

THE OPINION

William Mitchell College of Law Student Newspaper

William Mitchell's Grading Policy

An Interview with Associate Dean of Academic Affairs,
Professor Matthew Downs



PHOTO COURTESY OF WMCL PUBLIC RELATIONS

What is William Mitchell's grading policy?

William Mitchell has long had guidelines that assist faculty in developing a grade normalization curve for their courses. The faculty is the only body that has authority to set academic policies. Under the current grading policy, the Associate Dean of Academic Affairs (Professor Downs) and the Associate Dean for Skills and Clinics (Professor Schmedemann) are obligated to educate the full-time and adjunct faculty about William Mitchell's grading norms. The goal is to assure that all students are treated equally and fairly by providing parity in grades for all students, regardless of the instructor.

Professors and adjuncts alike are advised of the College's grading practices and the prevailing norms, which are also explained in the Student Handbook. Although there is no strictly enforced curve, in order to assure some parity among the 50-plus classes each semester, one of the deans (Schmedemann, Downs, or Brooks) reviews each professor's grades before they are formally posted. If a particular professor's grades are perceived to be radically out of alignment (too high or too low – both have been examined in recent years), one of the Associate Deans will discuss the College's grading practices and norms with that professor and encourage him or her to take another look at the grades and, if necessary, change them to conform to the curve. If the professor is able to justify to the Dean the reasons for the non-conformity, the grades will remain unaltered.

Is William Mitchell's grading curve mandatory?

No. William Mitchell has established a recommended grading curve. It is not mandatory. The College's grading policy is consistent with that used in most U.S. law schools.

Why does William Mitchell have a recommended grading curve?

The reason William Mitchell has a grading curve is to establish parity and make grade comparisons among students fair. For example, if one professor's idea of a "mid-level" grade is "C," and another professor's idea of

a mid-level grade is a "B", then it would be unfair to those students in professor "C's" class. Most employers look at class rank so raw score is not as important as class rank; hence parity among faculty and between sections of classes is most important.

Another reason for having a grading policy is to guard against grade inflation. For example, if grades are inflated, and 80% of students graduate with honors, then honors don't mean much. In fact, as reported in the press, Harvard College currently is in the process of re-examining its grading policies because so many of its students graduate with honors.

Can the Associate Dean of Academic Affairs change grades?

No. If changes are made, the professor or adjunct must make them before the grades are formally posted and entered on a student's official record.

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Paul Marino-

Champion for the Powerless

by Kenneth Kirwin and Peter Erlinder
William Mitchell College of Law



PHOTO COURTESY OF WMCL PUBLIC RELATIONS

On March 14, we lost a valiant fighter for the poor and downtrodden. Paul J. Marino was born in New York of Sicilian parents on October 29, 1936. He grew up in New York City. He served in the United States Marine Corps Reserves while attending the City College of New York, from which he graduated in 1962. Thereafter, he attended the University of Chicago Law School, where he earned his Juris Doctor degree in 1965.

Paul began his legal career with the Legal Aid Society of Minneapolis. Along with his fellow New Yorker and dear friend, Bernard Becker, Paul represented persons who could not afford to pay for a lawyer. Paul soon became an expert in the area of landlord tenant law, and worked tirelessly in the legislative arena, drafting and securing the passage by the Minnesota Legislature of landmark legislation protecting the rights of tenants, including laws on retaliatory eviction, tenants' remedies, and

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Meet Professor Port!

By Mary Kilgus, 2L



PHOTO COURTESY OF WMCL PUBLIC RELATIONS

We have a new professor at William Mitchell, who intends to nicely round out our IP advantage over the other area law schools. I had the chance to ask him some of the questions I know we all have burning in our minds, so here's your chance to get them answered!

Opinion: So, Professor Port, are you from MN originally?

Prof Port: I'm from Cloquet, Minnesota. I went to high school there. I graduated from Macalester in 1982. After graduation, I moved around to Tokyo, L.A., Miami, Madison, Chicago, Milwaukee, Tokyo and now the Twin Cities. Although I am "from" here, this is really my first experience living here as a professional adult. Some might dispute the use of either of these terms to describe me, though.

Opinion: What are your thoughts so far?

Prof Port: We like living here a lot. I really like the faculty here and the environs. Students should realize how nice they have it here. Most law schools do not have the commitment to high quality and accomplished faculty, technology, and academics that William Mitchell has. This is a really good place. On the downside, we are disappointed with the public education here. We are working hard to improve Stillwater (where we live). I'm thinking of running for the school board.

Opinion: Political aspirations, huh? What in particular would you like to change?

Prof Port: The disappointments in Stillwater are too many students in the classes (some of the biggest in the state), too much development without specific "give backs" from the developers in the form of money and/or land for new schools to ease the overcrowding that their developments have caused. (Apparently, no one on the school board thought of asking for this so the developers have gone to the bank on the Board's stupidity.) There are great, committed teachers in Stillwater, though—just too few people going to college in the end. Stillwater used to

be sort of a college prep type of school, but they can't afford it any longer.

Opinion: It sounds like you have your work cut out for you. I'd like to talk about Japan, though. How did you get interested in Japan?

Prof. Port: I lived in Japan for 7 of the last 20 years. I went there first as a foreign exchange student from Macalester. I moved back to Japan after I graduated from college and worked there as a translator for 3 years. I came back to go to law school and have made several trips back since. I spent all of last year there on sabbatical at the University of Tokyo (for the second time and on my second Fulbright Research Grant). I teach Japanese law to American students on study abroad programs, and I teach Japanese students American intellectual property law. I typically spend most academic years in the U.S. and go to Japan most years during the summer.

Opinion: What are the main differences between Japanese lawyers and American lawyers?

Prof. Port: That is a big question. The easy answer is Japanese lawyers always know where the best sushi restaurant is. Seriously, in Japan, law is still an undergraduate degree. They are considering adopting what they call a "U.S. style" law school system, but today law is a faculty of many (some 140) universities. Japan is a civil law system, like most of the rest of the world (and unlike the United States) so Japanese lawyers tend to focus on the statute, while American lawyers tend to focus on the case law. It is sometimes funny to have a legal discussion with Japanese lawyers. When you say, "the case says X.", they reply, "Yes, but what does the statute say?"

To become "begoshi" (translated as "lawyer" but it is a job far more specialized than the term in English connotes; Japanese begoshi are prin-

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The OPINION

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The Bar Exam: Another Test Of Your Mental Constitution?

