The Advocate

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FRONT DESK INCIDENT RESOLVED

by Earl Wilson

The last issue of the Advocate featured a story about Michael Scercy, a first year African-American student, who was confronted on Columbus Day by a white guard while exiting the Lowenstein building with his laptop computer in hand.

The investigation initiated by Dean Feerick was taken over by John Carroll, Director of Security for the entire university system. Mr. Carroll, who has been Director since late 1992, completed the investigation and issued a report to the Dean after interviewing all concerned parties.

The report to the Dean listed the allegations, the findings of the investigation, brief statements of witnesses and examining all the proof, "there was not one scintilla of evidence to support" a finding that this was a bias-related incident. Mr. Carroll's report to the Dean emphasized the existing Access Control Guidelines for security personnel as an effective means to avoid conflict in the future.

Mr. Carroll felt so strongly that this was not a bias-related incident that he requested a meeting with Mr. Scercy, Tracy Murphy (Editor-in-Chief of the Advocate), and this reporter. We met on Monday, November 15 at an office in the dormitory.

Disturbed by the Headline

Mr. Carroll reiterated his meeting with us that he was "disturbed" by The Advocate's headline, which used the word "bias." 

"Bias at the Front Desk" was the complete headline! The Advocate responded that, while we understood his position, we simply reported a story from the perspective of the student. In addition, we based the article on bias or potential bias toward security guards as well as students and faculty at Lincoln Center.

"This was a confrontational situation," stated Carroll. After "reviewing the situation," Carroll felt that Scercy was being harassed by not being given his ID and was being harassed again upon his return to the Lowenstein building. The security guard was "pissed off and pointing a finger in the face of Scercy and was "responding emotionally and not professionally."

Mr. Carroll continued that the facts indicated that Scercy was stopped

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Diary of a Marathoner

By Lisa H. Greene

Sweat, tears, pain, muscle cramps, hysteria, more pain... Sound like the symptoms of sitting through a Perillo Contracts final? Guess again...It's the joy that is marathoning. No, not the metaphoric "It's a marathon not a sprint so pace yourself for the First Year" marathon. I'm talking about the greatest race in the world, the New York City Marathon.

Marathon Sunday, 5:30 a.m.

The alarm blasts. Oh my god...It's Crim Law final day, I didn't study. I'm not ready. I need more time! AHHHHHHH! I'm jolted out of my exam-anxiety dream when I see my Nikes at the door. It's not exam day, just Marathon Sunday. (So why do I feel a strange sense of relief?)

6:00 a.m.

My Contracts book is packed in a bag with other marathon essentials like bananas for leg cramps, Advil for the obvious, Vaseline for chaffing in places you didn't know you could chafe and a note reading "If found, please return me to..."

7:00 a.m.

Walking down Fifth to catch the bus for the race, I think I see Gumby walking with Captain Marvel and Roger Rabbit. It could just be pre-race hallucinations. What was in that pasta sauce last night anyway?

8:00 - 10:30 a.m.

Our bus crawls over the Verrazano and we get a birds-eye view of the Navy Barracks on Staten Island. It's all abuzz with marathon prep. Pre-race stretches at one end, religious services for every denomination at the other. Runners take advantage of the free food and drink. They devour doughnuts and wash them down with Gatorade. Race officials warn of the heat and plead with runners to hydrate. The smell of Ben-Gay is overpowering.

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Hearsay

Students looking to combine an interest in foreign or international law with travel next summer should apply for the Marks & Murase and MCI International Law Summer Fellowships. These two fellowship programs, which award up to $5,000 each, were established by Fordham Law School alumni to assist Fordham Law students. Applications are available in the office of the International Law Journal (Rm. 015). The deadline for submissions is 10 March 1994. An information session will be held in January for those who missed the one held earlier. However, interim questions or statements of interest may be addressed to the International Law Journal or to Marjorie Martin, Rm. 012, (212) 636-6827.

The Law School is looking for imagination and creativity in the Law School community to present the Fourth Annual Spring Exhibition of Art. If you take a study break to paint, sculpt, knit or do computer art, see or leave a note for Marjorie Martin, Rm. 012, (212) 636-6827.

Clan na' Gael held a shindig at Paddy Reilly's Pub on Wednesday, November 17. Dean Reilly did a jig to the music of Black 47 with about 25 Fordham Law students. Kevin Hanraity was seen raising his clench fist in solidarity with the working masses during the show.

Fordham Jewish Law Students Association presented "Jewish Perspectives on Lawyering" on Tuesday, November 16. Professor Abramovsky moderated a panel including Judge J. Hornblass, Acting Justice, Supreme Court of the State of New York; Our own Professor Pearce; Alice Shooman, Staff Attorney for The Legal Aid Society; and, Michael Ratz, Practicing Attorney and President of the Young Jewish Lawyers Guild. Professor Abramovsky said the event was a smashing success.

