LinkedIn was one of the first to capture the "professional networking" market. With LinkedIn, members can advertise themselves to friends and potential employers in a forum that is seemingly more mature, without subjecting everyone to pictures that may be commonly found on Facebook or MySpace. Now a prospective employer doesn't have to see the picture of you driving a Zamboni through the drive-thru of Wendy's or the time you wrote "Call this number if lost" on your forearm one booze-filled weekend in the Caribbean. Finally, we are able to network with our professional

friends *and* keep in touch with our college friends who never seemed to have taken that next step.

The legal profession is no different when it comes to networking, and indeed, that dreaded concept of "networking" is engrained into our souls as early as our first day of law school. In fact, at Touro Law Center, the Career Service Office created various groups on Facebook and LinkedIn to enable people to stay in touch and meet others in the legal community. Thanks to these beloved social and professional networking sites, some people end up getting great opportunities for employment. And what about the story of the person who lost his job on a Thursday, only to have a better, higher paying job the following Monday, all because he and his new employer were both in the "Fans of Ol' Blue Eyes" group on Facebook. Heartwarming, especially in this uncertain job market, were employers are adjusting their workforce as if it was a fantasy baseball roster.

Unfortunately, these feel-good stories are trumped by the all-too-common tales of professionals getting fired or publicly shamed because of content on their profile. We have heard of the horror stories of what can happen when people neglect to use common sense when it comes to posting content. Recently, a member of a highly renowned marketing firm stated on Twitter, "I would die if I had to live here" before presenting to a large group of FedEx executives in their hometown of Memphis, TN. All it took was one FedEx employee to read the "tweet," send an e-mail to corporate, and this guy was roasted before he even gave his speech. I can't imagine his reception was very warm when he did take the stage.

Better yet, a judge *pro tem* in Las Vegas lost his job when the county prosecutor noticed hostile remarks towards prosecutors on his MySpace page. I guess *pro tem* was an understatement. I wonder how you say "unemployed" in Latin.

There is no such thing as a whisper in cyberspace, and people are starting to realize this. Now there is a conscious effort not to make accounts viewable to anyone. Being conservative with your privacy settings could possibly save you from the embarrassment of your employer seeing pictures of you at your cousin's wedding, but there are reports that employers are still bypassing these "private" profiles. How? For starters, your resume contains enough information where you can easily be searched by an employer. From there, they can ask the administrators at Facebook for a peek inside, all without you knowing. The privacy policy on Facebook's website briefly addresses this by stating "We may be required to disclose user information pursuant to lawful requests" and follows "we may share account or other information when we believe it is necessary.... *This may include sharing information with other companies, lawyers, agents or government agencies.*"

Asking Facebook for this information might seem like too much hassle for an employer, so why not ask the candidate directly for their username and password? Indeed this sounds absurd, but it happens. As a student at Touro, the Career Service Office warned us about these employers who not only are taking this route, but are demanding access to your social networking sites.

This seems ironic. The same employer that is going to entrust an employee with confidential information is going to demand from that same person their own confidential information just to get hired. What does this say about the employer? Better yet, what does this say about the potential employee, who is willing to reveal anything just to be considered for employment?

This questionable conduct is happening with greater frequency every day, and while everyone is worrying about their own profiles, I caution the employer. "Facebook stalking" may give you insight on the caliber of person you are thinking about hiring, but it also may disclose information that could get an employer in hot water. Just looking at a candidate's profile picture you may be able to come to some conclusions about how old they are, their race, if they are married, have kids—all things which are protected by federal discrimination statutes if you make an employment decision based on those factors. If you are prohibited from asking certain things in a job application, odds are you should not be looking for those answers on an applicant's profile.

Suffice to say the warning can go both ways here. Everyone should take this opportunity to do some "spring cleaning" with their profiles, and make sure they are rated PG. Limit the pictures to of your child's first steps, or your dogs birthday party; not your weekend in Tijuana. Kindly remind friends that you're a big boy or girl now, and if your get fired because they posted comments on your wall that you wouldn't even say at confession, it will be their couch you will be sleeping on while you are unemployed.

As for employers, we know times are tough, and you are trying to select the best employees, but we all have our vices. Some people have alcohol, while others knit sweaters for their cats. Instead of judging us based on what we do outside of work, judge us based on what we do (or don't do) while we are at work.