By Jennifer Macaulay

I've just endured the February Minnesota Bar Exam and will see or not see my name on a list of people who passed a few days after this paper goes to print. I studied to the point of exhaustion. In the weeks preceding the exam I was unable to tie my own shoes without assistance and resolved to remain in the comfort of my home until I could summon the brain-energy to tie my shoes unassisted. (I figured it wasn't safe outside the house in my mental state.) I ate only Cornuts, kiwi fruit and Flinstones multivitamins and drank coffee and occasionally orange juice or beer. I sat, day after day in a big chair staring at the law, broken down into digestible pieces by a man named Conviser. My dog attempted (unsuccessfully) to escape to my neighbor's house on several occasions, likely because he was afraid. In the early weeks, friends and family would stop by with care packages of various types of food and drink. During the later weeks, people stopped calling and paying personal visits. Even the mailman snuck carefully up to my mailbox and ran off to avoid contact with me. I started to receive flowers and plants from well-wishers, many of which contained

FTD cards that I insist to this day were created to accompany funeral bouquets, or bouquets to be sent to the families of the terminally ill.

Just when you think you've passed whatever threshold of deservingness that marks the established standard for minimum legal aptitude, they'll throw another vision quest at you. They want to know, (over and over again) that you've got the "right stuff" to be an attorney. It gives me pause each time I encounter yet another test of my supposed aptitude. I wonder if at some point the test is really just whether you can bear to take another test without having a full blown mental collapse.

Some test.

On behalf of the Board of Law Examiners, the kind professors at WMCL, the National Council of Bar Examiners, the people who write the LSAT, and even the trolls who put together the ACT's and SAT's, I have attempted to reconcile their claimed justifications for these tests with the reality of what I'm going to do if I pass the tests. To no avail. Here are some of the possibilities I've considered:

1) Mental breakdown predictor. (My preferred explanation.) The problem with this one is that it reminds me of the scary people at the big railroad who decided to steal DNA samples from their employees in order to determine which employees would most easily succumb to workplace injuries. When a tested employee was injured, the railroad could then claim that the worker's genetic propensity for whatever

Well, here it is; my last column as editor for *The Opinion*. It has been quite an experience and I've learned a lot. What I've learned the most is that I could never have done it alone. There are several people who I need to thank for helping me along this year.

First and foremost, I have to thank my husband, Mike Henderson. Without him, I'd never even be in law school, much less editing the paper. And his *Spouse's Sidebar* contributions left me with the confidence that I'd always have something to print in the paper - even if no one else came through.

But of course people did come through - one of the primary of those being Jennifer Macaulay. Jen is one of the people who started up *The Opinion* after it was out of print several years, and she's continued to work on it, even after her graduation last December. Without Jen, the paper wouldn't be here. And the paper certainly wouldn't have been as well-funded as it was this year without Jen's significant efforts; Jen booked all the ads.

Several other students made regular contributions to the paper, including Mary Kilgus, Dan Gilchrist, Chris Frank, Patrick Ostergren and Tracy Harris. Mary Kilgus has been elected

EIC for next year and I know she's going to do a great job.

I also want to thank the SBA. It was very supportive this year and tolerant of my rookie status as a newspaper person. I think the SBA's work with *The Opinion* this year will result in more significant long-term stability for the paper that wasn't present before.

William Mitchell staff, including Kari Jensen Thomas, Diane Lund and Jake Houle, were also very helpful this year and I thank them, as well as the several faculty members who contributed articles, including Dean Haynsworth, Professor Winer and Professor Erlinder.

Finally, I want to thank Andrew Warneke. Andrew has been working with me and Jen Macaulay to improve the look of the paper since May of 2001. His work and patience over the past year have been invaluable.

Thank you to everyone who worked to make *The Opinion* a success and good luck in the future because ...

Whoopee!! I Am Outa Here!!

Jen Henderson



injury worked to mitigate any fault or negligence on the part of the railroad. (The EEOC was certainly not pleased to hear about this.) I wonder if that's not what the Board of Law Examiners and the LSAT people are conspiring to do. I mean, it's not really that hard to do decently on the LSAT's, and I guess 97% of WMCL grads pass the Minnesota Bar exam. If you have passed the Bar, or received decent LSAT scores, I will suppose that means that you did not suffer a complete mental collapse during or prior to the exam. You pass. Gives me pause, that's all.

Of course, the irony here is that in my experience, the people with whom I suffered through law school certainly never struck me as mentally stable. We certainly weren't the poster kids for a strong mental constitution. In fact, there were quite a few of us rumored to be criminally insane. And these people (myself included) are, more than likely going to practice law somewhere, either now or in the near future. If the tests are supposed to weed out the mentally frail, I would argue they're failing miserably.

2) Republicans. I always find it useful to at least attempt to blame all non-sensical things that I encounter in the world on Republicans first. If that doesn't work, I now have the additional option of trying to blame it on Independents or professional wrestlers. But it's always worthwhile to at least examine the Republicans option first. They are, as you probably know, sullyng the fabric of our society with weak thread. Chances are, there are probably Republicans out there, working behind the scenes, toiling day and night to develop things like multiple choice tests styled as "worst of the lot," the Socratic Method, tenure to professors

who don't like to teach, Multistate Performance Tests, "scaled scores," essay questions involving only "limited partners," the Rule Against Perpetuities, the Case Method, the "well pleaded complaint rule," the honor system, lack of parking spaces before class, the logical reasoning section of the LSAT, legalese, standard deviation, grade deflation for 1-Ls... all of which make as much sense as supply-side economics. All the devil's own handiwork. Weak thread.

3) Justifying our existence and the elitism that naturally flows from the justification. When you endure so many tests, you start to think that you must know something. When you pass the tests, you're probably fairly confident that you know something. When you endure and pass numerous Republican-conceived breakdown predictor tests in the context of higher academia, chances are you end up thinking you know something everybody else doesn't. So, I half-wonder if we aren't being groomed to be arrogant pricks. We're just pawns in a giant scheme to give the world someone to blame its problems on... arrogant pricks always make comfortable scapegoats. (Why else do you think they would make us carry so damned much malpractice insurance???)

4) The test-preparation lobby. I imagine that the nice people at Kaplan, Princeton Review, BarBri and PMBR must have a handsome lobby out in Iowa or D.C. or wherever the decision to make these tests is made. I imagine that these lobbyists work tirelessly to convince the powers-that-be to make these tests more impossible and impractical every year to virtually guarantee that we the

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Up Yours, Selig!

By Matt Torgerson, 3L

Minnesota was a sports market "jonesing" for professional baseball. Calvin Griffith knew this when he decided in 1960 to move his Washington Senators to Minnesota, renaming the then forty-eight-year-old team the "Twins," after the Twin Cities. Included in the move were Harmon Killebrew and Bob Allison; soon thereafter Tony Oliva, Rod Carew, Jim Kaat, and Jim Perry joined the team and helped legitimize Minnesota sports by winning the American League Pennant in 1965.