Fordham University honored Fidel V. Ramos, President of the Republic of the Philippines, by presenting him with an honorary Doctor of Laws degree for his commitment to democracy in his country. University President Joseph A. O'Hare, S.J., conferred the degree at a private ceremony Tuesday, November 16 in McNally Amphitheater. Through the years Fordham has developed a special relationship with the Philippines. Father O'Hare's connection with the Philippines spans nearly 40 years, including his training as a Jesuit and his early education. He studied at Berchmans College in Cebu City from 1954 to 1955 and served on the faculty of the College of Arts and Science at the Ateneo de Manila University in the Philippines from 1955 to 1958 and again later from 1967 to 1972.

Fordham Law Chapter of Amnesty International tabled an urgent action two weeks ago expressing concern about Ruben Ayllon Espinoza's reported detention on October 30th and his subsequent "disappearance." The petition urged that if in detention, the government of Peru bring him before a judge and either release him or charge him with a recognized criminal offense.

On Monday, November 15, Ruth Messinger was keynote speaker on "Work and Family in the Balance: New Directions in the 1990's." The event was part of a continuing series celebrating women at Fordham Law. Ms. Messinger took office as Manhattan Borough President on January 1, 1990 after serving 12 years on the New York City Council. On Thursday, December 2 at 6 p.m. a panel discussion was presented on "How to Avoid Bumping into the Glass Ceiling" moderated by Dean Vario. Panelists and included the Honorable Myriam J. Altman of the Supreme Court of New York.

Letters to the Editor

The Advocate failed to make clear in its last issue that Professor Phillips was invited by the Editor to respond to Professor Alan Dershowitz's article "Is a Homosexual a Fit Parent?" The Advocate does not concur with the opinions expressed by Professor Phillips, but supports his constitutional right to express an opinion on the subject. The Advocate seeks to publish the diverse range of opinions represented in our community.

We write in response to Professor Phillips' article, "Is a Homosexual a Fit Parent?" Professor Phillips concludes that the Virginia judge who awarded custody of a child to the grandmother to "protect" the child from the homosexuality of his mother acted appropriately because of the possibility that "living in the milieu of a homosexual household would seriously damage the child.

We strongly disagree with this analysis. There is no scientific evidence supporting the proposition that children suffer a generalized harm by virtue of living with homosexual parents. Decisions to terminate custody because of parental unfitness should be based on individualized determinations of unfitness as a parent, not on generalized harms which are imagined to flow from the parents' sexual orientation.

Moreover, the statement that homosexuality is "morally neutral," it is apparent that the ultimate harm he envisions occurring to the exposed child is a greater inclination of himself or herself to become homosexual. Only Professor Phillips' belief in the enormity of this "harm" could lead to the conclusion that parental homosexuality is an extraordinary circumstance justifying the imposition of the documented harms associated with terminating parental custody.

Custody decisions should not be based on a judge's moral disapproval of the sexual orientation of parents. The right to raise one's children is a fundamental right in our society and should not be denied on the basis of prejudice and intolerance toward homosexuals.

Marisa Esposito, Lisa H. Greene, Jeremy Klausner, James C. Reilly's

The Advocate • December 6, 1993
A Holiday Rhyme

by Jeremy Klausner

'Twas the week before finals, when all through the school,
Not a student was smiling it was all rather cruel;
The outlines are copied at Mike's Instant Press
(Who's making some bucks on this whole law school mess);
And registration to boot, oh my what a gas,
I'll pay you to find me an interesting class;
While out on the plaza, the construction goes on,
It closed when I came and will open when gone;
I was watching the progress one day around three,
And wondering what those glass structures could be,
When what to my wondering eyes did appear?
But Blackstone himself, the great and revered;
"Come with me" he shouted, and ran off real quick,
"And law school, I'll show you, is one easy trick!"
More rapid than lemmings his followers came,
All waiting with pleasure to find out his game;
"Now Contracts," he shouted, "and Evidence too!
And Patents and Space Law are easy to do!
Just buy my new books, and I promise you'll shine,
Each copy's specially priced at nine ninety-nine!"
It was ghastly to watch old Blackstone cash in
But like lightning the books disappeared from his bin;
"I know that the market for jobs is quite tough,"
He shouted, intending to sell us more stuff;
"I have the solution," his pitch was first rate,
"With this Guide To Employers for twelve ninety-eight!"
As I turned to retreat from the frightening noise,
Old Blackstone did follow, his bag full of toys;
"So where are you going, you miserable fool?
To make it through law school I've got every tool!"
So I asked for a job in my most pleasant voice,
And he checked his list of the naughty and nice;
"I see on your transcript you're not law review,
So what in the hell do you expect me to do?"
With a tear in my eye, I walked out of sight,
And decided to study, to put up a fight;
So what of exams could I look forward to?
What grueling experiences would I soon go through?
Could I locate a classmate who would be so kind,
To provide me with all of the needed outlines?
And what study aids to buy, what magical stuff?
Are Emanuel's, Nutshell, and Hornbook enough?
Or should I heed old Blackstone, and buy his book too?
It's new on the market, what harm could it do? Then on to the tests, where the students look pale, And if you write in the margins, you'll most likely fail;
And then just to hammer the nail in your tomb,
Your grades will be posted on the great wall of doom;
And so I exclaim, as only third year's can do,
In just six short months this hell will be through;
As I close out this rhyme, I'll say one thing more, Good luck! Happy Holidays! See ya in '94.