(Reprinted with permission from The Suffolk Lawyer. The original article may be found on The Suffolk County's website, available at <http://www.scba.org>)

"There is no such thing as a whisper in cyberspace"

Patrick Loman, 3L

BACKGROUND

The state of Louisiana administers the following programs; the Traumatic Head and Spinal Cord Injury Trust Fund, hereinafter Trust Fund, and the State Personal Assistance Program, hereinafter, the SPAP. The former, the Trust Fund is set up to provide financial assistance "...in a flexible, individualized manner..." to individuals who have experienced traumatic brain and spinal cord injuries, "...enabling them to return to a reasonable level of functioning and independent living in their communities and improving their quality of life" In practice, most recipients have, over the years, tended to utilize this program on a periodic, rather than on a regular monthly, basis. While its stated goal "...is to serve as many as possible..." the Trust Fund currently serves (610) clients with a waiting list of 234. Recipients of the Trust Fund are awarded a lifetime

“Without so much as an individualized letter to these recipients, the LRS cut them from the SPAP; all they got was a phone call.”

maximum award of \$50,000 in annual tranches of \$15,000. With respect to the latter program, the SPAP, the legislature of the state of Louisiana recognized “the right of people with significant physical disabilities to lead independent and productive lives and further recognizes that persons with significant disabilities require personal assistance to meet tasks of daily living

and, in many cases to avoid costly institutionalization”. This program serves 30 individuals. These programs are administered by the Louisiana Rehabilitation Services (LRS). As he was rejecting federal stimulus money “because we do not need to monitor volcano eruptions” Governor Bobby Jindel issued a missive to all departments to cut their budgets. The LRS was directed to cut \$880,000 this year, to be vastly expanded in years to come. In response, LRS observed that a class of recipients were underutilizing their Trust Fund allocation, and decided to count these resources as income for determining their eligibility under the SPAP. In so doing these individuals were determined to be ineligible. Without so much as an individualized letter to these recipients, the LRS cut them from the SPAP; all they got was a phone call.

QUESTION PRESENTED

TLC students were tasked with determining whether the LRS violated the 14th Amendment rights to due process rights of the affected clients. What due process was due, and when was it due? Is there any legal action that can be taken to permit Trust Fund recipients to utilize their annual tranche to fund major purchases? What other claims could be made against the state of Louisiana, including claims under the ADA?

ANSWER

The action by the Louisiana Rehabilitation Services, hereinafter LRS, violates the consumers’ due process rights under the 14th Amendment to the U.S. Constitution in that they were due a pre-termination hearing which would have afforded them a meaningful opportunity to challenge the state’s actions. LRS’ failure to give individualized prior written notice should offend the court’s sensibilities given the history of the jurisprudence in this area, and the gravity of the potential harm that could potentially befall this already marginalized population. As the Court, Mr. Justice Brennan, held in *Goldberg*, procedural due process requires that pretermination evidentiary hearings be held, in which recipients are permitted to appear personally, with or without counsel, before officials who finally determine continued eligibility after recipients have had an opportunity to exercise their right to confront adverse witnesses.

“Welfare benefits are a matter of statutory entitlement for persons qualified to receive them and their termination involves state action that adjudicates important rights, and procedural due process is applicable to termination of welfare benefits. A constitutional challenge to termination of welfare benefits cannot be answered by argument that public assistance benefits are a “privilege” rather than a “right.” *Goldberg v Kelly* 397 U.S. 254 (1970)

The Court’s jurisprudence in *Goldberg*, and its progeny, *Mathews*, has clarified that not all government benefits automatically create constitutionally recognized property interests. Property interests in government benefits only arise when an *entitlement* to benefits exists... “a person clearly must have more than an abstract need or desire for it. He must have more than a unilateral expectation of it. He must, instead, have a legitimate claim of entitlement to it.” . *Roth*, 408 U.S. at 577, 92 S.Ct. 2701 The “mere existence of a governmental program or authority empowered to grant a particular type of benefit to one such as the plaintiff does not give the plaintiff a property right, protected by the due process clause, to receive the benefit, absent some legitimate claim of entitlement arising from statute, regulation, contract, or the like-to the benefit.” *Blackburn v. City of Marshall*, 42 F.3d 925, 941 (5th Cir.1995) (emphasis in original).

In other words, SPAP recipients, in order to assert a valid property interest in continued assistance under the SPAP, must demonstrate that the legislation and/or enabling regulations place “substantive limitations on official discretion” *Olim v. Wakinekona*, 461 U.S. 238, 249 (1983). The most common manner in which a State creates a property interest is by establishing “substantive predicates” to govern official decision-making, and, further, by mandating the outcome to be reached upon a finding that the relevant criteria have been met. *Hewitt v. Helms*, 459 U.S., at 472, 103 S.Ct., at 871. With respect to SPAP the relevant “substantive predicates” are “Eligibility [§1114] and Economic Need [§1115]”. That is to say, within finite budgetary limitations, once an applicant meets the disability, age and financial qualifications the state has no discretion in dispensing the requested benefits. Ergo, the recipients of the SPAP have a property interest in the continued receipt of SPAP for which the 14th Amendment requirements of due process attach.

