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The Advocate

The Advocate, Fordham Law School

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Third Year Student Cited for Defacing Property

by Jeffrey Jackson ('96)

Third year law student James Killerlane was recently sanctioned for defacing a calendar belonging to Valerie White, a fourth-year evening student and Managing Editor of the Fordham Urban Law Journal.

The sanction was the result of an incident that took place in the Fordham Urban Law Journal office on the evening of January 3, 1996. According to Valerie White, she walked into the office that evening and found that someone had defaced her calendar, which was hanging above her cubicle space in the journal office. The calendar, a new one for the upcoming academic year, had an African-American history theme and was entitled The Power of Discovery + The Challenge of History: African-Americans in Science. It showcased various prominent African-American scientists, and the picture that was displayed, that of Christine Darden, had its eyes and mouth filled in with ink. White told him that it wasn't a mere doodle, that his apologies didn't really cry out for expulsion, it was just stupid. It would be easier if it were blatant, because then there could be drastic measures. He did, however, recognize the need for some punishment. He also commented that Valerie was flexible and very admirable in her reaction to the situation.

According to Richard Gadsby, third-year chairperson of BLSA, the incident also prompted discussion during a Minority Affairs Committee meeting, which took place on February 23, 1996. During the meeting, students and faculty members discussed what the incident meant to the school in general concerning the comfort levels of the students, racial insensitivity and prejudice.

Gadsby also told The Advocate that members of LALSALA, BLSA, and AIPEDSA have stated that there is "some level of prejudice existing in the law school." According to these students such prejudice "normally doesn't manifest itself in blatant manners such as this," but usually in subtle comments, perceptions, etc.

Both James Killerlane and Bernard Daskal refused to comment.

Professor Capra wrote the following letter, which comments on the entire situation.

I was informed of the incident by Bernard Daskal, the Editor-in-Chief of the ULA. The calendar had already been seen by other administrators, who informed me that reasonable minds could differ about whether the defacement was racially motivated. I was told that James Killerlane freely admitted that he was responsible for the defacement. I first met with Valerie White, and I told her that I respected her concerns and that I would look into the matter. I also told Valerie that no remedy could be acceptable unless she approved it. I then spoke with Mr. Killerlane, who admitted that his act was an inconsiderate one, but denied vociferously that it was racially based. I informed him that while his intent was relevant, the ultimate question for the school was whether his continued on page 6
Honest Student Speaks Out

Dear Editor:

I’d like to offer some anonymous support to Anonymous Law Student, who wrote about the lack of supervision by exam proctors at Fordham Law School, and the students who take advantage of this apparently ongoing problem, and cheat.

You’re not alone in having ambivalent feelings about turning in a student.

Like you, I witnessed cheating on both of the exams I took at midyear - several students were writing long after the proctor had called time.

During one exam, a student continued to write for a lengthy period after time was called, and was seated near a vocal crowd of students waiting to sign out and hand in their exam booklets. A number of these students were discussing the more challenging questions on the exam, oblivious to the fact that someone within earshot was still writing away.

During the second exam, a proctor caught sight of one of the offending student and yelled at him to stop writing. Everyone I spoke with was upset by it, but nobody knew what to do. While taking an extra 5-10 minutes to complete an exam, even within earshot of a student discussion of the exam, is perhaps an example of “low-grade” cheating, it should not be tolerated. It should go without saying that the kind of cheating Anonymous described should not be tolerated.

Let the Registrar’s office be put on notice that rule-abiding students here at Fordham Law demand more competent proctoring. During the winter break, a number of students related that they had witnessed the same sloppy supervision at midyear exams. Students in my section saw the same students cheating. Students in other sections saw other students cheating. Everyone I spoke with was upset by it, but nobody knew what to do.

Dear Anonymous:

I read your Letter to the Editor published in the February 14, 1996 issue of the ADVOCATE with mixed emotions. I was proud of our students’ concern that the highest standards of honesty be maintained in the Law School. However, I was disappointed that an inaccurate rendition of an incident that took place early in the fall semester had been printed in our school newspaper. I was also saddened that the issues of race and gender were interjected into this issue when they had nothing to do with this matter.

