Laptops Headed Back Out?

By Austin Rice-Stitt

Students in Adam Pritchard's Civil Procedure class better hope that their laptops come to check quickly, because the online quiz has started and they've got less than a minute to lock in their answers. Prof. Pritchard, the tech-savy, pony-tailed securities guru, does not adhere to the Michigan Law policy of blocking internet access during class; rather, he uses the internet to give quizzes that determine a quarter of each student's final grade. But while Prof. Pritchard has embraced in-class computing, other professors are heading in a different direction by banning completely the use of laptops during class.

Mark West's 28-member Japanese Law class is laptop-free. Prof. West, who dresses a lot better than you do, finds that laptops "contain lots of little diversions and distractions that take away attention from class." But Prof. West is even more concerned that laptop-wielding students "tend to type things that I say verbatim. They don't process the material in their brains; the words just go straight to their fingers." Old-fashioned note-taking is preferable, according to Prof. West, because "writing is a slower process" that "forces [students] to choose what matters." While he does not think that laptops are bad in every class and that there are "great ways to integrate them into the classroom," for most of what he teaches "laptops do more harm than good."

This is the first time that Prof. West has banned laptops in his Japanese Law class, and he says that he will have a better idea about the effectiveness of the new policy after he sees how students do on the exam. But he likes the way it's going: "... so far, I think students are a bit more engaged; they don't have that screen to hide behind."

Ellen Katz, voting rights aficionado and keeper of many fishes, also cites students hiding behind screens as part of the impetus for her ban on laptops in her 30-member Local Government Law class. "If I call on a student using a laptop, the student is far more likely to look down and to scroll through an outline than simply to think about the question and respond directly to it," says Prof. Katz. "Some of my colleagues have told me about students who announce they are unable to answer questions because their laptops are 'off.'"

Prof. Katz does designate two students as each day's laptop note-takers, and those students are asked to post their electronic notes on the CTools internet site. Prof. Katz has not heard from students whether they find the communal notes useful, but she has enjoyed the mostly-computer-free environment. Online crosswords should be aware that Prof. Katz is "pleased with the no laptop policy so far and plan[s] on using it in future classes."

One professor who will not be restricting laptop use is Contracts expert and part...

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Letter to the Editor:

Re: Rear Admiral Talk

Eric Reed's excellent article thoroughly and fairly described my recent visit to the Law School. I sincerely appreciate the time he devoted as well as Res Gestae's extensive coverage. However, one important clarification is necessary. The article suggests I said that difficult policy issues "must be debated by politicians and policy makers, not by the military, which should and must simply follow the orders it is given by the White House and Congress."

The basic point -- that active-duty military leadership should not be in the habit of publicly debating policy issues -- is correct. This is fundamental to civilian control of the military. However, as I also noted more than once during my remarks, military leaders must make their views clearly known to senior leadership within the Administration and the chain of command, as well as to members of Congress under appropriate circumstances. A military leader who fails to give his or her best advice from a military perspective is doing a disservice to the civilian leadership and the American people. This is especially true when the military officer’s advice disagrees with what may be the prevailing view within the civilian leadership. However, once the military officer’s views are made clearly known and a decision is made by duly-elected or appointed civilian leadership, the military officer then has the obligation to execute the decision unless, of course, it is illegal.

Military officers are not automatons who unthinkingly salute and follow orders. We do, and we should, vigorously debate issues with the civilian leadership within both the executive and legislative branches.

Ultimately, however, we serve the American people through their elected and appointed representatives. Once we have had our say, our responsibility is to execute their legal policies and orders.

James W. Houck
Rear Admiral, Judge Advocate General’s Corps, U.S. Navy Deputy Judge Advocate General of the Navy
Bleu Copas on “Don’t Ask, Don’t Tell”

Submitted by Samara K. Schwartz

At Fort Bragg, Bleu Copas was a gay soldier jumping out of airplanes alongside straight soldiers. “My homosexuality didn’t make me any less effective as a paratrooper.” And a satirical test conducted by The Daily Show, which involved a striptease, revealed that Bleu’s sexuality didn’t interfere with his skills as an Arabic translator either. Yet Bleu was dismissed from the Army in December 2005 under the military’s “Don’t Ask, Don’t Tell” policy.

On October 11, Bleu spoke to a packed Hutchins Hall 218 about Don’t Ask, Don’t Tell. He used his own story as a case study, putting a face on a policy that he reported has resulted in the discharge of 11,000 service members since its introduction in 1993. The talk was co-sponsored by Outlaws and the ACLU. Co-chair of Outlaws Foz Bullock said “Copas is living proof that LGBT people are unfairly treated in the military.”

Joining the military was a natural choice for Bleu, having been raised on stories about service. As an undergraduate at East Tennessee State University, he participated in ROTC. The events of September 11, 2001 gave Bleu the opportunity to serve, and by the following summer, he had entered basic training. Afterwards, Bleu spent a year and a half studying Arabic – “the hardest thing I’ve ever done,” he said.