As was the case in *Goldberg*, where the city had appropriate post termination fair

hearing procedures, LRS’ termination procedures themselves do not provide for a pre-termination hearing but only for a right to appeal once a decision to terminate has already been made. The pertinent LRS regulation reads as follows;

“ § 1129. Procedures for Termination and/ or Appeals

When a consumer/recipient is terminated from this program:

1. The contractor/fiscal agent will send a termination letter to the consumer/recipient that explains the reason and right to an appeal.
 2. The contractor/fiscal agent should provide the consumer/recipient with a copy of “ Applicant and Consumer/Recipient Appeal Rights” contained in the SPAP Program Policy Manual.
 3. *If the consumer/recipient appeals, he / she will continue to receive services until the appeals process is completed.*”
- [Emphasis added]

In conclusion, it is the feeling of this writer that an action for injunctive relief should be filed as soon as possible. Such an appeal, if granted, would afford the recipients the chance to utilize their annual tranche of benefits under the Trust Fund. If the aggrieved individuals had intended to utilize their Trust Fund for major renovations of homes or vehicles the time delay would provide them with the opportunity to make those purchases.

However, to be quite frank, having LRS merely directed to go back to the drawing board to make the same cuts in compliance with the requirements of due process would be a pyrrhic victory. Toward this end, challenges to LRS’ action must explore alternative avenues. In particular, as LRS is only targeting a small subset of individuals who receive both SPAP funds and Trust Fund money one must explore equal protection considerations. However, since LRS is not using race, alienage or national origin, the court would be required to apply a rational basis test, which the state could easily explain satisfactorily. TLC students will continue working long distance on this and other issues affecting the disabled in Louisiana. ◇

SBA Talent Show A Success!

Javier Ortiz, 2L

In a law school filled with students preparing for final exams, the SBA and its members put together a great line-up of talent and delivered a great show. Inside the FCR there was a complete infusion of talent, from acoustic players to actors to singers. To no surprise several students of different years joined to watch.

In recent years the SBA had attempted to change the format and host a karaoke night. The reviews were mixed. This year’s show had some big expectations and the SBA did not disappointment. The FCR was filled with a feel-good vibe. The performers were not only entertaining but genuine in their own respects.

The coordinators (John Cestaro, Matt Itkin, and Javier Ortiz) brought a line-up of seven performers; each one possessed tremendous showmanship and skill. The winner of the Best Male performance Salaam Bhatti, was funny, giving the audience plenty of laughs with his self-made comedic routine. In one joke Bhatti offered some insight into his experiences with the front desk security and the audience must have concurred because his punch line was supported by a roaring laugh from the crowd. His tedious experience with security showed us all he is really short on “time”. His comedic abilities caught us all off guard.

The winner of the Best Female performance was Jeonwha Lee with her beautiful performance on the piano. The sound quality in the FCR was wonderful. Her play was crisp and clean. Whatever your musical tastes, you definitely were treated to a great performance.

As the evening continued the crowd was pleased with all the performers – Randall Holman, Peter Giattino, Ray Malone, Ying Chang, Matthew Mays. The vibe of the crowd paralleled the performances. There were moments of silence for Ying’s beautiful voice as well as high expectations for the very passionate, Ray Malone.

The show was hosted by next year’s evening VP Javier Ortiz. Judges Matt Itkin, Nic Avila and special guest judge Professor Klein were a great trio. Professor Klein in his “Simon-esque” ways, badgered Nick and his sympathetic anecdotes. All in good taste of course. Unfortunately, Professor Klein had prior obligation’s (American Idol) and was not able to continue judging the entire show. His seat was then filled by surprise judge Dean Gilbert.

The success and quality of the Talent Show will hopefully entice everyone for its return next year. It is our expectation that next year more talent, whether it be dance groups or one man stand-up. The show has reminded us that we are not only skilled writers but we are music making, laughter creating, invigorating people and always will be. There are high hopes for next year’s talent show but it is going to take fresh new faces to succeed. Who knows, maybe next year a Professor may face the wrath of the judges. ◇

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Forum Pro Conveniens

Editor's note: This section is designed to provide a convenient forum to all student organizations for purposes of disseminating relevant announcements & information etc. All are welcome to send this info anytime to hearsay@tourolaw.edu. In the absence of any announcements submitted, the name of each organization will still be provided for informational purposes. Practical deadlines will be announced once Hearsay becomes fully staffed.