Thanks to Clement Clarke Moore for his timeless ode to Christmas and Mike McDaniel for helping take this one to eleven.
Students Petition for Improvements in Computer Center

First of a two part series

by Earl Wilson

"It is outrageous that there is only one printer in the law school to service 1,500 students. In fact, at times there has been NO PRINTER. It is also ridiculous that people have to wait on line to use the computers when there are eleven computers not in use (the) "training lab." At any given time, there are also several computers that do not function at all... It is not unreasonable that these problems cannot be addressed quickly and more efficiently." - excerpt from student circulated petition.

The above is an excerpt from a petition circulated in October by second year student Karla Sanchez, and sent to Paul Woomer and Patti Maslinoff of the Computer Center, and Dean Reilly. It was one of many petitions circulated by students concerned about the Computer Center and its myriad problems. Sanchez's petition, which contained one hundred and forty one signatures, in addition to other complaints from students and administrators, led Dean Reilly, Patti Maslinoff, Director of the Office of Information Systems and Planning at the Law School's Computer Center, and Paul Woomer, Manager of Technical Education and Resources, to meet to discuss possible solutions. One solution agreed upon was to set up a committee composed of two students, two lab monitors, Woomer and Maslinoff. Dean Reilly subsequently contacted the Student Bar Association with the idea. At the same time, the SBA was taking action on the matter and opening lines of communication with the Computer Center personnel. Thus, on Wednesday November 10, at 5 PM, Ms. Maslinoff met with Michael Emmanuel, Treasurer of the SBA, to discuss the complaints.

Announced in the SBA Update on Nov. 4-11, the meeting was designed to "address grievances and act upon [students'] suggestions." Initially, those unable to attend were invited to submit complaints in writing so that it could be presented for discussion at the meeting. However, it was agreed that, at this time, Emmanuel would represent the student body and indicate their concerns to Maslinoff.

At the top of the list of students' complaints, of course, was the lack of printing services as addressed in Sanchez' petition. Additional complaints included lack of space in the computer room and insufficient computers for student use when the main room became crowded. There were specific requests by students to have the "training room" next door opened up when the computer room is overfilled. Maslinoff responded that much of the printing problems were caused by frequent printing of voluminous pages from Westlaw and Lexis as well as other documents. In addition, printing of bond paper and envelopes that many students use to print resumes and cover letters tend to wear down printer mechanisms. Several approaches are being considered, including limiting or curtailing printing of resumes on bond paper in order to save the printers.

The stress on the laser printers could be lessened if Westlaw and Lexis connected to their own dedicated printers. According to Maslinoff, the two legal database companies should have installed the printers at the beginning of the semester. The delays have been caused solely by Lexis and Westlaw. The printers are the first ever to be installed in any law school anywhere in the United States.

With regard to repair of the printers, Maslinoff indicated that the Center has a maintenance contract with General Electric. GE has an 8 hour turnaround. This means that if a printer or computer breaks down, GE must respond within 8 business hours, excluding weekends. However, as a result of the meeting, the following actions will be taken with regard to remedying immediate problems:

1) Next week, Westlaw will set up and implement their dedicated printer. Lexis has not yet indicated when they will install their printer. Each student will be able to print as many as 12,000 lines of text per day (that's approximately 200 pages) on the Westlaw printer. Lexis has no limit on printing at this time. Westlaw and Lexis will be responsible for any problems...
Marathon (from page 1)

10:30 a.m. Pre-race fun is over and it's time to line up. Is that my heart pounding or is that just the sound of 52,000 feet making their way to the start? Can I still back out? How would I get home if I did? Oh God, what was I thinking? Panic sets in. I turn to find a woman wearing a shirt that reads, "I'm 86 and this one is for my grandkids." This is going to be a very long race.

"I hear pounding or is that just the sound of the biggest block party. At mile 8 where I was arrested for public urination. And this one is for my grandkids." And it's time to line up. Is that my heart pounding or is that just the sound of the firstAmong 52,000 people waiting to start, I'm a very small part of the race. I wonder if I'll have the energy to keep going."

Marathon (from page 1)

10:30 a.m. The cannon sounds! The Verrazano Bridge shakes under the pounding. Runners with cameras hop onto the divider for a quick picture, some rush to the edge for a last minute "pit stop." Marathon Sunday must be the only day of the year when you're not arrested for public urination.