When deciding to enlist, Bleu was familiar with the intricacies of Don’t Ask, Don’t Tell and recognized that the policy would be a compromise, even though he had always lived in secrecy about his homosexuality. “I still feel like I upheld [my] end of the bargain by never telling,” Bleu said.

To this day, Bleu doesn’t know who told. While awaiting deployment to the Middle East, Bleu had been selected as one of 300 service members to represent his unit in the 82nd Airborne Division All-American Chorus, which he said is used as a visual recruiting tool for the military. One day, thirty choral members were informed that an email was circulating concerning a gay soldier in their midst. “My stomach switched places with my heart,” Bleu recalled. “To my knowledge, I was the only gay serving in the chorus.” Later, he confronted his platoon sergeant and said that this inquiry had been a blatant violation of Don’t Ask, Don’t Tell.

But the inquiry didn’t end there. Messages began to flood the inboxes of other command leaders and now mentioned Bleu by name. The informant remained — and remains — anonymous. Bleu did communicate with the individual through instant messaging, and he tried to glean from their chats some clue as to the person’s identity.

Bleu sought advice from the Servicemembers Legal Defense Network, looking to them daily to understand how to contend with an inappropriately enforced policy and illegally obtained evidence. Bleu’s email account was even broken into and a handful of messages collected. Though Bleu complied with the investigation and even aided it – he produced the Yahoo Messenger chats – he chucked up his dismissal to his unwillingness to answer questions. A JAG defender had informed Bleu that he could decline to respond, and Bleu did so. Ultimately, Bleu asked to have an attorney, at which point the questioning stopped. Bleu learned afterwards that the questioning officer – the only judge of Bleu’s fate in the military – had concluded that Bleu’s apparent reluctance to participate evidenced dishonesty.

Bleu admitted that his discharge was not a significant professional loss; less than a year remained on his contract. And challenging the investigation could have had a much larger price tag: a potential criminal proceeding.

Instead, it’s the government that shoulders the burden of the price tag. Bleu explained that the military has spent more than $365 million to fire and replace homosexual service members. Bleu’s training took two years, including a year and a half to complete security clearance. He reported that at least 60 Arabic linguists have been discharged under Don’t Ask, Don’t Tell since September 11.

Even so, Bleu said that 65,000 homosexual service members remain in active service. He also said that this is, to a great extent, not perceived as a problem. Bleu offered some numbers: studies have shown that 25 percent of soldiers know of someone who is homosexual in their unit, and 79 percent of soldiers are okay with this. “It’s sad that the people who make this policy are so detached from the foot soldiers,” Bleu observed.

That other countries allow GLBT individuals to serve openly reveals the policy’s limited influence, Bleu noted. “Members of British and Israeli task forces are serving openly alongside our forces,” he said. “Almost all of my co-workers knew. And it didn’t cause a problem or hinder our mission.” This was especially true during Bleu’s Arabic training; on his dormitory hall, every other room was home to a gay soldier. “I don’t know why we decided we could learn languages,” he commented with a smile.

Numbers also reveal that lesbians are particularly vulnerable under Don’t Ask, Don’t Tell, Bleu said. Though women comprise only 15 percent of the military force, they represent 30 percent of those discharged under Don’t Ask, Don’t Tell.

Bleu remains confident, though, that much will change within five years. Timeliness and a receptive administration will be key to the passage of the Military Readiness Enhancement Act (H.R. 1246),

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“Between the Briefs”

Are You A Sex Offender?

By Rooks

My first Michigan football game of the year was Homecoming weekend, and, as fun as it was to bear witness to Purdue’s decisive whuppin’, and that one alum’s startling efforts to castrate himself by repeatedly swinging hooked swords in the general direction of his crotch, I’m not sure much could top the off-the-field action in the student section. Like an episode of Cops in the making, two officers showed up at my row sometime in the third quarter and proceeded to drag, ahem, gently escort a kid who was twelve kinds of wasted out of the stands.

Now, if being entirely hammered in public were a crime, Michigan’s fans would all be ensconced in a much different Big House, so clearly something else was afoot. Turns out that Sloppy McDrunkerson, burdened with the twin problems of a full bladder and a middle seat, had decided that the best solution to his dilemma was to relieve himself in a cup while surrounded by 110,000 of his closest pals.

Classy.

Unfortunately, what our friend Sloppy may not have realized is that whipping it out in public is indeed a crime, and has more far-reaching effects than wet shoes and/or unimpressed neighbors. Though we live in a world where an attorney can have a three-way with a client and a client’s girlfriend and get off, the looming shadow of Character and Fitness is usually enough to keep even the most debauched law student in relative check.

If for some reason, however, the concept of spending 200 grand only to be told that someone’s held a magnet to your moral compass isn’t sufficiently frightening this Halloween, then perhaps the prospect of sex offender registry can serve as a substitute incentive to straighten up and fly right.

Indecent exposure (e.g., peeing in a cup not on doctor’s orders, or the entirety of the Girls Gone Wild canon) is a misdemeanor in Michigan, and repeat offenses (in the case of indecent exposure, two) can have you listed in the registry, searchable on the internet alongside kidnappers and child molesters faster than you can say “school safety zone.” Forget C&F, how could you explain that one to your family? “Sorry Mom, but I really had to go?”