Even though the Twins lost the World Series in seven games to Sandy Koufax and the Los Angeles Dodgers, that '65 season represented to many that one identifiable moment akin to falling in love. And that loving feeling was so strong and exacted such staying power that Minnesota's baseball-passionate public overlooked, throughout the cellar-dweller years of the seventies, the bumbling antics of manager Gene Mach, center-fielder Bombo Rivera, shortstop Willie "Burnt Glove" Norwood, and right-fielder Kenny Landreaux. The fans stood strong. And it paid off with two world championships.

Yet now, after the '01 Twins and their league-lowest payroll kept pace with the all-star caliber Cleveland Indians, fans stand at the mercy of Bud Selig and George Steinbrenner, who wish to eliminate the Twins for one purpose – mo' money.

A few months ago Bud Selig, Major League Baseball's Commissioner, testified in front of Congress and explained how necessary it was to "contract" the Twins – or did he? Not really. He fumbled his way through dispassionate rhetoric while seated at the right hand of the father – Governor Jesse Ventura, who never seemed to say anything substantive, just that "baseball wasn't going to solve any of its problems by getting rid of the Twins." He said it over and

over *ad nauseam*, without supportive logic or explanation. "Why," I asked myself, "isn't Governor Bobble-Head stating the obvious – that Major League Baseball, a cartel, is in blatant violation of federal antitrust law?" Yes, I was aware of the professional baseball antitrust exemption, but I didn't understand why the exemption existed or why it wasn't criticized. After a little research on the subject, I was left puzzled, to put it mildly, with Congress' "positive inaction."

U.S. antitrust law has roots dating back to the industrial revolution. The public learned about antitrust, in part, through famed political cartoonist Horace Taylor. Taylor satirized John D. Rockefeller, the antitrust poster-child, in the January 22, 1900 edition of *the Verdict*. With seeming foresight, Taylor depicted the oil tycoon in the foreground as a gruff twenty-story tall giant holding the Supreme Court Building in the palm of his hand, while the Capitol Building was rendered in the background as an industrial factory spouting smokestacks fully ablaze in profit-making force beyond bountiful though iniquitous oil fields. Selig and Steinbrenner now stand in Rockefeller's shoes, except for one difference. The Supreme Court found Rockefeller's Standard Oil Company had violated antitrust laws in the seminal case, *Standard Oil Co. v. U.S.* Professional baseball and its team owners, unlike Rockefeller and other business owners, enjoy an antitrust exemption and have since 1922. Steinbrenner owes it all to Congress' "positive inaction."

The Supreme Court used Congress' "positive inaction" to justify a baseball antitrust exemption via three cases, commonly referred to as the baseball antitrust exemption "trilogy." First, *Baseball Club of Baltimore, Inc. v. National League of Professional Baseball Clubs* ruled (ridiculously – at least by today's legal standards), that pro baseball is not interstate commerce but rather is

an "exhibition" of state interest, and that its effects on interstate commerce are merely incidental. Second, *Toolson v. New York Yankees, Inc.* reasoned that Congress had lived with the holding in *Baseball Club of Baltimore* for thirty years, yet had not expressly made antitrust applicable to baseball. Thus, the court was unwilling to do so on its own. And finally, *Flood v. Kuhn* cited the "positive inaction" of Congress and, remarkably, accepted the *Toolson* logic on *stare decisis* grounds.

Congress' "positive inaction" with respect to the most recent antitrust exemption melee involving our beloved Twins is surprising, to say the least. Both Senators Wellstone and Dayton are passing up a great opportunity to once and for all subject professional baseball to antitrust law and, in the process, earn heroic status – at least amongst us Twins fans. It seems that the courts, state and federal, are sitting and staring at Congress, perhaps with a slight grin, waiting for positive action rather than inaction to rectify the current exemption anomaly. Yet nothing is being done.

What seems so illogical about the exemption is the antitrust case law that runs concurrent to the line of cases discussed above. For instance, other professional sports are subject to antitrust laws, including basketball (*Haywood v. NBA*), football (*Radovich v. NFL*), and boxing (*U.S. v. IBC*). Moreover, throughout the twentieth century, the Court has interpreted the Sherman Act to mean that express or implied agreements between business cartel members are unreasonable and illegal restraints of trade if the agreement promises to eliminate competition and is not "ancillary" to the transference of property or an employment contract. Certainly the elimination of the only business capable of delivering a product to one community, i.e., baseball, for the purpose of generating increased revenues for remaining

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This is a test. If you read this and don't feel like smiling - even just a little bit - then you've been studying too hard. Take a break!

Two vultures board an airplane, each carrying two dead raccoons. The stewardess looks at them and says, "I'm sorry, gentlemen, only one carrion allowed per passenger."

Two boll weevils grew up on South Carolina. One went to Hollywood and became a famous actor. The other stayed behind in the cotton fields and never amounted to much. The second one, naturally, became known as the lesser of two weevils.

Two Eskimos sitting in a kayak were chilly, but when they lit a fire in the craft, it sank, proving once again that you can't have your kayak and heat it, too.

A three-legged dog walks into a saloon in the Old West. He slides up to the bar and announces, "I'm looking for the man who shot my paw."

Did you hear about the Buddhist who refused Novocain during a root canal?

He wanted to transcend dental medication.

A group of chess enthusiasts checked into a hotel and were standing in the lobby discussing their recent tournament victories. After about an hour, the manager came out of the office and asked them to disperse. "But why?" they asked, as they moved off. "Because," he said, "I can't stand chess nuts boasting in an open foyer."



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Alumni Column: Law School and Life Afterwards

By Peter Reyes, WMCL 1997



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Although life during law school at William Mitchell College of Law was an exciting, if somewhat hectic, experience, life post-law school has been well worth the sacrifices I made. Like many students, I worked full-time (as a Senior Environmental Scientist) when I began law school in 1993. In addition, I had two children when I began and somehow had three children when I finished. I was originally interested in environmental law, but intellectual property law caught my attention and I never looked back.

I was fortunate enough to get a judicial clerkship with the Honorable Salvador M. Rosas in Ramsey County while in law school. Although I took a 50% pay-cut and lost the benefits and security of my previous position, it was the best move I ever made. I was able to observe numerous trials, learn the inside workings of the courthouse, and watch some of the best trial attorneys in the state. My experiences with Judge Rosas and Ramsey County were rather unique, including roles as a juror (and foreperson), a judicial law clerk, and even a victim witness.

After my first year of law school, I was thrilled to be chosen as a juror for a trial in front of Judge Rosas on a criminal matter. I suspect I was picked because the attorneys thought a first-year law student, who didn't even know what *voir dire* was, would be harmless. Two years later, I became Judge Rosas' law clerk. Then, in 1997, I was a victim witness in front of another judge against Joanna Rivera, who was charged with second-degree murder in the shooting of my uncle Louis Reyes, a Viet-Nam war veteran who had received the Purple Heart. Joanna Rivera became the youngest person, at 14 years of age, to be tried as an adult. She was sentenced to 15 years. In a final strange twist, Ms. Rivera testified as a victim in a sexual abuse case before Judge Rosas in 2000. The jury dismissed the charges, finding that Ms. Rivera's testimony was not credible.