WELCOME TO BROOKLYN!
The course is flat. A different band plays at every mile and it feels like the world's edge for a last minute "pit stop." "Oh my god, what was I thinking? Panic sets in. I turn to find a woman wearing a shirt that reads, "I'm 86 and this one is for my grandkids." And it's time to line up. Is that my heart pounding or is that just the sound of the biggest block party. At mile 8 where I was arrested for public urination. And this one is for my grandkids." And it's time to line up. Is that my heart pounding or is that just the sound of the firstAmong 52,000 people waiting to start, I'm a very small part of the race. I wonder if I'll have the energy to keep going."

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"WELCOME TO THE BRONX (AND THE WALL)!
I may have missed the runner's high but there was no avoiding the "Wall" near mile 20. If I hit it any harder, I would have broken my nose. My body was experiencing new levels of pain it had hoped never to know before childbirth.

CENTRAL PARK! There it is. Central Park. Who knew it was so...mountainous? When did all these hills get here?

CENTRAL PARK SOUTH! The Plaza Hotel, one more mile, legs don't fail me now! I see Columbus Circle but it doesn't seem to be getting any closer. Am I moving at all?

THE FINISH LINE! Ohmygod...there it is...so close...almost there...and then, the pain vanishes, just for a moment as I cross the line. After this, Contracts will seem like a breeze...NOT!

A big CONGRATULATIONS to all the other Fordham Law Students who ran! (Editor's Note - The names of all Fordham participants appear on Page 1.)"

-- M. Richter

New Faculty at Fordham
Bringing a Social Perspective to the Law

By Marisa Esposito

Matthew Diller, a new professor of civil procedure at Fordham, views the teacher/student relationship as a two-way process. Teaching students has "forced me to think about the subject matter more systematically. I've been rethinking why rules are the way they are. They make more sense to me now that I've practiced them."

"Reviewing the material with the students has been beneficial to Professor Diller, but he also believes that he is helping the students by "giving them the basic tools to think through legal issues."

This also involves discussing social problems, according to Diller. He hopes to teach poverty-related courses at Fordham because he believes that "dealing with social problems is one of the most fundamental tasks that faces law in this country."

Professor Diller's interest in social problems stems from his work as an attorney in the Civil Appeals and Law Reform Unit of the Legal Aid Society, a position he held for seven years. He was responsible for bringing class-action suits against government agencies, challenging their policy about who's eligible for their benefits.

While at the Legal Aid Society, he trained new legal aides, a situation that he views as different from his present teaching position. "Law students listen in a different way. They aren't going to remember specific rules and details. I give them basic conceptions and how to think about them. The legal aides approached the subject with 'what do I need to know.'"


After graduating from law school, he clerked for a year with Judge Mansfield of the U.S. Court of Appeals for the Second Circuit. He values his experience as a law clerk and highly recommends it to students. He worked as an attorney with the Legal Aid Society and was an adjunct professor at New York University Law School where he taught Government Benefits Law in 1989 and in the spring of 1993. He decided to come to Fordham because he was "impressed with the amount of intellectual work going on here" and because he felt that it was a warm place with a sense of community. His enthusiasm about Fordham is very apparent and we are lucky to have him here.

Also, congratulations to Professor Diller and his wife on the arrival of their baby boy, Michael Kennedy Diller.

NEXT DEADLINE FOR SUBMISSIONS TO THE ADVOCATE is WEDNESDAY, JANUARY 12

Remember, submit a disk in MS Word or WordPerfect format!
Thirty Years . . . The Day Remembered

By Robert Cinque

In upstate Spring Valley, a five-year-old saw the school bus pull up about an hour earlier than usual. The big kids were quiet. His mother had been watching the television, and now went outside to meet his sister at the curb. Not much was said. Maybe, he thought, it was because the President got shot. But people get shot on TV all the time. Is it because he's a good guy, and good guys don't get shot?

The next few days seemed like a "time-out," capped off by a day off from kindergarten on Monday. So this is what they do when a President is killed, the child thought. They probably did the same for Lincoln.

November 1963 was a strange time for a five-year-old, old enough to comprehend the events in Dallas and Washington, yet too young to grasp the enormity of it, certainly too young to ponder the implications. In a child's world, mommy and daddy are a lot more important than a President. The President was just another black-and-white face on TV who had a haircut named after him at the local barbershop. Sure, sometimes mommy and daddy and the neighbors talked about him and Jackie as if they knew them, but they sure didn't live on Dorset Road.

Mommy and daddy were sad that weekend. Only as he grew did the child come to understand what really happened.

Here at Fordham, it was a quiet Friday afternoon, and the events clearly overshadowed the normal activities of the day.

There was a tremendous desire to find out what really happened. I don't think much research got done," said legal writing professor Charles Whelan, who had just joined the faculty at Fordham a year earlier.

Professor Earl Phillips, who was in an office on the second floor in the fall of 1963, recalls "shock and pain" upon hearing the news from Professor Charles Rice, who is now at Notre Dame. "I don't associate the assassination with anything about the school. The event stands out alone."

Of course, after the assassination came the funeral. "What I remember," said Whelan, "is the tremendous impression Mrs. Kennedy made by her demeanor and her dignity, and how she set an example, even in her grief."