Flashing your bits isn’t the only surprising thing that can get a guy or gal registered. The next time, ahem, first time you have sex in a public space (unfortunately, I think the stacks count), bear in mind that three convictions for obscene conduct in public can result in sex offender status. (That’s right, Larry Craig is just two wide stances away from even greater depths of ignominy.) Thankfully for me and my potty mouth (and the continued existence of this column), speech doesn’t qualify under MCL 750.167(1)(f), the statute prohibiting obscene conduct. On an interesting legal note, this question was actually decided only this year in Leonard v. Robinson, a case in which a man was suing for wrongful arrest. His crime? Saying “Goddamn” at a town meeting. (Luckily the arresting officer didn’t see the preacher’s daughter in her “Dance Your Ass Off” t-shirt, which allowed Kevin Bacon just enough time to teach the entire town about the joy and power of dance.) No, I am not kidding. (Well, I am about Kevin Bacon.)

I’m not advocating that you break the law, but if you find that oftentimes there’s no way you can make it to the bathroom, or you’re a not-so-closet dendrophile, at least make the possible conviction worth it -- a drunken, scantily remembered night at Oasis Gardens isn’t worth arrest in my book. After all, the Michigan legislature asserts that the reason we have sex offender registry is because “a person who has been convicted of committing an offense covered by this act poses a potential serious menace and danger to the health, safety, morals, and welfare of the people.” Even though, what with all the booze and partying, many of my classmates have certainly posed a threat to my liver’s health and my GPA’s welfare, I strenuously doubt that y’all are the type to disrupt the safety of an entire state.

To submit a question or idea for Res Gestae’s new sex columnist, please feel free to e-mail rg@umich.edu, or, if you’d prefer greater anonymity, deposit your question under cover of night in the RG student group pendaflex outside Legal Research 116.
Law Relationships, An Endangered Species?

By Sumeera Younis

Law school is a place where lawyers are born and relationships die. In this stress inducing, ego-filled, super-busy environment, can a relationship ever survive? To quote Michigan's favorite Tom Cruise look alike: "The short answer is no, the slightly longer answer is yes."

Within the first month of law school my section had twice as many single people as it started out with. Although I was forewarned that law school takes its toll on relationships, I wasn’t quite ready for what happened. All around me people were breaking up. And, there were several break-downs as people dealt with their break-ups. There wasn’t one simple reason for why people were breaking up but loads of different ones. Law school took up so much time that some people couldn’t maintain old relationships. Many people had moved to Michigan for law school, and their relationships buckled under the strain of long-distance love. Others just saw a sea of sexy brains and cut themselves free.

In contrast to all the relationships that ended, our section also saw two of our classmates get engaged after enduring one semester of law school together, and many others paired up and are still going strong. All the things that can contribute to old relationships ending can serve as the foundation for new love. Since law school takes up so much time, it can be natural to pair up with someone you are constantly around. Being away from home and in a new environment, while also dealing with the underworld of law school, can create a strong bond. And frankly, with all the break-ups that happen early in the semester, two rebounds are bound to bump into each other.

If you are already in a relationship, there is no need to pack up all your partner’s things in a box and cue “Bye, Bye, Bye.” Although law school can end relationships, the road to a law degree does not necessarily have to be littered with broken hearts. By now we may all be trained to be terrified of C’s, but there are three C’s that you should come to love: Compromise, Communication, and Cuddling.

1) Compromise. If you are in a serious committed relationship, then you are not going always to be able to do everything your single classmates do. Sometimes you will have to miss a bar night or have lunch at home instead of at your favorite lunch spot of your section. Other times you will have to put away your books and make time for date nights or bite your tongue instead of talking about Pennoyer v. Neff.

2) Communicate. All this compromising might lead to a big case of resentment. To avoid confrontation and to deal with conflicts as they arise, it is important to let your partner know when you need more time to do law school related things or when you are simply feeling overwhelmed. Be clear that this is not an indication that you love them less but a way in which you are trying to keep the relationship stronger for the long run.
Copyright Conundrum:  
An Interview with Professor Jessica Litman

By Sarah Rizzo

Perusing the CD aisles of Borders or Barnes & Noble, it is impossible not to notice the barreness of what used to be a sea of music browsers. In the mid- to late 1990s, newly emerging technologies like Napster brought on a short-lived heyday of free music. Indeed, few took advantage of these technologies more than college students before industries, lawyers, and law professors started paying attention.

Today, the legacy of Napster remains with iTunes and YouTube occupying much of our time on computers, iPods, and iPhones. Whatever one's position, everyone can agree that copyright law has been changing as rapidly as technology.

The RG sat down with Michigan Law's copyright guru, Professor Jessica Litman, in search of guidance for aspiring law professors and to hear about her contributions to an area that is close to many of our desktops.

Res Gestae:  When did you know you wanted to be a law professor and why?

Professor Jessica Litman:

Some time in my first year of law school, because I hated it. I thought law school was just the most awful experience and it seemed to me that it didn't have to be as bad as what I was going through. So, that's why.