I graduated from William Mitchell with honors in 1997, and began working at the law firm of Robins, Kaplan, Miller & Ciresi L.L.P. as an associate in the Intellectual Property Litigation Department. I had been a summer associate at Robins for two summers while in law school, but found the experience as an attorney quite different from the summer associate experience. For example, as a summer associate, you are given work, critiqued on each project, and given periodic feedback. In contrast, as an associate, it is your responsibility to find work and get feedback.

Although I thoroughly enjoyed litigation and my experience at Robins, I found the time commitment to be rather challenging in trying to balance time spent on work, extra-circular activities and, most importantly, family. In 2000, I took the Patent Bar and became licensed to practice before the Patent and Trademark Office. Shortly thereafter, the recruiting calls came in on almost a daily basis. I ignored them until a law school colleague and friend called about an opening at Cargill for an Intellectual Property attorney. He asked me if I wanted to get in on the ground floor of a newly formed Intellectual Property division. I said yes.

After four years of litigation at Robins, I took the plunge into the corporate sector in 2001. The amount of responsibility is greater as a corporate attorney, since I am now the Intellectual Property attorney for a number of business units and corporate functions within Cargill. Rather than the vertical oversight that exists in a law firm (such as partner review), I now rely on my colleagues for input and feedback when necessary. In addition, rather than focusing primarily on the litigation process, I am now focusing on the business goals and tailoring the legal advice to compliment those goals.

Finding the time to devote to outside activities at Cargill recently led to unexpected recognition. I was honored as one of the Top Ten Attorneys in Minnesota in 2001 this past January by *Minnesota Lawyer*. Although I do not think I deserved the honor, they cited the reasons for my recognition as my involvement as President of the Minnesota Hispanic Bar Association and my other professional and community activities as a young lawyer. I sincerely believe that we as professionals have a responsibility to give back to the community, and this recognition has strengthened my resolve to give back to the legal and greater community.

While I took the traditional route out of the law school, the beauty of a law degree is the ability to take any number of career paths (e.g., law firm, corporate, government, non-legal, etc.) or move from one area into another as I did. Each path has its own advantages and disadvantages. It all depends on what you are looking for. In any event, I have found my law school and professional legal experiences to be rewarding and fulfilling.

Up Yours, Selig!

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cartel members in other communities is a Sherman Act violation.

The successes of the NBA and NFL are attributable, at least in part, to a revenue sharing scheme, where each team owner receives equal revenue, regardless of the team's success. With such a scheme it's rare to see the same team, like the Yankees, reach the championship game or championship series five of six years. But why would George Steinbrenner, the owner of the most popular and high-

Spouse's Sidebar

By Mike Henderson

It's happened in Paris as well as other lesser known glamour spots like Overland Park, Kansas, Winnipeg, Canada and Lutsen, Minnesota. In fact, looking back, I can recall seeing "the look" from my favorite law student just about anyplace we've been in the past three years after she's completed a semester.

Any spouse who pays attention occasionally... let's just say any spouse with better than 20/2000 vision has probably noticed "the look." It's the same look a late-night TV hypnotist gets from his audience volunteers just before he asks them to whinny like a horse.

On our trip to Paris a few days after her first semester, I saw "the look" while gliding down the Seine on a *Bateaux Mouches*. I noticed "the look" while searching for Jim Morrison's grave (who said we're not cultured?) and again while dining on *jambon* in a romantic bistro. After our fifth straight meal of *jambon* accompanied by "the look" (the French love their ham, but that's another story), I confronted her. I snapped my fingers which had the same effect as turning the headlights off on a deer's glazed eyes. She came to. I asked what was going on: Was she overtaken by the romance of the City of Light and my company? Was the *jambon* too good for words to describe?

With that the flood gates opened. Except for several attempts to say the word 'relax' I said very little. "Do you think grades are out yet?" "Can we check William Mitchell's web-site from here?" "Grades ought to be out by now-maybe I should call the administration-what's our country code?" "Perhaps there was a problem with one of the finals I took-could we get your mom to check our answering machine?" "Could the delay mean they're

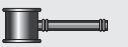
adjusting our grades-and if they're adjusting them I'm sure it's downward-they'd never raise them."

"The look" continued throughout our trip. When we got back home, despite all of her paranoia and panic attacks, the grades were still not out. The deadline for grades to be posted, a date highlighted and circled prominently on every calendar we owned, came and went and still no grades.

As any spouse worth his salt would do, I continued to reassure her. "The grades will be out any day" I said. "The delay does not mean anything" I said. "Don't be silly, they would never recalculate and then lower your grades" I said. Finally, on a bright and sunny Saturday afternoon, after checking for her grades on William Mitchell's web-site throughout the day like a compulsive obsessive washing his hands, she struck gold. All of her grades were in and official.

After almost four years of this craziness I'm sorry to report that we have not gotten much better at handling this problem. She never seems to get her grades until a few days after each 'deadline,' but she continues to check the web-site at a manic pace mere hours after her last exam. We do stay closer to home now during breaks. It is much easier for my spouse to check her grades via the Web and pester the administration from home versus a French bistro.

We are starting to sleep better as she heads into her final semester, knowing that senior grades get priority. But every once in a while, when I'm passing the pepper to my favorite law student during a rare dinner together I'll see "the look" reappear. "Will they really get my grades out quicker this semester?" she'll mumble. "How will they know I'm a senior?" "When..."



est revenue-generating baseball team in the world, agree to team revenue sharing? For some of us, the objection might be based on a loathsome view towards socialism, but for Steinbrenner, it is most assuredly based on his bottom line. It would be a rip-off for "The Boss" to receive revenue equal to that of the owners of, say, the Twins and the Montreal Expos.

Certainly the motive behind contracting the Twins and the Expos is driven by a deal between the Steinbrenners of MLB and Bud Selig ("we'll agree to revenue sharing if you foist get rid of da Twins and da Expos"). Ordinarily, such an arrangement would be a blatant "naked restraint" of trade and an antitrust violation.

In baseball's willingness to exploit its seductive effect on the citizenry of the United States - the country that recognizes the sport as its "national pastime" - team owners have demonstrated they own neither as hobbyists nor as public interest philanthropists; they own as profi-

teers. George Steinbrenner will continue to afford \$100 million annual player payrolls and twelve-year, \$468 million television contracts securing broadcast rights at local stations. It is patently obvious that antitrust treatment of the George Steinbrenners of the world who generate profit from the consumer is not consistent. In response, I have to say: A little consistency, please - if not for my sake, then for Willie "Burnt Glove" Norwood.