The inaccuracies in the account and the use of irrelevant issues to stir the readers’ outrage caused me to recall an exercise utilized by a professor in one of my graduate counselling courses. This exercise, called the “Rumor Clinic”, demonstrates the distortion that occurs when students involved the seriousness of the infractions, and were of a severity consistent with those previously imposed in similar instances when no formal disciplinary procedures had been instituted. Because the law school is extremely concerned about developing ethical lawyers, issues of professionalism and ethics played a large role in the orientation of the first year class. It was the discussion of these topics that created the environment which allowed a first year student to come to an administrator with this concern.

Your letter has prompted a discussion of ways in which Fordham can best reinforce its expectation that students, lawyers in training, will conduct themselves by the highest standard of ethical behavior required by the legal profession. To this end some have recommended the implementation of a Student Honor Code. Others have suggested that the Summary Disposition provision in the Code be repealed. At present, if a student “admits violation of the Code and accepts the sanction imposed, no further disciplinary action is taken.” Student Handbook at page 44. The repeal of this provision could overwhelm administrators, faculty and students with formal hearings necessary to address violations of the fourteen acts prescribed in the Code. This is probably not the most efficient and effective manner in which to reinforce professional ethics. An alternative might be to make the Summary Disposition provision inapplicable to acts of dishonesty, theft, harassment or physical abuse.

Given that the Student Conduct Committee is currently reviewing the Code in its entirety, this is an opportunity time to recommend revisions to Professionals.

The unfortunate outcome about spreading misinformation is that it injures individuals and compromises the credibility of the messenger. In this instance, the printing of misinformation resulted in a professor at this law school being maligned through the insinuation that this individual acted unprofessionally. This is far from the truth.

It was the Office of Student Affairs that was informed by a student about the cheating. This Office informed the professor, who was outraged that a member of the class would act in such an unethical manner. At no time did the professor conduct a straw poll to determine how the accused parties should be sanctioned.

As permitted by the Code of Academic Conduct, the sanctions for the students involved in the cheating incident were determined by this Office, the Associate Dean, and the Professor. The sanctions imposed were intended to impress on the students the seriousness of the infractions, and were of a severity consistent with those previously imposed in similar instances when formal disciplinary procedures had been instituted. Because the law school is extremely concerned about developing ethical lawyers, issues of professionalism and ethics played a large role in the orientation of the first year class. It was the discussion of these topics that created the environment which allowed a first year student to come to an administrator with this concern.

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THE ADVOCATE is the official student newspaper of Fordham Law School. The goal of The Advocate is to report news concerning the Fordham Law School community and developments in the legal profession. The Advocate also serves as a forum for opinions and ideas of members of the law school community. The Advocate does not necessarily reflect opinions expressed herein, and is not responsible for opinions of individual authors or for factual errors in contributions received. Submissions should be made on disk in MS Word 5.0 or WP 5.1. We reserve the right to edit for length. Advertising rates available upon request. Contributions are tax deductible.
Dean's Remarks on Luncheon

March 5, 1996

President Stanton; Judge McLaughlin; Thomas Kavaler; our med­alist, James Tolan; distinguished mem­bers of the dais, faculty, students, and graduates of Fordham Law School.

On this occasion, I would like to express my own gratitude to the Golden Jubilee Class of 1946 and the silver Jubilee Class of 1971. I wish to acknowledge a graduate from an earlier class: Joe McGovern, who received the Second Harvest Award.

While every Annual Luncheon is an important event in our history, this year's gathering is even more special because we are marking the 90th Anniver­sary of the founding of our school to be celebrated in a spectacular event on May 14th.

Since our last meeting, I am happy to report that many exciting develop­ments have been taking place at the Law School. The fall semester was marked by wonderful recognitions of the School and our student groups. We won two Championships—the National Tax Moot Court Competition and the Northeast Regional Finals in the Jessip Competi­tion. We are very proud of our moot court teams and the Fordham Moot Court Board of Editors, and are grateful for the leadership of Professor Maria Marcus who has coached our interschool teams for the last 16 years. Her dedication exemplifies the very best and highest stan­dards of faculty service and has won her a special place in the hearts of her stu­dents and colleagues.

I conclude my school report by expressing gratitude to a very special graduate, Michael Stanton, whose term as President of the Alumni Association ends today. Mike's years as Chair of the Annual Fund and President of the Alumni Association have been ones of impos­sible dreams becoming realities for the Law School, Alumni Service and New Alumni Committee Structure.