RG:  Did things change?

JL:  In the long term, yes. In the short term, no. I started teaching in 1984 and what I discovered was that, for the most part, my students weren't interested in a law school that was kinder, or gentler, or more open to different kinds of ideas. What I had hated about law school the most: I went to Columbia, and I got there with a class of a whole bunch of really interesting, unusual people; and, then over the three years I was there, I watched them all turn into gingerbread cookies. I saw all of these interesting people become less and less interesting and it made me sick in my soul to see that. So, I thought if I were a law professor, I could give people the tools to be whatever kind of lawyer they wanted to be without changing their essential personality. But, when I started teaching, I discovered that most of my students couldn't be less interested in that. They had a vision of what a lawyer was like and they wanted to turn into that person. So, in that sense, I was, I expect, a complete failure at trying to do something different.

Over the years, no thanks to me, law students have changed. They no longer want to turn into gingerbread cookies. And so I discovered that I enjoy teaching them much more than I did 20 years ago. At the same time, legal education would have done that without me. I didn't need to be here for that to happen. People needed to get interested in the law who were more interesting and more interested in other things than perhaps was the case in the early 1980s.

RG:  Do you find that Michigan is different from the other law schools you've taught at?

JL:  Every law school is different. All law schools have their own pathologies and you get used to the ones where you are. One of the nice things about Michigan is that the students are nicer to each other than at many other law schools. That was also true at Wayne [State]. The Wayne students are just really nice and really hard working. Michigan students are not interested in competitiveness to the point of being complete assholes. At some schools that I've taught at that's not true.

RG:  What inspired you to write your book?

JL:  It was suggested to me when I was a Visiting [Professor] at American [University] by Jamie Boyle, who was a professor there.... He is now a professor at Duke [University]. He's just spectacular.... This was '97-98 and I was down at American and in Washington and watching the Digital Millennium Copyright Act get enacted by Congress. We were talking to journalists about some of the things that were disturbing us about what was happening. The reporters were saying "I get it, but I can't get my editor to get it. I can't figure out how to get my editor to understand that this column should run, that it should get lots of column inches and run on the first page." Jamie suggested to me that in some of my own writing was the germ of a way to explain this story to a much wider audience than just the folks who read law review articles. So, he really encouraged me to mine the last ten years of my work, and also the current stuff I was doing watching the statute get passed, to try and write a book that was accessible to an audience of smart people who aren't necessarily lawyers.

RG:  Have you talked to non-lawyers who've read your book and really liked it?

JL:  Oh yeah. It's quite wonderful. I get fan mail from complete strangers who say, "I just read your book and I have to tell you: thank you for writing it."

RG:  You began teaching at the beginning of the digital and internet revolutions. How have changes in your field affected you?

JL:  Oh, it's just fun! I learn new things every year because the law changes and the world changes. It's seriously cool.

RG:  In your book, you mention that Washington was behind the times with the internet and digital technology. Why do you think that was?

CONTINUED on Next Page
Save Your Bids! BLSA Date Auction Moved

By: Sarah Rizzo

I'm at 100, I've got 100, who'll bid 120?" Unfortunately, bidders will be disappointed to learn that the Black Law Students Alliance's (BLSA) annual fall Date Auction has been postponed. An October 18 e-mail announced the postponement with little explanation. Originally planned for Thursday, October 25, BLSA members jointly decided to move their major fundraising event closer to Valentine's Day. This quashes any rumors that the auction was cancelled permanently.

The move to February 2008 more accurately ties into the Date Auction's theme and prizes, according to one BLSA member, which include gift certificates from local businesses, as well as a date just in time for that special day! The money raised at the auction funds BLSA-sponsored programs throughout the year, including legal scholar talks and events.

One BLSA member stated that the Alliance is working hard this year to host additional smaller fundraisers besides the Date Auction and Soul Food Lunch. This will further the organization's goal to provide a firmer foundation for BLSA's future. The Date Auction's postponement, says the BLSA member, will not negatively impact funds. Watch out next semester for information about the Date Auction, as well as BLSA events during Black History Month.

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JL: Lawyers thought of computers as those things that sat on their secretaries' desks. So, without experiencing what networked digital communication can do, it's hard to think it up. If you look at all of the science fiction books from the 50s, the 60s, the 70s, the 80s, they missed the internet! They were talking about robotics, they were talking about a lot of things, but all of the visionary science fiction writers, at least in English, it never occurred to them to imagine the internet.

It was, I think, just a failure of imagination; a sense that the world is always going to be pretty much the way it had been. As a result, as a whole generation of college students were getting free access to the internet, ... the folks who ran things just thought: "oh anything on the internet is free, it's all garbage, it doesn't have any value, no one would want to read that." They would still be saying that about what's up on YouTube, except that folks are watching that, and Apple thinks enough of it to put a YouTube button on its iPhone, and so forth. But, the idea that, if costs were driven down low enough so that you didn't need a printing press to communicate with people and that people would be generating content to interact with each other and would enjoy reading that - that was just a revolutionary idea in 1990 and it didn't occur to people.