"A few days after the assassination, there was a great deal of discussion about who was trying to grab the power. Obviously, the Vice President had to succeed him, but beyond that it was unclear," recalled Whelan. "I recall my own sense of relief when President Johnson announced that he would make the enactment of Kennedy's civil rights programs his memorial to the President. Nobody was sure, before he said so, that he would support the measures."

Speculation was rampant as to who could be behind the shooting, as Professor Phillips recalled. "It was first thought that some crazy right-winger did it, and it turned out to be a crazy left-winger," he commented. Shortly after the assassination, Lee Harvey Oswald, who had made contact with Soviet officials while living in Moscow, was arrested, and was himself killed by Jack Ruby while in custody. The Warren Commission later affirmed that Oswald acted alone.

Of course, after thirty years, there are still many people who would debate that.

Front Desk (from page 1)

By finding against one of his own men, Carroll placed himself in a tough position. Scercy was by stating that he "did not come to law school to get into this type of thing" and wished to move on.

Carroll recalled that guards were required to check all persons IDs after he discovered African American and Hispanic students at Rose Hill were being stopped and asked for ID while others were not because they were not "suspicious." "I instituted a rule that everyone should be asked for an ID, even the President of the University."

Asking everyone, however, turned out to be problematic and was considered "harassment" in and of itself by some. Guards were then instructed to let those individuals we are required to pass without showing their ID.

"The idea is to take out the variables," Carroll declared, "if any prejudice exists, the man must take it out of his or her heart." "Security is difficult because it exists to prevent larcenies and other acts of persons from the school and security is constantly trying to stop them."

Preparation for the Future

Maintaining that "no evidence existed of bias or prejudice" and that Scercy "sensed bias that day based on his experience," Carroll proclaimed that "there's a real sincere effort to correct all the problems" at the University. On that note Carroll restated the Access Control Guidelines he instituted. They are as follows:

- Guards are to ask for identification from everyone, unless the individual is known, and to seek cooperation of students and faculty.
- If an individual asks why someone before them was let in without showing their ID, security personnel are to say that they knew the person who went before.
- Security personnel are to treat everyone exactly the same regardless of who they are.
- Sensitivity training continues to be part of the training program - all guards are trained 1/2 hour every single tour. A tour is 8 and 1/2 hour block (including 1 hour lunch).

Carroll indicated that security must continue to emphasize people skills because train because "it's a big part of doing business." "We have an expansive program to teach them to treat others well. The guards, for the most part, are hardworking and dedicated group." "I want the men to feel that they can act without worrying about offending someone or being blurred. I hope that something positive can come form this incident."

The key for all of us in the community, Carroll concluded, is to "respect one another."

Reading The Advocate increases your knowledge of the Fordham experience!
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Of course, after thirty years, there are still many people who would debate that.
Phillips' expressing his deeply and sincerely held moral views is perceived by others as "gay-bashing." Expressing equally deeply and sincerely held moral views towards the option of custody ruling is perceived by some in the community as "Catholic-bashing." The problem here is the one I identified earlier, that we agree about moral views but we are unable to argue rationally about them. Does that mean we cannot discuss subjects like the sexual orientation of children, and about morality qua morality. Thus, we do not need political correctness of any stripe—just empathy, respect, and intellectual rigor.

Michael M. Martin
Professor of Law

Surely each orientation represents a statement from and about the deepest aspects of one's self and the conscious or unconscious attempt to honor them. (Sexual Preference), A. Bell, M. S. Weinberg and S. K. Hammersmith, 1981).

Phillips asserts that homosexual parents pose a serious harm to the children and that they should "remain chaste" has no basis in science. In a 1978 study, Green found that there was no statistical relationship between homosexual parents' sexual orientation and the children's sex role, sex identity, or sexual orientation and sexual preference ("Sexual Identity", Green, 1978). Furthermore, homosexual parents' awareness of their sexual orientations in fact helped the children's development ("Gay Fathers in Family Relationships", B. Boccuzzi, "Gay Fathers in Family Coordinator", 1979, "Gay Parents" in Journal of Counseling, Cramer, 1986).

For the foregoing reasons, Phillips' article has no basis in the biopsychosocial perspective.

Jorge J. Jacobo
Fordham Graduate School of Social Service, in conjunction with Gay and Lesbian Association

The writings of Earl Phillips regarding homosexuality and parenting contain major factual inaccuracies. Mr. Phillips asserts that homosexuality is a sexual disorder characterized by compulsive behavior. This notion is founded on neither scientific nor legal theory; it is sophistry. Every major medical and psychological organization, including the American Psychiatric Association, dismisses Mr. Phillips' characterization of homosexuality as empirically unfounded. Yet, Mr. Phillips purports that his theory is an appropriate foundation for setting public policy.