LUNCHEON continued from page 1

this depiction by relaying to the audience one of Mr. Tolan's remarks that "whatever is worth doing is worth doing ex­ cessively." Mr. Tolan stated that he was indeed most proud of his family and children, and of being an alumnus of Fordham Law School. In becoming a lawyer, Mr. Tolan felt that he "wanted to contribute something extra," adding that it was not an accident that Fordham lawyers are committed to public ser­vice.

Professor Joseph Perillo, the speaker for the luncheon, con­cluded the ceremonies by reminiscing about the many years of existence of Fordham Law School. "Nunc Pro Tunc", he spoke of the nomadic character of the school before finding a home at Lincoln Center and the population change as a direct result of admitting women to its classes. Also mentioned was the in­crease in class size which now exceeds 1400. Perillo finished by sub­mitting his fundraising suggestion for the 21st century, at which time, the covenant of educa­tion, which covers the land upon which the school stands, will termi­nate legally. Perillo sug­gested that the unused por­tions of the land should be put to commercial use.

After the luncheon, the festivities continued at Bull and Bear, the hotel's bar. There, the alumni crowd drank and mingled to their merri­ment, along with Kavaler who was still wearing Judge Preska's hat.

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FRIDAY, APRIL 12, 1996

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The Death of Legal Writing

The First Year Drama, by M. Paulose Jr.

Four or five years ago, there began a movement in the legal atmosphere that claimed title to a revolution, a new concept called "good legal writing." The crusaders behind that revolution argued for a formula: "Be clear and concise." They demanded, "Use present tense, active voice, simple language. Sentence structure should be subject - verb - subject. Subject - verb - subject. Got that? Ready, set, march!" And so we followed, swept up in a spoon-fed revolution, forced into shouting "Death to the adjective! Death to the adverb! Death to the imagination!"

Of course we students, if not by first instance, eventually became the "les miserables" under all that hysteria. This was so, often not because we couldn't follow the rules, but because our hearts fervently fought against them. Who could blame us; since nursery school we were taught that "Jack didn't come down the hill" but rather "Jack came tumbling down the hill" and that no one shouted "Spot run. Spot run," but rather "Run Spot! Run!" Present tense, simple language, active voice, humming to it all. Ladies and gentlemen, back when we were young, language was beautiful, the curves of reality, bendable, and writing, good writing, was awe inspiring.

Yet the revolutionaries demanded otherwise. The effects of the legal world, they argued, necessitated the call for simpler language, especially in those instances when our audience were the laymen-republic. They argued further that time-enough to read had become so restricted that complex language couldn't be swallowed anymore. Memorandums needed to be perused at the glance of an eye, briefly spotted on a run to the train.

Here's a theory against those arguments. See if it holds a candle. Once upon a time, lawyers ruled the world. They were smart, sharp, outspoken, and earth shattering visionaries. With heaps of stone and clay they built an almost impenetrable fortress, a club house of sorts, where entry was by permission only. And it was from this fortress where the lawyers helped the laymen solve problems, stop time, ease life's little miseries; they, in other words, wrote the law. These laws, once written, were like artifacts, beautifully etched in stone. Every member in the club understood what the laws meant, how to interpret them, how to explain them, and how to teach them to prospective members. And that was all they needed to do back then because it was only the lawyers and the prospective members who read the law, not the laymen. The laymen, after all, didn't want to read them. As far as they were concerned they preferred to hear it through the grapevine. It made better sense to them that way. And so it went, happily for the time.

But one day, a prospective member, a student who we would normally consider "average" across the intelligence spectrum, somehow passed the bar and gained admission into the fortress. Although, he tried, he never quite understood how to write the law, or even understand those laws already in effect. So he began to complain, loud and obnoxiously yet all along convincingly. He pulled from the sky those excuses that "the people needed to understand," that "the lawyers needed to read on the run," when in all actuality it was for his own selfish reasons. Force gathered, and the movement to revamp legal writing began. It was this mediocre student, sub par in his intelligence, who had begun the revolution.