RG: What do you think of the recording industry's choice to sue students for sharing music?

JL: That never should have happened. In the best of all possible worlds, peer-to-peer file sharing, in my view, should not be illegal. Canada, indeed, interprets its law so that at least downloading is not illegal. Really, until the Napster case, whether peer-to-peer file sharing was legal was an open question. There is a provision of the copyright statute that allows consumers to make non-commercial copies of recorded music and whether it applied to peer-to-peer file sharing was up in the air. Congress had intended it to give consumers a free pass for all copying of recorded music. But, congress hadn't imagined how devastating it could be if 60 million people could make a non-commercial copy. The 9th circuit decided that, no, that's not legal, and since then every court has pretty much agreed.

The recording industry is suing individuals partly for the deterrence value and partly because it's actually generating some amount of money. What is being reported as the average settlement is between three and five thousand dollars. The cases bring in more than they cost to bring, so long as they settle. If you're not going to court, if you're just going through the settlement center, it ends up generating a small amount of money. Thinking up and starting this whole campaign cost a lot of money but, to the extent there are figures now, it indicates that it may be generating some small income. They need to do that because what they really want is to get the intermediaries. What the recording industry wants is for universities to stop peer-to-peer file sharing, computers to block peer-to-peer file sharing, sites that enable peer-to-peer file sharing to stop doing it, bit-torrent to incorporate some kind of filter, and so forth. Because copyright is set up as exclusive, enumerated rights, they can't actually get the intermediaries unless they are facilitating actual illegal action by end users.

RG: So they're not really after us ...

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STAY AHEAD OF THE CURVE

WORKING TOGETHER FOR A BETTER COMMUNITY

Thank you Kathleen Lentz, Michelle Swiren, Alanna Clair and Luke Meier for participating in our Summer 2007 program.

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Attorneys at Law
Faculty Student Wine & Cheese, 10/23

Photos Courtesy of Adriel Sanders
Save Yourself: A Semester-Long Exercise in Perspective

You're Not the Only One Who Used to Watch Speed Racer

By Liz Polizzi

A bad back, poor eyesight, bad posture, and psychological malfunctions of varying orders of magnitude. These are the physical manifestations of the rigors of law school. But if you see a law student with an actual impact-related physical injury, it can mean only one thing: this is a law student who does something besides eat, sleep, and study on the weekend.

Thus, I am proud to announce that last weekend this intrepid reporter sustained her very first actual sprained ankle (as opposed to the kind you fake in grade school to get out of gym class), in order to present you, dear readers, with one of the many (albeit elusive) "joys of not-law school." Now, when someone asks me why I limp, I enjoy the distinct pleasure of responding, "Motorcycle accident," and then basking in their astonished stares.

You see, there's this class you can take. You don't have to own a motorcycle. You don't have to know how any of the levers and knobs work (I didn't). And in just four days, you too can have a genuine certified motorcycle operator's endorsement added to your Michigan driver's license, authorizing you to operate any two- or three-wheeled vehicle with a gasoline engine bigger than 50cc. At that point, you can go out and begin to learn to actually ride a motorcycle. In that way, it's much like law school.

When choosing a motorcycle class, you have two options: pay $325 to take the class offered at your neighborhood Harley Davidson dealership, or pay $25 to take the state-subsidized version of the same class at your local community college. In either case, the instructor is state-certified, there is one instructor per six students, and the class ends with a skills test that you must pass in order to get your motorcycle endorsement. The difference is primarily in the scheduling:

Studying for some classes is fun!

The class itself is fun and a little scary – just the thing to shake you from your due process doldrums. First, you read a book and learn about what all the parts of the bike are called and what they do, along with some abstract techniques for maneuvering the bike (which make little sense at that point, if you've never been on a motorcycle before, but come in handy later). Then, you journey to a fenced-off parking lot and mount a bike already scarred from the travails of the students who came before.

Sometimes, you dump the bike. This sounds much scarier than it is – I dumped mine three times and only sustained one minor injury. My personal theory is that if you're under five foot ten or so, you're going to dump the bike when you're first starting out, just based on the fact that the slightest loss of balance is fatal for those who lack the leverage to regain equilibrium through sheer brute strength. But as the old biker adage goes, there are two types of motorcyclists: those who've dumped their bikes and those who will. The good news is that for a beginner, most of these mishaps happen at very slow speeds (because the motorcycle has a natural tendency to stay upright when traveling in a straight line at higher speeds), and therefore the damage is usually limited in scope to your pride and

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Halloween Party: A Frighteningly Good Time

The Law School's annual Halloween Party was held last Friday, October 26, at Barnstormers.

The LSSS increased capacity after last year, securing a venue that more than accommodated the 500 tickets sold. LSSS President Hadi Husain believed the party was an "incredible success. I was generally impressed with people's behavior."

In addition to music by DJ. Graffiti, the evening featured a performance by T.J. Hooper and the Learned Hands, the Law School's resident rock band!
time soccer coach Omri Ben-Shahar. Prof. Ben-Shahar finds “faculty intervention in this matter to be inconsistent with the sensitivity that the faculty otherwise have to individual autonomous choices and academic freedom in other areas.”