The cornerstone of Mr. Phillips' assertion is his belief that a heterosexual union is the only natural option. Theories based on naturalness are not new. Historically, they are the standard argument of those who wish to punish most severely. The bulk of the estimated six to ten million children who have a homosexual parent were born with their parents of a heterosexual marriage. These individuals entered into these unions believing, as Mr. Phillips does, that it was the right thing to do. Unfortunately, it was a recipe for disaster. These marriages ended in divorce with custody issues to be resolved. Mr. Phillips would have us reward these people who subscribed to his musings by taking away their children.

Hayden A. Coleman
GALLA

Regarding the Virginia case, Bottoms v. Bottoms, Mr. Phillips maintains that Judge Buford M. Parsons' decision to remove a child from the custody of her mother over the objection of both biological parents was "unexceptional." To be sure, the Court does have the right to remove a minor child from the biological parents and place him with someone who has no legal custody. This right, however, is usually reserved for the most extreme situations, such as physical abuse or abandonment. When the journal, Child Development, examined numerous studies conducted to examine the possible effect that a parent's homosexuality might have on their child, no psychological disadvantages were found. Even Mr. Phillips concedes that psychological damage to the child is merely a "possibility." In light of the empirical data, the Judge's ruling was alarmingly exceptional.

The response from the journalistic community to Judge Parson's decision was swift. Within two weeks of the ruling, forty-six articles strongly critical of the decision were published; none supported the ruling. Despite this, Mr. Phillips is under the illusion that he speaks for the majority. He would have us believe that those who reject his postulates have no scientific basis for their claim. This is just plainly incorrect; there is ample scientific data that concludes a gay lifestyle can be on par with its heterosexual counterpart. Indeed, one would have to make a concerted effort to ignore the volumes of research that have shattered the myths that comprise Mr. Phillips' notions.

Ironically, it is those who have embraced Mr. Phillips' view that he wishes to punish most severely. The bulk of the estimated six to ten million children who have a homosexual parent were born with their parents of a heterosexual marriage. These individuals entered into these unions believing, as Mr. Phillips does, that it was the right thing to do. Unfortunately, it was a recipe for disaster. These marriages ended in divorce with custody issues to be resolved. Mr. Phillips would have us reward these people who subscribed to his musings by taking away their children.
Life's Great Pageant

Out at Shea Stadium, Fordham alum Dave Howard checks out the turf (right). Closer to home, ILJ editor-in-chief Greg Walters and managing editor Carol Remy (lower left) relax after the stress of two (count 'em) major conferences in the last month. Those would be their regular Corporate Law Institute shebang in October, and a meeting entitled, "Entering the U.S. Securities Markets: Opportunities and Risks for Foreign Companies" that ran November 17. Meanwhile, over at IPLJ, Ken Gormley (lower right) is oblivious to our flash, as well as to the dinosaur lurking above.

Manhattan Borough President Roth Messinger recently made an appearance in McNally as part of the celebration of 75 years of women at Fordham Law.
The Staff of the Advocate wishes you all a joyous holiday and a happy new year.

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What do you think of the acquittal of John Wayne Bobbitt?

LISA RADCLIFFE, Third-year day: It just goes to show how sexist the country still is. I’m not saying what she did was right, but by the same token, what he did isn’t right, either. I can see that an imbalance of justice is going to be carried out, based on the fact the now she’ll have to stand trial for her actions. It’s a serious contradiction in what is afforded men and what’s given to women.

MICHAEL PENNER, Third-year day: According to the statutes, for a man to be guilty of marital rape, he has to do serious harm to the woman, as opposed to a less stringent standard for non-marital rape. I think that’s a disparity that’s very unfair to women—if you’re married, you have to be beaten for it to be called rape.

DAVID PERL, First-year day: I can’t be upset that he got off on these charges—he was punished in some way. It’s too bad the system didn’t work, but I guess in this case, vigilantism served a purpose.

CAROL REMY, Third-year day: At the firm where I worked this past summer, all the male attorneys were passing the article around and laughing about it. They thought it was a very funny story, but the last line stated that the wife claimed she was raped by the husband. I thought it was ironic that nobody noticed it when the story broke, and it was very sad that no one saw it from the woman’s perspective.

*John Wayne Bobbitt’s wife, Lorena, awaits trial for cutting off his penis while he slept. She accused him of repeatedly raping and abusing her during their marriage. He was acquitted of these charges.

FORDHAM TAKES REGIONALS IN NAT’L MOOT C’T COMPETITION

Fordham’s National Moot Court Team has taken the Region II crown.

Christopher Ray won the Best Speaker award, and also wrote the second best brief. He and teammates Danielle Keats Morris and Patrick Cox are now headed for the national competition at the City Bar of New York in January.

“We felt good going in,” said Ray at the Moot Court Board offices recently. “We practiced a lot—just about every day for the past two months.”

Morris was especially pleased with the team’s performance in the final round. “It was a great round,” she said, “Great fun, especially with the support we got from the student body. We were very thankful for that.”

The team also expressed gratitude for the assistance of faculty, as well as alumni who came in to judge practice rounds.