Hold a candle? Consider further this: In class, among professors, even within our own opinions, which cases do we consider the most interesting, the best in style? Is it not those cases that read like a story, those cases written creatively, where our minds don't think of "how many pages left" but rather, "ah ha! I see!" Take for example, Youngstown, where J. Jackson wrote, "Just what our forefathers did envision, or would have envisioned had they foreseen modern conditions, must be divined from materials almost as enigmatic as the dreams of Joseph were called upon to interpret for Pharaoh." And what of Pierson v. Post (forgive me), the best of the best: "But who would keep a pack of hounds; or what gentlemen, at the sound of the horn and at the pep of day would mount his steed, and for hours together, 'sub jove frigido' or a vertical sun, pursue these animals this wily guaduped, if, just as night came on... a saucy intruder were permitted to come in at the death, and bear away in triumph the object of pursuit?" And what of Cardozo and his writings? He was arguably the greatest legal writer ever to set foot, and sentence structure was the last thing on his mind.

Good legal writing is not about active voice, simple sentences, and so forth, it is about writing creatively, convincingly. The legal writing we are taught now by the movement looks to be

Please See DEATH

continued on page 5

A new course claims to be:
"The Experienced Course. With Experienced Faculty"

However, of their thirteen New York lecturers:

Five have never lectured in bar review anywhere.

Four have never lectured in bar review in New York.

Two were taken off the BAR/BRI New York podium due to poor student evaluations.

Lastly, only one of their employees has ever taken part in coordinating a New York bar review course.
CROSSW RD® Crossword
Edited by Stan Chess
Puzzle Created by Richard Silvestri

ACROSS
1 Hauler on the highway
2 Unit
3 "1 Dream" (1967 film)
4 "Drop Drop"
5 Football Hall of Famer Page
6 Liqueur
7 City on the Brazos
8 Kentucky Derby prize
9 Skewered explorer
10 Declaration of Independence ingredient
11 "Cielito"
12 Jocular Jay
13 Fifteenth-Century meat
14 Winter Palace resident
15 "Dixie"
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action could possibly be construed as a racial incident. If it was, the school would have to impose a remedy, in order to send a message that no such acts could be tolerated.

I then conferred extensively with Dean Escalera on the appropriate remedy. Dean Escalera and I came to the following solution: in order to remain on the ULI Board, Mr. Killerlaine had to: 1. Prepare a 15 to 20 page paper on Dr. Christine Darden, the person whose picture he defaced, 2. Submit a formal letter of apology to Valerie White; 3. Undergo sensitivity training in a program chosen by Dean Escalera.

I submitted this proposed solution to Valerie White, and she agreed to it. I then submitted the proposal to Mr. Killerlaine and he agreed to it. I gave Mr. Killerlaine until the end of February to comply. By mid-February, Mr. Killerlaine had submitted a 17 page report on Dr. Darden. In my judgment, the report was extensively researched and well-written; Mr. Killerlaine encountered substantial difficulties in his research, since much of the information on Dr. Darden is classified, and he was, I believe, very diligent in finding source materials. Mr. Killerlaine also submitted a formal letter of apology and signed up for sensitivity training.

Your article states that "some who were aware of the incident and the punishment felt that it was too lenient." I am not sure who those "some" are. It could not have been Valerie White, who approved of the remedies in advance. I would also point out that the remedies were approved by Dean Escalera, who has a stellar background in civil and human rights. No credible claim can be made that Nitza is "lenient" about incidents such as these.

Finally, it should be noted that the entire ULI board will be taking a sensitivity training course on March 22. Bernard Daskal has graciously invited board members from the other journals to participate as well.

The incident that is the subject of your article was an unfortunate one. All law students and lawyers should show respect for the property of another. And we should all think in advance about whether an action could be construed as racially-biased, whether or not that is the intent of the actor. Thus, the school had to and did act aggressively to remedy both the actual and the perceived wrong. I strongly believe, however, that no further action is necessary and that everybody should get on with their lives.

Hopefully, we have not come to the point where every intramural dispute between members of different races must be deemed the result of racial animus. On the other hand, if an incident is in fact the result of racial bias, I believe that expulsion and other extreme remedies are absolutely warranted.

---

A Free Night Out

There's a concert at Carnegie Hall and second- and third-year students are invited.

It's in April, before exams and bar review courses cramp your social life. The award winning Carnegie Mellon University philharmonic will perform works of the Greek contemporary classical composer Iannis Xenakis to kick off a celebration of the maestro's 70th year.

The tickets would be $35 each if you had to pay for them, but second- and third-year students can get up to 2 free.

The program includes works for full orchestra, small percussion ensemble, and soloist. The Washington Post thinks the CMU Philharmonic is "decisive and clean playing." Was your last memo of law that good?

So, fill out the coupon and invite a friend for a night at Carnegie Hall. And then get back to work.