Prof. Ben-Shahar does not share Prof. West’s concern about students who use laptops to create a verbatim transcription of the day’s lecture. Instead, Prof. Ben-Shahar feels that laptop distraction is caused by “access to internet and games,” and is not related to “the use of word processors over pen-and-paper” for note-taking. He says that he works to “discourage such distractions by calling on people that seem to be busy with their screens.” Students should be warned that Prof. Ben-Shahar can “see the green shade of solitaire reflected in their eyes” and can, with scientific accuracy, identify “the IM-induced smirk.” Prof. Ben-Shahar also tries to discourage computer distractions, awarding students who contribute to in-class discussions by raising their grades.

Even as Profs. West and Katz are feeling more love from their laptop-free class members, Prof. Pritchard is probably going to give you an online pop-quiz tomorrow, and Prof. Ben-Shahar is “pretty sure that 10 years from now the question of banning laptops will be forgotten.” Is laptop note-taking here to stay, or are professors starting to fight back? Does anyone care? Join the discussion by sending your thoughts on this pending issue to rg@umich.edu.

(3) Cuddle. Hey, it’s not all bad! One of the best things about having a partner is that you have someone there to be romantic and fun with as well. Don’t forget that there are definite perks to relationships that make all the hard work worth it. Kind of like law school.
No Other Warranties, Expressed or Implied

A Quiet Moment of Reflection on The Changing of Things

By Nate Kurtis

Everything is changing!

I realize that progress is a good thing, and that everything can’t stay the same forever, but I never thought that the Law School itself could change faster than the editions of our textbooks. Yet, in a slew of announcements over the last month, that is exactly what is happening!

I was still making my peace with the new student lounge and the revamped 138 Hutchins, and hadn’t yet recovered from entirely one third of the law school’s student population turning over a few months ago, when an e-mail from Dean Caminker announced that the Reading Room, a campus landmark so ancient that many of us thought it immune to changes of any kind, would be closed, cleaned, and updated in the coming term. This was followed by news that the LSSS, responding to complaints from last year’s Halloween Party, had found a new, larger venue for this year’s festivities (see “A Frighteningly Good Time” on pages 11). Then an e-mail from BLSA informed us that their Date Auction, a fall classic, would no longer be held in the fall at all (see “Save Your Bids” on page 7)!

These tectonic changes in our tiny Law School community were enough to make even the most courageous among us metathesiophobic. But the Law School wasn’t finished!

Last Tuesday, October 23, students returning from Fall Break found that in their absence things had changed yet again. The Law School’s website, an electronic oasis of stability in these mercurial times, was gone! In its place, the Law School’s Information Technology staff and Communications staff had created a new website. These changes are not merely cosmetic. Dean Caminker, in an email to the Law School community, informed us that even the underlying software architecture is shiny and new.

Sure it’s cleaner, more colorful, and easier to navigate, but what was wrong with the old site?

Then, when it seemed that only the classroom experience was unchanged, last Friday, October 26, the Law School rededicated 116 Hutchins as the “Weil Gotshal Room” in recognition of the generous support of Weil Gotshal LLP.

Once the dust settled from all these changes, the implications were obvious: I can no longer go to class, read, study, surf the web, or purchase attractive people the way I used to! That’s it. No more! I don’t think I could take anything else changing, though there isn’t much I could do to prevent it. I’d protect myself from any more changes by quitting school and living in a box... but those would be changes too!! AHHHHHHHHHHHHH!

Nate Kurtis is a 3L and the Editor-in-Chief of Res Gestae. He can still be reached with comments or questions at nkurtis@umich.edu, his old e-mail address.
which would repeal the policy, Bleu said.

Even though Bleu questions the legality of the investigation he underwent -- "[It] shouldn't have even happened. If the policy had been used legally, I would still be in the military" -- he takes issue with Don't Ask, Don't Tell in principle. "You're taught from the beginning the values of honor and integrity," Bleu said. "Because of this policy, our service members are forced to contradict these values daily by living a dishonest life."

Samara Schwartz is a Land and the Admissions and Faculty Recruiting Chair of Outlaws.

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JL: Initially they sued the intermediaries and when that didn't work they started coming after you guys. Now, I'm not sure they are willing to break the habit. There are any number of advantages to being able to announce that they've gone after another 2000 college students: it scares you; it's not fun for the general counsel's office here which, however it feels, has got to counsel you that the cheapest thing is to settle the case and stop doing it; and it allows them to demand structural changes or changes to the design of consumer electronics and of networks to say, "look, there is all this yucky illegal use happening, we have to sue these consumers, nobody likes it; why don't you just design your networks to block all this traffic?" It gives them leverage that is useful politically.

RG: What are the biggest copyright-related lobbies?