American Bar Association/ Law Students Division (ABA/LSD); Amicus; Arts, Entertainment & Sports Law Society; Asian Pacific American Law Students Assoc (APALSA); Black Law Student Association (BLSA); Christian Legal Society; Criminal Law Society; Elder Law, Trusts & Estates Association; Emerald Law Society; Federalist Society; Intellectual Property Law Society; International Law Society; Italian American Lawyers Society Jewish Law Students Association (JLSA); Journal of Race, Gender & Ethnicity; Latino American Law Students Assoc (LALSA); Law Review; Moot Court Board; Muslim Law Students Assoc (MLSA); NY Democratic Lawyers Council.; Phi Alpha Delta Law Fraternity International (PAD); Public Interest Law Organization of Touro (PILOT); Real Estate Law Society; South Asian Law Students Assoc (SALSA); Student Bar Association; Touro Alternate Dispute Resolution Society (Touro ADR); Woman's Bar Association (WBA)

Family Law Society (Ratified May 5, 2009)

Touro Law's Family Law Society ("FLS") was formed to create networking opportunities for Touro students interested in Family Law, to promote educational forums to the Touro community regarding issues in Family Law, and to facilitate pro bono opportunities in the area of Family Law for Touro students. Please check the Touro Times next semester for the schedule of events. In addition, we will be adding a TWEN page for FLS shortly. Please check TWEN periodically and add that as a course on your TWEN account.

Executive Board:

Secretary: Jacqueline Blauvelt

Treasurer: John Cestaro

Public Relations Officer: Mendy White

Vice President: Christopher Chimeri

President: Penelope Blizzard-McGrath

If anyone is interested in joining the Family Law Society, please contact Ms. Blizzard-McGrath at Penelope-McGrath@tourolaw.edu.

International Law Review

The *International Law Review*, Touro's newest student-edited online scholarly journal, is looking for students. Eligible students include those students who have completed 22 credits and are in the top 50% of his or her class *or* who have competed in the Philip C. Jessup International Law Moot Court Competition *or* the Willem C.

Vis International Commercial Arbitration Moot. Please attend for information regarding the summer competition. If you have any questions or are unable to attend either open house, please contact Editor-in-Chief Katie Breazier at katherine.breazier@gmail.com or Managing Editor Wendy Jean-Bart at Wjjeanbart@gmail.com.

National Lawyers Guild (see article below)

Student Disaster Relief Network (SDRN) See special insert (centerfold)

JUSTICE IS A CONSTANT STRUGGLE:

Why A National Lawyers Guild? Why A National Lawyers Guild Chapter At Touro Law, And Why Now?

Patrick Loman, 3L; President, National Lawyers Guild

Founded in 1937, The National Lawyers Guild is a bar association of progressive lawyers, law students, and legal workers dedicated to economic and social justice here and throughout the world. Our aim is to unite all progressive forces in the society who seek to utilize the law for the protection of the people. The Guild was the first racially integrated bar association, and, from the outset, opposed the racial segregation policies of the American Bar Association and the larger society. The first Guild attorneys supported President Roosevelt's New Deal against determined opposition from the ABA and retrograde social forces. The Guild supported the emerging industrial labor movement by helping to organize the United Auto Workers, and the Congress of Industrial Organizations. It would be far beyond the scope of this short article to attempt to catalog all the cases in which the Guild has contributed to the development of American constitutional law, but what follows is a *very short* synopsis.

1940- *Hansberry v. Lee*, 322 U.S. 32. The case that struck down segregationist Jim Crow restrictive covenants in Chicago.

1945- *The Nuremberg Trials*, held in Germany at the end of WWII from 1945-1949 - Guild Lawyers Robert Jackson [later a Supreme Court Justice] & Mary Metlay Kaufman served as prosecutors.

1960- *Martin Luther King Jr's perjury case*.

1965- *Griswold v. Connecticut*, 381 U.S. 479. Privacy case which established the right to privacy and as such serves as the juridical bedrock for *Roe v. Wade* which protected birth control rights, and more recently in *Lawrence v Texas* which prevents the government from dictating the intimate sexual conduct of consenting adults (sodomy).

***Dombrowski v. Pfister*, 380 U.S. 479.** The first time the Court used the phrase 'chilling effect' in striking down the Louisiana Subversive Activities and Communist Control Law and the Communist Propaganda Control Law.