We'll mail your tickets to you a few weeks before the April 23rd concert. The curtain goes up at 8:00PM.

Mail to:
Attorney Career Guidance
149 Fifth Avenue, Suite 709
New York, NY 10010

Tickets provided courtesy of Attorney Career Guidance, Inc., a New York City-based transition consulting firm for law students and attorneys.
research, the most important ingredient to good legal writing. The overtime lawyer witnessed competition rear his ugly head in this school was during the research-run of the short memo. Quite embarrassing I would say, and even more when I think of how people subsequently spoke of Fordham: "Oh that school; I heard everyone there was a damn cut throat." Was it worth it for 20% of a three-credit course?

Finally, there is the problem of grades. Listen to this one carefully. If the purpose behind the legal writing program is to teach us to become good writers, we should ideally not see a mandatory upper level legal writing requirement? Would the school dare leave us out to dry? Say, sorry you’re just a bad writer, we did our best.

The students of Section 8 by the way, I heard they're tight, that experience comes into the final cut. It is time to put the legal writing monster to sleep. It is more trouble than it is worth. It appears that most of the credit-professors have begun the shout against it. It is now our turn to also break the lines. Subject-verb-subject must go down. Cardozo would be proud.

Addendum
In all likelihood, this will be my last column for The Advocate. Enjoyable as it was to write these ramblings, exams are racing their way around the corner. Before I go, I would like to thank Jeffrey Jackson for support and Toni S. Jordan for editing all these tangling sentences. It was fun while it lasted.

day. Moreover, their final grade is not based entirely on some absurd roll-off-the-dice final exam. Their memo grades are incorporated into the final cut. What a relief especially considering that those final exams usually sound the death-nell for most of the student body.

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Community Service Project Announces the Spring Clothing & Book Drive

The Community Service Project would like to announce the 1996 Spring Clothing & Book Drive. All students, faculty and staff are encouraged to start spring cleaning now and bring any clothing or books to the collection area outside of Room 08 in the Law School.

CSP will begin collecting items on the first day of Spring, March 20. The Drive will continue through March 29. This is a good excuse to clean up your apartment and a great opportunity to help those in need. If you have any questions, please call CSP at x6970, or stop by Room 08.

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LET'S SET THE RECORD STRAIGHT:
AN OPEN LETTER TO THE NATION'S LAW STUDENTS

More than 25 years ago, I founded BAR/BRI Bar Review upon two core principles: first, law students deserve the best and most up-to-date bar review possible; second, they should expect their bar review course to maintain the highest ethical standards in informing students about the courses. Since that time everyone at BAR/BRI has held fast to those principles.

Unfortunately, the nation’s newest bar review, West Bar, has not.

In law schools across America, West Bar has blanketed bulletin boards and flooded student mailboxes with misleading flyers and letters. Students everywhere are being asked to believe that BAR/BRI has been 'stripped of its best and brightest.' I assure you that nothing could be farther from the truth. In over 25 years as the President and CEO of BAR/BRI, I have never responded directly to the claims and puffery of other bar review courses. However, in light of the sheer volume of misinformation, I feel compelled to separate fact from fiction.

FICTION: BAR/BRI’s management has left.
FACT: Last year, two former BAR/BRI employees started West Bar. Contrary to West Bar’s claims, neither ever served as the President or National Director of our company. In fact, both were primarily regional directors with no meaningful input in the creation or editing of materials or lectures. It is true, however, that these two former employees aggressively pursued many of BAR/BRI’s attorneys. Their efforts fell flat. Of the more than 50 attorneys working for BAR/BRI nationwide, a grand total of one left.

FICTION: All of BAR/BRI’s best faculty "went West."
FACT: Here too, West Bar’s aggressive pursuit was in vain. BAR/BRI has over 300 lecturers in 46 jurisdictions. Only 10 left to join the two former BAR/BRI employees in their "start-up" bar review. Seven of these ten were ranked in the bottom 25% on BAR/BRI student evaluations.

Your bar exam is too important to be left to inexperience. I know that students have historically selected their bar review course based on experience and quality. I trust that BAR/BRI’s more than 25 years of preparing students for bar exams nationwide counts as experience. And I am sure that over 500,000 successful attorneys can vouch for our quality.

We look forward to helping you make the bar exam a once-in-your-lifetime experience.

Sincerely,

Richard J. Conviser
President & CEO