JL: There are giant lobbies. ... You've got the music industry, and that includes separately the performers, the composers, the record companies, and music publishers -- the folks who own the copyright on music, and their interests aren't always aligned. The record companies want to make sure that the record companies get paid a lot and composers and performers don't. Performers want to make sure they get a cut. There are the broadcasters, who have to pay royalties to people. There are the webcasters (who are not broadcasters -- they don't use spectrum; they use the internet; they use glass). The broadcasters would like the rules for the webcasters to be harder than the rules for the broadcasters because that would give the broadcasters a comparative advantage. And there is cable-TV and satellite. So, there is all that. We have the software publishers. We have the hardware manufacturers. We have the consumer electronics industry. We have the telephone companies, who are incidentally the internet service providers, and the cable companies who are also internet service providers, and the WiFi telephone stuff.

All of these folks are trying to lobby. They are trying to preserve the advantages they have, get rid of advantages they don't have, and incidentally protect themselves against whatever new medium is out there in the future. They don't know what it is yet, but they know it's going to cut into their market share. So, they want to write these rules so that they don't have general application.....

RG: I can imagine. What do you think about the continual expansion of the length of the copyright duration?

JL: I think it's bad. I wrote a brief in the Eldred case, signed by 54 law professors, which is posted on my website if you should want to take a look, saying that not only was it bad but it was unconstitutional. But, the Supreme Court said I'm wrong.

RG: What is your personal view on what the limit of fair use should be?

JL: In today's world, I think we're asking fair use to do too much. If you look at copyright historically ... do you know what fair use is?

RG: That I'm allowed to use this without incurring...

JL: Precisely. If you make a photocopy of a law review article to study, you've made a copy. A court would say that's fair use -- you're making it for the purpose of scholarship and research, you're not undercutting the market, and so forth. We're asking fair use to protect people who do stuff like that -- copying for themselves. We're also asking for it to protect what you might call transformative uses, parodies; some of them the kinds of things that the authors of the underlying works wouldn't like to license. We're asking it to cover criticism. The thing about fair use is that the amount of territory it's covered historically has been pretty constant. So, if you stretch it in one direction here, you tend to lose it over there. It's not that elastic.

What has happened in the past 30 years is that the scope of copyright rights have expanded, so that more pressure is being put on fair use. No, this isn't something congress did. Congress enacted the statute in 1976. What's happened is that courts have read it somewhat more expansively. So, you have a non-statutory expansion of what rights mean. And, in addition, copyright owners have claimed large rights without contradiction. For example, when the recording industry sends you a letter and says: "you have engaged in peer-to-peer file sharing. You can either pay us $5,000 and admit your wrong or we can go to court. If we go to court, we'll be able to collect $150,000 for every song on your hard disk and you'll have to pay $50,000 to a lawyer. Or, you can give us $5,000 and we'll go away and you won't hear from us again." Unsurprisingly, most people decide to take the settlement route, but what that means is that we don't give courts the opportunity to say: "Well, does this make sense? What did congress have in mind?" So that rights are, as a practical matter, getting larger as a result of grandiose claims rather than adjudication. And so that has put more pressure on fair use.

I suppose, what I personally if I ruled the world would like to see, is a more constrained definition of each of the

CONTINUED on Next Page
exclusive copyright rights. So that the right to reproduce, and adapt, and perform publicly, have clearly understood boundaries so that we'd be asking fair use to do less because it works best when it applies to exceptional cases. This is in part because, to the extent that you have to go through a trial on the merits to figure out whether a use is really fair or not, that's hideously expensive and it's not fair. So, what I'd rather see is judges cutting back on the expansive definitions of copyright owner rights. I think they will. If you follow this field long enough, everything's a pendulum. Things expand and then they contract, and then they expand and then they contract.

**RG:** What is it like working in a profession that is so heavily male?

**JL:** It's much better than it was. When I first was here, it was very difficult, for lots of reasons. There weren't many women, and many of the older men on the faculty didn't really have an image in their head of a law professor who was a woman. Becky Esenberg and I started at about the same time, and while we didn't look much alike, our colleagues kept getting us mixed up. That was reasonably hard. Women students who needed professors to talk to had to come to the ones that were here and there weren't very many of us, and so forth. There are many more women here now, and it is, I think, a much more interesting and more comfortable place because of it.

In addition, IP is a field in which women dominate. If you get anybody's list of the top ten IP professors in the country, more than half of them are going to be women. It's an historical accident. It's because, in the 1980s when most of us were entering the field, copyright, patent, and trademark were fields that were represented on very few law schools' permanent faculty. Instead, they had adjuncts teaching them and the adjuncts, for the most part, weren't writing. And so, a whole lot of women who were interested in IP came into teaching, and it was a course that was available to be taught.

**RG:** Any surprising fact about yourself that students might not know?

**JL:** Because of my mother, my career in legal education arguably started while I was still a child. She began teaching trial practice at the University of Pittsburgh Law School (her alma mater) in the 1960s, and enlisted me to be the injured plaintiff in a number of mock trials.

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Whether she's playing an injured child plaintiff or weighing in on copyright law, Professor Litman is sure to keep apace of a field that changes as quickly as our internet browser speed.

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### MOTORCYCLE from Page 10

occasionally some added scuffing on the already beat-up bike.