Post Script: The first WMCL student that explains to me how Norwood got his nickname gets a coupon for one free drink at Billy's.



Forum CHANGING GRADES

What Happened To My GRADES?!

By Jen Henderson, 4L

This Forum is dedicated to William Mitchell's grading policy. Dean Downs explains the policy in the interview he did with *The Opinion* on page 1, and a copy of the policy is re-printed here.

Grades and the grading policy became a hot topic this past semester (even more so than usual) when some students discovered either their grades were changed, or their grades did not conform to grading criteria set by certain professors at the beginning of the semester. I have several friends who were in some of these classes, which are said to include Legislative Advocacy, ADR and Corporate Ethics and Decision Making.

In order to demonstrate what happened, I asked some people from these classes to share their stories with *The Opinion*. A few friends were kind enough to comply, although they were hesitant to disclose their identities. (Grades, as we all know, can be a very personal and sensitive subject and there's not a lot of confidence in the system right now.) I

agreed to withhold the names of these people, but I know many of you will recognize their stories as similar to your own.

My goal with this Forum is to simply present information for your evaluation. After reviewing Professor Downs' comments and the stories presented here, you may feel the policy is fair and was correctly applied; you may not. I would suggest, however, that if you feel the policy is wrong or that it was unfairly applied, you should speak out. Professor Downs indicates in his interview that he is open to comments; Professor Jordan is also reviewing student concerns. You have the opportunity to create change. Use it or lose it.

Here are three stories for three different classes:

Misleading Grading Criteria - One Student's Story

I was a student in Professor Breen's Legislative Advocacy class. We were told at the beginning of the semester that we would be graded on three papers, and that class participation may count. Mid-semester, Professor Breen changed her mind and instead of having us do a third paper, we did a group exercise. I received an A- on the first paper, an A on the second paper, an A on the group exercise. I did not miss one class and participated in every class. According to the standards Professor Breen laid out (the first paper was only going to count for a small portion of the grade, and the other two papers for the majority), I should have received

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William Mitchell's Grading Policy ~ An Interview...

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Can the Associate Dean of Academic Affairs force professors or adjuncts to change their grades?

No. The professors and adjuncts turn in their grades to the Registrar, and then the raw scores are reviewed by Dean Brooks or one of the Associate Deans to see if they fall within the guidelines. There is no strict curve, so the review is subjective and intended merely to check for extreme variances from the typical grading practices of the College. The deans discuss the grades with a professor if the grades submitted are inconsistent with the guidelines, but the only power the deans have is to educate the professor about the College's grading norms and to encourage the professor to grade accordingly. A dean cannot force the professor or adjunct to change the grades and has no authority to submit the grades to any other person for review.

May grades be changed once they are posted?

Once grades have been through the approval process and are posted officially to the student's record by the Registrar, they may not be changed except for mathematical or computational error. My understanding is that students who bookmarked their unofficial transcripts last semester were able to access their grades while we were working on them. The IS department has now corrected that situation. If students did get raw

data prematurely, I can understand why they would be dismayed to see their grades changed. But the policy cuts both ways. Sometimes I encourage faculty to raise their grades; sometimes the opposite.

We have to speak with faculty only about two or three times each semester and then mostly with newer faculty. Our efforts are all part of trying to make sure that the 100-plus instructors here at William Mitchell – all dedicated and all trying to do a good job – treat all students fairly. In general, grades are not formally posted until they have been through the approval process and once grades are posted to the student's record, a grade may not be changed except for a clerical error in entry, or because of a mathematical or computational error.

The grading policy posted on William Mitchell's web-site states: "No grade, once submitted to the registrar, can be changed other than upon discovery of an arithmetical or recording error." When is a grade "submitted to the registrar" for purposes of this policy?

A grade is not submitted until the grades are posted on the student's official record. Once a grade is posted to the student's record, a grade may not be changed unless, of course, there is a clerical error in entry, or because of an arithmetic or computational error.

It seems like grades take a long time to come out. Are there grading deadlines for professors and adjuncts?

Yes, there are deadlines under

Grading Policy

The associate dean for academic affairs shall advise faculty members of the college's grading policies, practices and typical grading curve. Prior to each grading period, the associate dean for academic affairs shall distribute to the faculty information about past grading practices, including the typical grade distribution, median and mean. The associate dean for academic affairs or the dean of students shall review all grades prior to posting and, if necessary, the associate dean will discuss substantial grade disparities with the appropriate faculty member.

Notice of Grading Criteria

If all or part of a course grade will be based on activities, standards, or tests other than a written examination at the end of the course, the instructor must announce the basis for grading before using those activities, standards, or tests, preferably at the beginning of the course.

Grade Changes

No grade, once submitted to the registrar, can be changed other than upon discovery of an arithmetical or recording error. No administrator or faculty member may undertake to review or re-evaluate a faculty member's exam for the purpose of changing the grade. This policy is subject to the rules adopted under the Policy Against Discrimination and the Policy Against Sexual Harassment. All grade changes must be approved by the associate dean for academic affairs. Students who have questions about a grade should

review the examination with the instructor who taught the course.

Grade Posting

Students view their grades on the Web by going to the William Mitchell Home Page (www.wmitchell.edu), clicking on [Academic Information](#), [Grades](#). The [Grades](#) page is password protected. Students who owe money to the college will not be able to view their grades. For grade security purposes, grades are not given out over the telephone. There are no exceptions to this policy. An "NR" indicates that the student's grade has not yet been reported to the Registrar's Office.

Grade Reports and Transcripts

Students receive grade reports each semester and an official transcript upon graduation from the college. Students may obtain transcripts at other times by completing a transcript request form (available in Student Services), or by sending a written request, with the student's signature, to the Registrar's Office. The cost of a transcript is \$3. Transcripts are produced twice a week. If a request is received by 3:00 p.m. on Tuesday, the transcript will be available in Student Services on Wednesday morning; if the request is received by 3:00 p.m. on Thursday, the transcript will be available in Student Services on Friday morning.

Under no circumstances can the college release photocopies of students' transcripts from other academic institutions. Students must request those documents directly from the academic institutions they attended.

William Mitchell's policy. All graders are aware of the policy and work hard to comply. We always seek to provide good service to our students by getting grades done in a timely manner. We do, however, allow for deadline extensions if there are compelling, extenuating circumstances justifying the extension. But even then, we seek to have grades turned in as quickly as possible. While I cannot talk about specific reasons a deadline for a specific professor might be extended, William Mitchell offers between 50 to 60 courses each semester, which means there are nearly 50 persons involved. It could be that an illness or family emergency or some other compelling event may occur but generally, the faculty really do seek to submit grades on-time. I'm not aware of anyone who is shirking their responsibilities with respect to the grading deadline.