The team won preliminary rounds over Brooklyn and Seton Hall, then went on to best New York Law in the quarterfinals. NYU in the semis, and Albany Law School in the regional finals.

The National Team was assisted by the Bench Team of Bill Broderick, Scott Goldsmith, Nancy Myers, and Martana Ochko.

This year’s question is in the area of products liability. One issue, broadly stated, is whether Federal environmental law pre-empts state common law tort claims. The other addresses the propriety of awarding damages for the cost of medical monitoring.

The National Moot Court Competition is sponsored by the American Bar Association. To qualify for competition, team members must have argued in another national competition at their first opportunity after joining the Moot Court Board.

Computer Center (continued from Page 4)
Litigating before the Court

By Robert Cinque

Donald J. Zoeller remembers many of his Fordham professors fondly, but he remembers Professor Len Manning especially well.

"He had an outstanding way of getting people to think like a lawyer. As a lawyer, you're dealing with something developmental – you have to understand how it got to be this way, what motivates it, where it's heading. If you want to deal in the leading edge of the law, you have to plug it into policy and philosophy and logic."

Zoeller, a senior partner with Mudge Rose, adjunct professor of trial advocacy, national chairman of the Annual Fund, and a 1958 graduate of the evening program, has spent a good part of his career on the leading edge of the law. His most prominent case, *Zenith v. Matsushita*, 475 U.S. 574(1986), revolutionized the use of the old standby, Rule 56(d) of the Federal Rules of Civil Procedure.

"When I took civil procedure, the prevailing wisdom was to forget summary judgment," he recalled. Naturally, he didn't buy that line of thinking. "It wasn't that judges were hostile to summary judgment, but that the motions were poorly presented. Mostly, they amounted to 'we didn't do it,' and 'we didn't do it' doesn't make a summary judgment motion." 

Plaintiff Zenith, the American electronics manufacturer, brought suit against several Japanese companies, alleging a price-dumping conspiracy aimed at driving out those who dominated the American market. In developing their defense, Zoeller and his associates went back to basics.

"We took several mundane things and put them all together. First, we argued that if, taking all the plaintiff's evidence, it will not give rise to a triable issue that would lead to recovery for the plaintiff, then the action should be dismissed." Standard summary judgment law.

Next, they attacked a weakness in Zenith's case. Zenith, in short, was trying to prove a conspiracy from facts that did not support such an inference. "Juries can't draw any inference they please – they can only draw inferences that arise logically and naturally from the facts."

The final element was economic. Zenith alleged that the Japanese firms were engaging in the alleged dumping for twenty years. "Any economist will tell you that's pure madness," Zoeller observed. "The conspiracy they were alleging, then, was illegiti-

By putting together those basic elements, Zoeller established a new approach to summary judgments. "The hostility that many judges evinced toward summary judgment," he noted, "gave way to granting them when they were well-presented.

What we said to the Court was this: if predatory pricing is to be interpreted as simply pricing that's too low for a competitor's taste, you're turning the antitrust laws into a weapon to destroy competition. You have get the court to look at the broader picture, and show what kind of mischief can be created if they interpret your case in a way other than the way you're proposing.

"If you can get your client out without a trial, and win it, you have done the client a great service."

As might be surmised from his successes, litigation is a natural fit for Zoeller, and he recommends the field highly. "One of the nice things about it is the opportunity to work on a wide variety of things. Today you might work on a construction case, tomorrow an antitrust case, the day after it may be a takeover fight. If you don't mind the fact that you're always learning and unlearning, always in new fields of law and new fields of fact, it's very enjoyable – it keeps renewing itself."

Zoeller regards this openness to new learning as essential. "I don't like for lawyers, working for me on a case, to just pull books off a shelf and look at cases until they have thought about the proposition, until they've asked themselves, 'What makes sense? What should the law be?' They should do this before they get down to what the law is. That will set their minds right to understand how it fits into something rational. One thing I was always discouraged to see in a memorandum was, 'The cases are hopelessly in conflict.' Once in a while they are, but more often the analysis is deficient, and the writer hasn't found the thread that binds them. The thread is what I want to see."
Movie Review: DANGEROUS GAME

by: Tracy Murphy

"DANGEROUS GAME" explores what happens when art becomes life for film director Eddie Israel (played by Harvey Keitel) as the boundaries between the movie he is directing and the life he is living disintegrate. This is a movie-within-a-movie, often interspersed by gritty documentary-style video of Israel explaining to his actors the emotional, philosophical and spiritual development of his "Mother of Mirrors." The drama unfolds as Israel drives his actors into emotional turmoil to get the performance he needs, as the life he is living continues to continue to total.
According to recent comments by, US European leaders drafted a blue­

thinking continues, is rapidly los­

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ment on Tariffs and Trade (GATT)

Asian growth rates and ever-more

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Professor Phillips's name calling go

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December 6, 1993 • The Advocate

Letters (continued from page 7)