***United States v. Seeger* 380 U.S. 163.** Exempts from combat any person who, because of religious beliefs, consciously objects to participation in war of any form.

1966 - *United States v. Cecil Price, et al.*, 383 U.S. 787. So-called Mississippi Burning case.

***Hamer v. Campbell, et al.*, 358 F.2d 215.** Class action case in which African Americans successfully challenged the system of poll taxes.

1969- *U.S. v. Spock*, 416 F.2d 165. Dr. Benjamin Spock draft evasion counseling case.

1970- *Goldberg v. Kelly*, 397 U.S. 254. Procedural due process case in which New York residents challenged their loss of welfare benefits.

***New York Times v. United States*, 403 U.S. 713.** The so-called Pentagon Papers case

1972- *United States v. Dellinger*, 472 F.2d 340. The Chicago Seven case in which the doctrine of "over-breadth" was used to strike down the Federal Anti-Riot Act.

***United States v. U.S. District Court*, 407 U.S. 297.** The Supreme Court, Mr. Justice Powell, held that President Nixon could not ignore the Bill of Rights in the name of "national security" and led to the Watergate hearings and Nixon's resignation.

Lest one thinks that the work of the Guild is over, and in the words of Francis Fukuyama, "history is over" the work of the Guild continues. During the period 2003-2008 the Guild has been actively challenging Bush's assault on the constitution. Many of the Guantanamo cases, such as *Hamdin*, have been litigated by the Guild's sister agency the Center for Constitutional Rights [CCR]. Additionally, on April 7th, 2003, during the opening days of the invasion of Iraq and right after the city had persuaded the Republican party to hold its 2004, convention here, the city arrested 52 protesters who were peacefully demonstrating outside the offices of the Carlyle Group one of the major war profiteers, and part of the Bush kleptocracy that has engorged itself as a result of the war on Iraq. Two members of the group were tried, and defended by Guild attorneys, and acquitted. The charges were subsequently dropped against the remainder. On August 18th, 2008 the city agreed to pay \$2.M to settle the resulting suit, *Kunstler et al v. New York City*, for false arrest. Guild attorneys have also been in the forefront of defending the constitution against the attacks of the Bloomberg administration against legitimate protests during the 2004 Republican convention. On November 22nd, 2004 almost 1,800 protesters and bystanders were arrested, corralled, and detained in inhumane and toxic conditions for unreasonably prolonged periods of time so as to silence them during Bush's second coronation. Charges against many of these have been dropped after the Guild and its attorneys have been able to produce video evidence that the police had been "testalying" in order to procure convictions. In on case the Guild attorneys were able to show that the police, and an ADA, doctored a video clip in an effort to a procure conviction.

Famous Guild Members have included Arthur Kinoy, Robert Jackson, Hayword Burns, William Kunstler, Victor Rabinowitz, Leonard Weinglass, Lloyd Garrison, Thurgood Marshall, Congressman John Conyers and Professor Bill Quigley.