Who sets the grading policy? Can you amend it?

The full-time faculty establishes of the College's academic policy and the deans administer the policies. I fully support our grading policy and think it is prudent given the countervailing considerations. I have no power to amend the policy, but I certainly can submit recommendations for change to the Academic Affairs Committee for study. That being said, the grading policy has been discussed several times since I have been at William Mitchell (golly – almost twenty years now) and our policy is consistent throughout legal education, so I am not optimistic that any radical

changes are forthcoming.

Would you like to share any concluding comments?

These issues are important, I feel strongly about achieving grading parity, so I am glad to discuss concerns and the policies with students or others.

Post Script - After speaking with Professor Downs, I wanted to know when grades are actually final, i.e., once I see my grade on the Internet, can I rely on the fact that it is final? He directed me to Judy Holmes, the registrar, in Student Services. Judy told me IS has assured her student's can no longer view grades while they are being worked on.

In any given semester, final, posted grades are generally available for viewing from Friday evening to Monday morning. Once most of the grades are in, they are available for viewing more frequently. According to Judy, if your grade was posted, and then later in the semester you see the message "N/A until [date]," that does not mean your grades are being changed. It only means that new grades are being entered but the Registrar must "take down" the entire system in order to enter grades.

So the answer to my question seems to be this: If you are viewing your grades at the appropriate time, those grades are a final grade. If you are some kind of technical wizard and you find a way to circumvent the system to view your grades through a "backdoor", review grades at your own risk; they may not be final.



Meet Professor Port

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cially litigators), one has to graduate from an undergraduate program in law and take an entrance exam to the Legal Research and Training Institute run by the Supreme Court. This is the only “begoshi” certifying authority in all of Japan. They currently admit only 1,000 people a year. This entrance exam has a passage rate of about 3% and students sit for it an average of 6 times. It is only offered once a year!

Begoshi tend to be really smart and rather wealthy people who are used to working very long hours. And so, they tend to know where the best sushi restaurants are located.

Opinion: How do the Japanese lawyers react to you?

Prof. Port: Because I speak the language, I move about rather freely and independently. Lawyers tend to be rather independent minded people in Japan, so I seem to click ok with them.

Opinion: What is the most fun for you in Japan? And, what did you like the least?

Prof. Port: Finding the best sushi restaurants. Seriously. The food in Japan is fantastic. Most American restaurants and supermarkets would be bankrupt in a week if they were in Japan. Food is expensive, but it is of very high quality. Speaking of sushi, last year it snowed in Tokyo a couple of times. I didn't own or use a car there (lots of trains). One night I watched a sushi chef show off his trade on a TV show with my kids. After I put them to bed at 9:00 P.M., I rode my bike about 3 miles through frozen, slushy streets to the closest

store that was open where I could buy sushi. I guess that is my favorite part of Japan.

The least? Most people, me included, hate the crowds in Japan. Japan is, after all, very crowded. Japan has 1/2 the population of the U.S. and is about the size of the state of California. Oh, and it's mountainous so people live in small isolated pockets of flat land amounting to something like 1/3 of all the land in Japan. That's like putting 1/2 the population of the U.S. into 1/3 of the state of California. Get the picture? It's crowded. The good news is the Japanese birth rate is way down. They expect Japan to be down to about 100 million (from its current 125 million) by 2050. If you really hate crowds, you might want to wait until 2050 to visit Japan.

Opinion: What do you hope to accomplish, now that you are at William Mitchell?

Prof. Port: I hope to further establish WM as a leading institution for the study and education of intellectual property law. IP oftentimes forgets there are international borders, so I hope to teach IP from a comparative perspective emphasizing that the world has really shrunk. I am a trademark person by training; my scholarship is mostly in the trademark area. I hope to also establish WM as a place recognized for educating AND PLACING highly trained trademark people who can really make a difference.

Professor Port is currently teaching Trademark Law and is currently writing a book comparing Japanese and American IP law.



easily stained by the dye in our fine Italian leather pumps when we are forced to walk outside in bad weather, student loan debt actually being due, snotty associates from Ivy League schools bossing you around like you're their secretary from their bigger office than yours, bad CLE's that take all day, and friends who wonder why you never call anymore along with children who have taken to calling you by your first name rather than “mommy” or “daddy”... if they remember who you are.

But the routine complaints don't hold water with non-lawyers. Your complaints are disposed of quickly by reference to your large paycheck and the relative apparent splendor of your “professional” lifestyle. This is when a lawyer will need to rely on the favored excuse to complain, referencing the eight weeks you spent buried in BarBri outlines preparing for the two-day Bar Exam, or a question on the LSAT involving Able, Betty, Cathy, Mike and John who insist upon standing in a circle and rotating clockwise before aligning in a queue for the water fountain. That'll shut them up every time, and will allow you to garner sympathy if needed.

(Note: When you tell your non-lawyer friends about the Socratic method, as a general rule they don't believe it's that big of a deal. LSAT and Bar Exam whining is far more effective.)

6) Miscellaneous. Theories involving aliens and spaceships; conspiracy theories involving Canada and Louisiana; X-files-type CIA/DOD cranial research; alternate universe philosophy; existentialism; the paper lobby; the booze and cigarette lobby; or punishment for past-life bad acts. (This is not an exhaustive list).

The day before the bar exam, I left the house for a few minutes clad in my flannel boy-pajamas, a hat, and a pair of sandals at least four sizes too big for my feet. My sister had asked if I could pick her up so that she could sit with me. (No doubt she was seriously concerned for my sanity). Upon our return to my home, one of the gigantic sandals caught on the edge of the step leading to my front door, whereupon I proceeded to fall. Usually when I fall, I'm taken with that adrenaline-fueled realization that I am in fact going to hit the deck, and I let out a grunt along with an expletive followed by either crying or shaking off. This time, when I realized I was falling, my split-second reaction was to protect my writing hand. Under no circumstances could my writing hand be compromised during this fall. In order to protect the hand as best I could, I made fists and crossed my arms against my chest. In slow motion, I then started toward the ground... head first.

It hadn't occurred to me during those split seconds that my head was probably as important as my writing hand for bar-exam purposes. The rest of my body inevitably followed my head, smashing into the concrete, writing hand first. Certain that I would soon begin to lose my short-term memory (where all of the bar trivia was stored) and dumbfounded by the mangled state of my writing hand, I decided to stop studying and began to silently pray for the end of the world.