And when, at the end of the second day of riding, you find yourself zooming around the 1/8-mile track in a competent counterclockwise fashion, stopping and starting at will, and traveling at speeds approaching 12 miles per hour, you feel the sense of accomplishment that a mid-June visit to Wolverine Access can never provide. Your passing grade on the skills test means more than your relative position among a hundred of your peers. It means you are free - ready to hit the open road a la Easy Rider, ready to escape bad guys like Trinity in The Matrix ... or at the very least, ready to putt-putt around your own neighborhood a few dozen more times, before finally attaining enough confidence to tackle Packard Road.

For the sake of full disclosure, I should admit that I am really not that good at riding a motorcycle even now, twenty-plus hours and three-hundred-plus dollars later. But at least now I know what all the controls do and have sustained some pretty painful but informative lessons regarding three very important ways to avoid dumping one's bike.

**Cost:** $325 if you do it at the Harley Davidson dealership; $25 if you do it at Washtenaw Community College

**Time Commitment:** ~30 hours at Washtenaw Community College; ~20 hours at the Harley dealership

**Efficacy**\(^*\): 85%

**Conclusion:** Nothing makes you feel less like a law student than donning a motorcycle helmet and taking a whirl around a paved enclosure. On the other hand, this is not the sort of activity that helps reduce stress — and unlike law school, in this context your life really does depend on you not screwing up. But, then, it's all about perspective, right?

\(^*\) Success at transporting the law-sodden mind to a kinder, gentler place.
Law School Events

**Wednesday, October 31**

Gay Rights and Global Wrongs (Outlaws, MELSA, WLSA, ILS) - Sima Shakhsari discusses a transnational feminist approach to Gay Rights in Iran. 12:15 - 1:15; 150 HH.

Dean’s Corner (Student Affairs) - Open forum meeting to converse with Dean Caminker. 12:15 - 1:15; 138 HH.

ICJ Traineeship Program Information Meeting (Int’l and Comp Law) - Information meeting with H.E. Judge Bruno Simma, International Court of Justice, and Assistant Dean for International Affairs, Virginia Gordan regarding traineeships with the International Court of Justice. 12:20 - 1:20; 132 HH.

**Tuesday, November 6**

1L Asia Job Panel (Asia Law Society) - Students who have worked in Asia will discuss their experiences and answer questions about looking for summer internships in Asia. 12:20 - 1:20; 218 HH.

**Wednesday, November 7**

“Working Lunch” Series - Judicial Internships (ACS) - ACS proudly kicks off its “Working Lunch” Series with a discussion on judicial internships! Learn how to apply for internships and what it is like to work at the Michigan Court of Appeals and the Michigan Supreme Court. This series is specifically geared toward helping ILS in their job search. (Food for thought: Potbelly sandwiches will be served!) For other ACS events, please visit us online at http://students.law.umich.edu/acs/. 12:20 - 1:20; 218 HH.

Real Estate Development, ADR, and Seller Due Diligence (Real Estate Law Society) - Jason Horton from REDICO, who was involved with the development of the Palace of Auburn Hills and the redevelopment of the Pine Knob Music Theatre (now the DTE Energy Music Theatre), will address these topics. Lunch will be served. 12:20 - 1:20; 138 HH.

**Thursday, November 8**

Glucksberg and Quill at Ten: Death, Dying, and the Constitution (Michigan Law Review) - The symposium will consider the interplay between the reasoning in Lawrence v. Texas, Washington v. Glucksberg and Vacco v. Quill and the possibility of a constitutional right to a physician’s assistance in choosing the time and manner of one’s death, as well as the implications for substantive due process, morality and constitutional law. 1:30 – 3:00; 3:00 – 5:00; 100 HH.

**Friday, November 9**

ACLU President Speaks - The 2007 Davis, Markert, Nickerson Lecture on Academic and Intellectual Freedom will be presented by Nadine Strossen, Professor of Law at New York University Law School and President of the American Civil Liberties Union. 4:00 – 5:00; 100 HH.

**Monday, November 12**

Homeowners’ Committee and Property Rights in China (Asia Law Society) - Jason Tower, PhD candidate in the Department of Political Science at the University of Michigan, will discuss how homeowners are organizing to change grassroots governance in communities around China and the implications of changes to China’s property law, as well as issues related to property management and problems with community governance. 12:20 – 1:20; 218 HH.

**Tuesday, November 13**

Domestic Partner Benefits in Michigan (Outlaws) - Jay Kaplan will speak about the status of domestic partnership rights in Michigan, fresh from litigating before the Michigan Supreme Court on National Pride at Work v Granholm. 12:20 – 1:20; 138 HH.

**Monday, November 19**

Attorneys’ Role in Real Estate Development (Real Estate Law Society) - Professor Cassard will discuss his experience as a real estate developer and attorney. Great for anyone who wants to become a real estate developer! Lunch will be served. 12:20 – 1:20 pm; 138 HH.

Res Gestae
ger@umich.edu

E-mail us or swing by our office at 116 Legal Research and have a chat about how you can get involved.

We’ll See You Then!