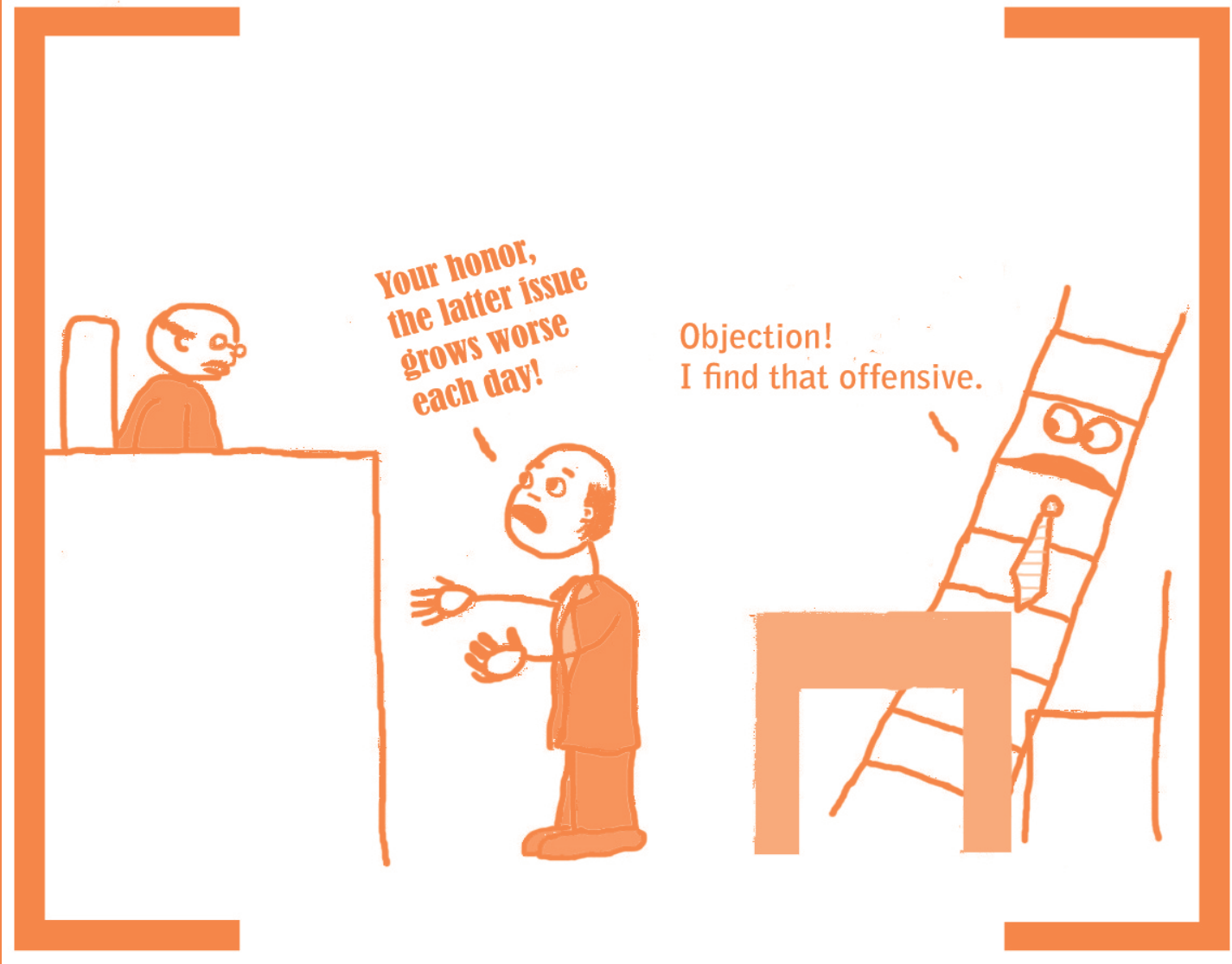
Why a NLG chapter here and why now? In 1964 after their crushing electoral defeat, the Right Wing reorganized itself and, over the next four decades, was able to capture all branches of the federal government; the judiciary, the congress (in 1994 the Republicans took control of both branches of Congress under the Gingrich contract on America) and, except for Clinton and Carter, have held the executive branch for most of the last four decades. With the victory of Barack Obama they stand now, as they did in 1964, at the precipice of the ash heap of social history. However, because of their victories in the previous 40 years they were able, to reorder the priorities and liberal democratic consensus that had come to be accepted as the norm following FDR, and the Great Society reforms. So entrenched have been this ideology that most of the younger generation, the vast majority of the students here, that in a discussion of the commerce clause last year Professor Shaw had to point out to his young audience that there was a time when opinions of the government were once quite favorable such as when it put a man on the moon, or when it built the inter-state highway system. Yet, as one engages in conversation on campus one finds that not only is there a dearth of alternative ideas to the conservative orthodoxy, there is surely no progressive voice in the discourse. The NLG hopes to add a progressive voice at this most crucial time in the country's history.

Despite the victory of Barack Obama the Right Wing continues to flay away with the same old moribund Ayn Rand economic ideology, defense of torture in contravention of the constitution and of international law, and the discredited divisive identity politics. The Guild remains as a clear consistent voice in defense of the constitution and of the rights of the people. Recent victories include pressuring the administration to keep open our options with respect to the advocates and perpetrators of torture. If you think, as do we, that "those who would give up an essential liberty for temporary security, deserve neither liberty or security" then join the Guild help resist the attack on the freedoms guaranteed by our constitution."◇

"If you can't laugh at yourself, life's gonna seem a whole lot longer than you like."

Movie quote from: Garden State (2004) - Sam (Natalie Portman)

brackets



Litigant- "you take nine-tenths of the judgment? Outrageous!"

Lawyer- "I furnish all the skill and eloquence and legal learning for your cause."

Litigant- "But I furnish the cause."

Lawyer- "Oh, anybody can do that."

Prisoner: "Before I plead guilty or not guilty, I would like to ask the court to appoint a lawyer to defend me."

Judge: "You were caught in the actual commission of a crime, with the merchandise on you, a gun in your hand and your victim on the floor. What could a lawyer possibly say in your defense?"