Yeah, I ended up taking the exam after all - about fourteen hours later. If my number isn't on the list of passing scores, I will maintain that it was a proximate result of my head and hand injuries. I was careful to make certain that all of the other February bar exam victims were fully aware of my handicap so that if I failed the exam, the rumor mill would spout out a more sympathetic sounding pity for me. Friends occasionally checked my pupils for signs of a concussion, which was a nice touch. Proctors during the essay portions of the exam would pause and stare at the mangled state of my writing hand with this kind of pitiful, sucks-to-be-you-you're-probably-going-to-fail-what-the-hell-did-you-do-to-your-hand look. (Tenured friends know well that I am skilled at the art of working the pity angle.)

When I finished the exam I headed for the bar and ordered a stiff drink. For the first time in five or six years, the bartender asked for my ID. Of course I couldn't find it, so I engaged the poor soul in a long debate about the fact that I could not possibly have a Minnesota Bar Examinee photo ID card if I was under 21 years old... to no avail.

When I got home I took a long look in the mirror to see if I really looked that youthful and realized to my chagrin that I had begun to grow a patch of wiry looking silvery hairs on the top of my head. Not only was I graying, I was graying in the ugliest of all possible formations. I spent a few hours trying to liberate the ugly hairs from my skull and when I had fashioned a nice bald spot on the top of my head I finally went to sleep. I think I might have slept for a couple of years because when I woke up, I felt as if the world had changed drastically.

This isn't the first legal education obstacle I've surmounted and it probably won't be the last. I just can't help but feeling like most of the hurdles and obstacles to practicing law are totally unnecessary. They're like vestiges of the days when old white men wanted the bar to be an exclusive club. It makes me fairly resentful. Here I sit today, no longer able to answer the Rule Against Perpetuities questions that I had all but mastered a few weeks ago, with new ugly hairs still sprouting up from the top of my head, mangled skull and writing hand, dying funeral bouquets throughout my house, a dog who fantasizes about calling a social worker, and a bar examinee number burned on my brain. If this has served some sort of purpose in the grand scheme of things, I sure would like to know what that purpose was. If it's still all about exclusivity, I'm going to be really pissed off.



What I Expected

By Sir Stephen Spender

(Submitted by Matthew Krohn as a description of the first year of law school.)

What I expected was
Thunder, fighting
Long struggles with men
And climbing.
After continual straining
I should grow strong;
Then the rocks would shake
And I should rest long.
What I had not foreseen
Was the gradual day
Weakening the will
Leaking the brightness away,
The lack of good to touch
The fading of body and soul
Like smoke before wind
Corrupt, unsubstantial.
The wearing of Time
And the watching of cripples pass
With limbs shaped like questions
In their odd twist,
The pulverous grief
Melting the bones with pity,
The sick falling from earth-
These I could not foresee.
For I had expected always
Some brightness to hold in trust,
Some final innocence
To save from dust;
That, hanging solid,
Would dangle through all
Like the created poem
Or the dazzling crystal.

The Bar Exam: Another Test of Your Mental Constitution?

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test-takers feel powerless without the benefit of their costly test-preparation classes.

5) Excuse to complain. As lawyers, and even as law students, we are really part of an elite socio-economic stratum of professionals. Of course with the benefits of this status come responsibilities to our community, to the disenfranchised, to preserving and protecting the constitutional dictates and guarantees of the state and federal government, and even to ourselves. Whence we venture out into the “real world” with our freshly minted diplomas and licenses to practice law, we will sooner than later find reasons to complain. The routine complaints about the massive amount of billable hours required to stay on the partner track, the irritability of clients when calls are not returned minutes after the voicemail is left, the fact that the feet of expensive pantyhose are so



Courtroom Experience Required

By Lori L. Bower, 1L

On one day in February, I had my first encounter with our legal system and some real first-hand experience; I went to court... to dispute a traffic ticket. Because I am a first-year law student - rookie of the legal world - I was excited about the opportunity to experience the legal system first-hand. The experience, however, was not all I had hoped for.

This was not just any traffic ticket; my ticket was a product of a brand new law passed in the spring of 2001. The fine for my ticket is not even listed on the fee schedule the officer so graciously handed me at the scene of the "crime." Ok - here's my public service announcement for the students of William Mitchell: When you are on a multiple-lane highway, you must change lanes to the furthest lane away from a parked emergency vehicle; it is now the law. While I agree it is common courtesy to give an officer or emergency vehicle some space on the side of the

road, what if you have no space to give?

My plan was to plead guilty with an excuse. My excuse was that I had no choice but to stay in the lane I was traveling in, because the car that was passing me on the left slowed down when he saw the emergency lights, preventing me from moving out of my lane in any reasonable way except to slam on my brakes and pass in an intersection. I learned in Torts class that there are some situations where citizens can legally not adhere to a statute if it would be dangerous to do so and I was all excited about going to court, so I could share my newfound knowledge with the judge. I researched the statutory history on Westlaw and I had a good legislative intent argument all cooked up.

What I hadn't anticipated was how inefficient the county court system is. First, I had to sit in the courtroom forever. The court administrator didn't arrive until 8:45 a.m., while we were supposed to be seated and ready at 8:30. The prosecutors did not roll in until around 9:15, at which time they proceeded to munch on cookies and chat about the weather for the next 15 minutes. I was not especially pleased with this, because I was missing work to come and use "our

system" so that justice might prevail in the situation.

When I went in to discuss my situation with the prosecutor, he was totally rude. While I was sitting in there, I was thinking, if I didn't know anything about the law, I would be really confused. I would definitely think I did not have any good options. He made me feel like presenting my case to the judge was petty. And he made me feel like it was in my best interest to pay the ticket and get out of his hair which made me really angry. After my morning in court, there was no way I wanted to pursue the matter any further. I had already taken time off of from work to sit around while everyone munched on their cookies, and I really had better things to do.

I walked out of the courtroom feeling completely frustrated on that bright, February morning (which happened to be Valentine's Day although I did not get any love from the Washington County District Court). I understand the courts probably have to deal every day with traffic ticket cases and people whining about how they do not like the laws. (One lady outside the courtroom explained to me that her excuse for speeding was that the speed limit

was too slow.) I can imagine how tiring that can be. But, when you have concerned citizen with a valid issue, I do not think he or she should have to walk out of court feeling like it was a big bother to come and use the system that is in place for that very reason.

Maybe my experience is small, and I am just one person in a very big, clogged judicial system. And maybe my ticket was a deserved one. But as I go through law school, I plan to remember this experience. And whatever type of law I choose to practice, I plan to remember that all people deserve respect and fair treatment, from the felon to the loiterer, and from the elderly to juveniles. I don't think being an attorney, judge or prosecutor gives you a license to be rude. Timeliness, a listening ear and respect are things all people deserve, no matter who they are.



Died September 11th

By Dan Gilchrist, 3L

New Year's Day at my house was peaceful. It was a lazy, carefree day. The holidays were over and so was 2001. Having the day off from both work and school, I had time to reflect. I contemplated the passing of another year.