To address just one point in Professor Phillips's curiously pre­

and withholds love and alternately

Monday.

argue with them or not, whether we

Happy Holidays

Enjoy them safely — don't drink and drive!
A Few Terms of Oenological Art

By James C. Maroulis

Robert Parker, a noted wine critic, described Chateau Lafite-Rothschild thus: "The lead-pencil, vanillin-scented, leafy, cedar-bouquet is quite dynamic. In the mouth, the wine is light, displaying a soft, supple texture, some acidity, but little tannin." Malakoff Parker, Jr., for Bordeaux 2008 (1991). Even after reviewing this research, however, many people have no idea how to describe a wine. Thus, don't eat too many blackcurrants these lemons, mellon, apples, or pears. Like­

Terms Regarding a Wine's Structure

Because words that describe a wine’s structure are less subjective than words that describe its flavor, these terms are more difficult to use. These terms don’t focus on a wine’s bouquet or flavor; rather, they describe how the wine interacts with your mouth. For example, we all know how acids such as vinegar or lemon juice affect the palate. Thus, although the term “acidity” does not tell what a wine tastes like, this term gives a good idea what it would be like to drink a wine. Here are some helpful terms:

Aftertaste: Is the flavor that is left in your mouth after you swallow the wine. Synonym: “finish.”

Austere: Austere wines are hard wines with little fruit flavor. They generally aren’t that tasty. This is usually used to describe white wines.

Balance: Is the interactions among the wine’s various components. Thus a wine is well-balanced if its tannins, fruit, and acidity complement each other. If one of a wine’s components dominates all of its other elements, the wine is "awkward.”

Big: A wine’s volume has a full body. Body: Body refers to the strength of a wine’s flavor. Cabernet Sauvignon wines are said to have "big" flavors.

Bouquet: A wine’s smell, aroma, or nose.

Brawny: A powerful, heavy wine with a full flavor. Many times, people use the word "brawnly" to mean any word that you believe accurately describes the wine’s taste or smell.

Closed: A closed wine is one that does not exhibit all of its flavors, because it is too young. Sometimes when a wine is young, it is impossible to taste its fruit flavors because they are masked by tannins. Wines can close up for less than a year or more than a decade.

Complex: A complex wine has a number of different flavors. A wine that stimulates different parts of your nose and tongue is a complex wine. Thus, a wine that has a "flavor" is so severely closed that it is unlikely to open in the future. Although a person might expect a closed wine to taste good in a few years, people have no such expectations about dumb wines. Many 1975 Bordeaux reds are looking pretty dumb.

Fat: In the world of wine, "fat" is a compliment. Fat wines come from hot years where the grapes reach full ripeness and have low acidity. Fat wines taste rich and smooth.

Fibby: Unlike fat, fabby is an insult. A fibby wine’s taste has little definition.

Fruity: A fruity wine is supposed to have nice fruit flavors. I have noticed, however, that many restaurants and wine shops describe every light, insipid wine as tasting "fruity." Watch out for "fruity wines.”

Hard: A hard wine has high levels of acid or tannins that prevent the taster from appreciating the wine’s flavor. Some hard wines soften with age.

Harsh: A harsh wine is excessively hot.

Hot: A wine is "hot" if the alcohol overpowers its bouquet or flavor. A powerful, substantial wine is hot.

Lush: A lush wine is smooth, rich, and powerful. It is not hard or astrin­

Massive: A massive wine is very big.

Troublesome Terms

A few terms tend to give people trouble.

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NOTE: Deadline to sign up is January 21!
I was appalled to pick up the Advocate last week and read Professor Phillips’ article of Nov. 8, 1993. [Is a Homosexual a Fit Parent?] Did he have at least an implicit grounding in some accepted legal precedents, or a failure to comprehend that affecting a person’s sexual orientation is genetically determined. That does not make homosexuality a disorder, any more than we currently believe that affecting a person’s height or weight is. Rather, homosexuality is simply an immutable aspect of character which has no bearing on one’s personal skills, employment ability, or one’s morality. As with any such aspect of character not relevant to a person’s functional ability in society, it should not be discriminated against.

Phillips bases much of the discussion on his own personal views of morality and natural law. Except for the article’s puerile lesson of morality and natural law. Except for the article’s puerile lesson of morality and natural law. Except for the article’s puerile lesson of morality and natural law. Except for the article’s puerile lesson of morality and natural law. Except for the article’s puerile lesson of morality and natural law. Except for the article’s puerile lesson of morality and natural law. Except for the article’s puerile lesson of morality and natural law. Except for the article’s puerile lesson of morality and natural law. Except for the article’s puerile lesson of morality and natural law. Except for the article’s puerile lesson of morality and natural law. Except for the article’s puerile lesson of morality and natural law. Except for the article’s puerile lesson of morality and natural law. Except for the article’s puerile lesson of morality and natural law. 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Innovation in Bar Review:
The Flow Chart Course

Contract Formation

Mutual Assent

Valid Consideration

No Formation Defenses