Prisoner: "That's it— I'm curious to hear what he could possibly say!"

Joginder Singh was testifying in the witness box and the defense counsel was attacking him viciously to make him change his statement.

"You mean to say you time it exactly at five minutes?"

"Yes."

"Are you sure it was five minutes only?"

"Yes."

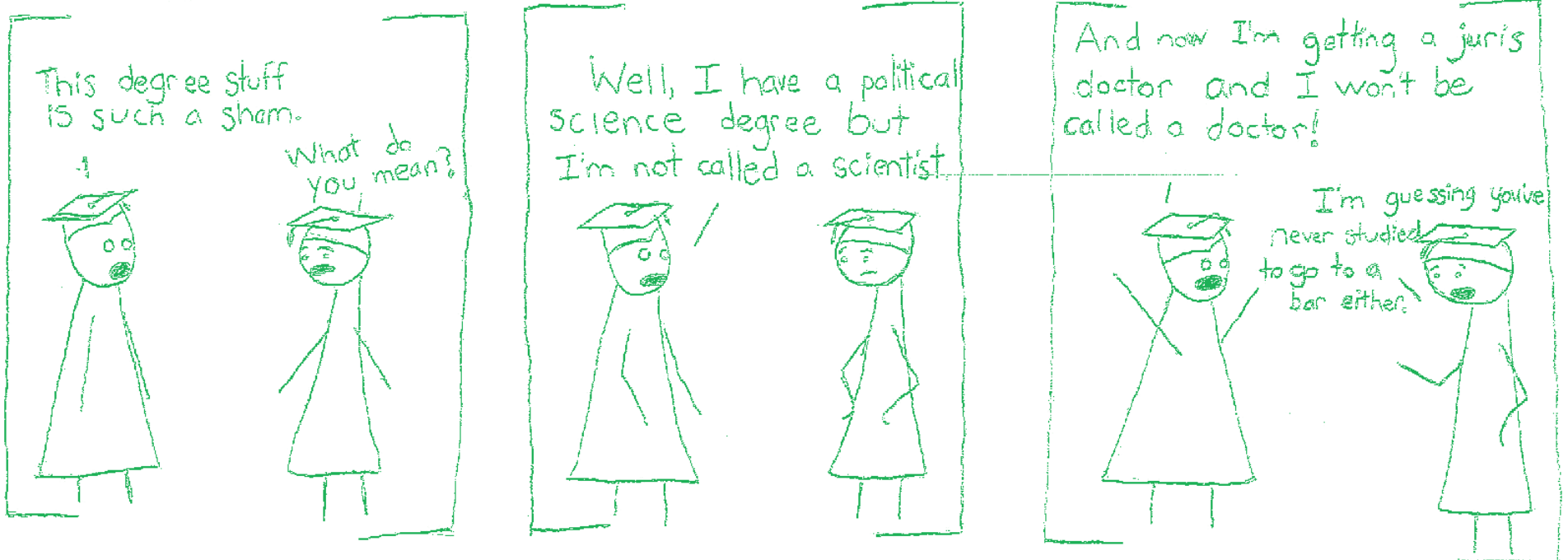
"Well, we'll check out your wonderful sense of time. I'm going to test you. Don't look at your watch and tell me when five minutes are up, starting—now!"

After exactly, Five minutes Joginder Singh called out, "Five minutes!"

The defense lost the case and later the lawyer asked Joginder Singh, "How did you do that?"

"I am seeing the clock on the wall in backside of you!"

brackets



Touro Teams Stand Strong, Despite Semi-Finals Loss

It could have been a “dream matchup” between Touro 3 and Touro 2 for the key to play in the interdivisional championship at Madison Square Garden. Although our teams missed a chance to fight in the Finals for MSG, making it to the semi-finals during our first year in the Lawyers Basketball League speaks volumes. Touro 3 had a difficult matchup against former finalists, Fordham Law School. In a tough battle, our graduating warriors fell 70-46. Konstantin Burshteyn’s team fought bravely in their final season. Next year no one except Haywood Berman (3PTD) will return to Lawyers League, because alumni aren’t allowed to play for law school teams.

Touro 2 faced a very formidable opponent in the semi-finals as well. Cardozo 3, the strongest of Cardozo Teams, only dropped one game to us in the regular season. Our skilled players gave it their all but missed victory by six points with a 58-52 final score. Beaten but not deterred, Touro 2 returns in full force next year as Touro 3, ready to take another shot at the Garden.

As for the 1Ls (soon to be 2Ls), they’re more than ready to re-enter the fray after getting their feet wet this season. They will return as Touro 2 with a better resolve than before. Matthew Goldgrub, 2L, will probably resume his role as the captain of the team.

This Lawyers League season brought many interesting networking opportunities. Specifically, Touro 2 formed ties with players from Cardozo 3. Cardozo 3 has been in contact with Touro 2 for a possible scrimmage “rematch” either in Long Island (Touro’s home-court-advantage), or Manhattan sometime in the future.

So what’s on for next season? Plenty.

Fall 2009

Leadership

With the current General Manager, Alex Shkolyar, elected SBA day Vice-President, new organizational leadership will have to be chosen. A new constitution of the Touro Law Basketball Society is being written, with a possibility of creating two managerial positions: General Manager and Head Coach. The General Manager will be responsible for administrative and organizational work and the Head Coach will take on strategic, games-related decisions. The position of Head Coach requires someone with exceptional basketball skills and knowledge. Both roles will have to be very dedicated to and passionate toward the newly formed society.

Recruitment

Most importantly, recruitment of new potential stars for the 2009/2010 season will be at the top of Basketball Society’s agenda. Recruitment and tryouts will be executed in August. New leadership is expected to aggressively search for new recruits.

LI Hoops

The Lawyers League does not hold law school tournaments in the Fall (probably because the MSG incentive is not offered then), but Touro has competed in a local “LI HOOPS” league since Spring 2008.

LI Hoops is a very large and competitive league which provides invaluable practice before the Lawyers League in the Spring. Located in Brentwood, LI Hoops may begin renting the local NYIT Gym, which would make it even more convenient for our players. Albeit lacking in legal prestige of the Lawyers League, LI Hoops has one advantage in that, while the Lawyers League has only one law school division where a dozen law schools are packed, LI Hoops offers five different skill-based divisions; Their top division is composed primarily of college-level basketball players and the lowest one of average amateurs. So far, Touro has been able to compete in the second “A” division of the league.

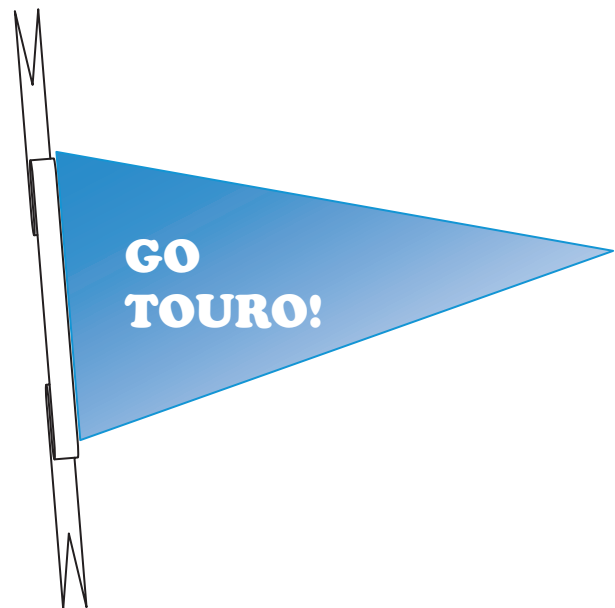


Spring 2010

New Eastern College School of Law Invitational Tournament

Western New Eastern College School of Law Invitational Tournament in Springfield, MA is a three-day weekend basketball retreat, which has existed for almost thirty-five years where many Law Schools from the Northeast compete every President’s Day Weekend. Touro has been in the tournament since 2001, seven years before Touro Law Basketball Society officially formed. Kon Burshteyn led Touro in 2007 and 2008. “This Tournament is very exciting and challenging,” said Sam Gilad, amazing 3-point-shooter on the Touro 2 team, who had a chance to go with Burshteyn and other 3Ls to Springfield. “You come on Friday, play a game and then there is a party. Saturday is filled with three more regular season games, followed by another social event at night. Intense playoffs begin on Sunday, with a potential of five games, including championship or third-place consolation game,” Gilad said. This year, only five people, including Gilad, went to the prestigious tournament to represent Touro, along with twelve other Law Schools. Touro was the only law school from the NYC Metro Area to attend the tournament. The Tournament permits alumni teams so, Konstantin Burshteyn and his teammates might be back as “Touro Alum”.

Hopefully, the new academic year brings talented recruits for a the Touro 1 team to join the fray with their senior teammates from Touro 2 and Touro 3 in the next season!



Touro 1 -- Clockwise from upper left: Greg Basso, Sean MacDonnell, Matt Goldgrub, Damian Nash, Jared Glugeth, Jonny Teller, Brian Shupak.