The first year of the Third Millennium, 2001, was a year of loss. The U.S. economy had its first recession in a decade. Billions of dollars were lost in the capital markets. Tens of thousands of Americans lost their jobs. The world lost famous people like Dale Earnhardt, Carroll O'Connor and Jack Lemmon. Then, as things already looked bleak and as 2001 turned from summer to fall, America suffered perhaps its greatest loss ever -- September 11th.

When the infamous hijackers used our planes to attack our country, we lost more than the lives of the 3,000 victims in New York, Washington, and on board the hijacked planes. We lost so much more; we lost peace and security. In one morning, the enormous Twin Towers that had loomed large over Manhattan for 30 years were gone. Thousands of people disappeared with them. The collective wind was knocked from the nation's lungs. New York City will never be the same. America will never be the same.

On New Year's Day, my reflections led me to search for photographs I had taken of the World Trade Center ten years before their astonishing destruction. I found those photographs and looked at them. What I discovered shocked me.

In the foreground of one of my photos of the World Trade Center - a photo I took ten years ago - was a gravestone with the words "DIED SEPT. 11th" clearly chiseled in it. It was an astonishing moment on my day of sad reflection. Why did I

photograph the World Trade towers with a gravestone in the foreground? More ominous, how did I happen to choose that particular gravestone engraved "DIED SEPT. 11th"?

My feeling of gloomy coincidence faded into sad remembrance. The year 2001 was a year of many losses, none greater than the passing of the World Trade Center and its inhabitants. A little part of us all died September 11th.

For additional articles about September 11th, refer to the November 2001 issue of *The Opinion*. If you have photos or stories you would like to share for the next *Opinion*, contact next year's Editor-in-chief at Mkilgus@wmitchell.edu.



Photo by Dan Gilchrist ©2002

The Good News Report

Contributed by Diane Lund

During November and December, **Dean Haynsworth** attended the Minnesota Justice Foundation's Annual Fall Fundraiser, the MABL Scholarship Gala, the Judicial Clerkship Luncheon at William Mitchell, meetings with the ABA Business Law Section in Washington, D.C., the Landmark Legal Series Advisory Committee, the Minnesota Zoo Board Governance Committee, the I-94 Signage Task Force, the Capital Campaign Steering Committee, and the CLL Board of Directors. Dean Haynsworth also chaired the National Conference of Commissioners on Uniform State Laws (NCCUSL) Cross Entity Merger & Conversion Drafting Committee meeting in New Orleans in late November. He hosted a retirement dinner for Paul Marino, a retirement luncheon for Judge Donald Lay, a farewell get-together for Aviva Breen, Dean's Round Table sessions with Michael J. Miller '77 and Joel A. Lebewitz '79, the WMCL Annual Holiday Party, and made welcoming remarks at the seminar on the aftermath of Sept. 11 presented at the annual Alumni/ae Association meeting. Finally, Dean Haynsworth purchased at auction the Judge Charlie Brown statue and returned him to his place of honor at the main entrance of the college.

Over the holiday break, **Associate Dean of Academic Affairs Matthew Downs** lectured on Corporate Governance: Fiduciary Duties of Directors and Officers to the graduate law students at Thammasat University, Faculty of Law, in Bangkok, Thailand.

Professor Peter Erlinder was interviewed November 6 by WCCO-TV about how unequal application of the traffic fine system disadvantages low-

income drivers, and also on National Public Radio for a documentary on civil liberties after September 11. On October 31, Professor Erlinder presented the program "Profiling and Individualized Suspicion," and on October 10, as part of the WMCL September 11 Series, he presented on the topic "Antiterrorism Legislation and Civil Liberties." As a guest speaker at the University of Minnesota Humphrey Center, Professor Erlinder presented the program "Civil Liberties in a Time of Undeclared War." He was also a guest lecturer at a human rights seminar at the University of Minnesota Law School. Additionally Professor Erlinder consulted with Japanese Lawyers in Tokyo, Japan, regarding the U.S. submarine sinking of a Japanese training ship. He was elected co-chair of the Residents Advisory Council, Moose Lake Program for Sexual Offenders. The council addresses due process and other issues in institutions. The University of Pennsylvania Journal of Constitutional Law has published Peter's paper as a lead article.

Professor Marcia Gelpe participated in an emergency meeting of the Israeli National Council on the Environment to take a position on a recommended change in the planning law. She continued work on Israel's National Steering Committee to Revise the Water Law and on Israel's National Task Force on Enforcing Laws on Air Pollution from Automotive Sources. She also worked with the National Center for Mediation and Dispute Resolution of the Ministry of Justice, Israel, in setting up a program on Alternative Dispute Resolution and Regulatory Negotiation in Governmental Agencies. The center, in cooperation

with the U.S. Embassy, is bringing two experts on the topic from the United States to Israel to run several workshops for senior staff and General Counsel of Government Ministries and local governments. At the request of the Ministry of Justice, Professor Gelpe has been working with the American experts, explaining to them how the legal and political arrangements in Israel differ from those in the U.S., and helping them prepare their presentations. She has also arranged for the U.S. experts to speak with a group of stakeholders outside of Government. Additionally, she organized a conference on Self-Reporting of Environmental Violations, Center for Environmental Law, Netanya, Israel, December 27.

Professor Daniel Kleinberger finished official Comments to Uniform Limited Partnership Act (2001) in November. He was appointed by the Minnesota State Bar Association Business Law Section Executive Council as that section's official observer to the NCCUSL Drafting Committee on the Conversion or Merger of Different Types of Business Organizations Act. From November 29 to December 2, Professor Kleinberger participated in a drafting session in New Orleans of NCCUSL Drafting Committee on the Conversion or Merger of Different Types of Business Organizations Act. On December 13, he testified to the Continuing Legal Education Board on the question of whether Elimination of Bias CLE credits should be limited to presentations that agree with the positions taken in the Supreme Court's various bias reports. He has finished and submitted to the William Mitchell Law Review the articles "Apparent Servants" and "Making Appearances Matter: A Critique of Bagot v. Airport & Airline Tax Cab Corporation." As a member of the MSBA's Chapter 302A Committee, Professor Kleinberger

participated in drafting amendments to the state corporate law facilitating the use of electronic communications and permitting Minnesota corporations to convert into Minnesota LLCs and vice versa, and he drafted corresponding amendments for the Minnesota limited liability company act.

Professor Christina Kunz participated on a December 5 Defense Research Institute panel in Chicago on E-Commerce Developments. She spoke on "Validity of Mutual Assent in Click-through Agreements." From January 3 to 5 she gave three presentations at the AALS Annual Meeting in New Orleans: "Teaching Critical Reading Skills in Contracts Class," "Meaningful Feedback Means in Doctrinal Classes," and "Teaching About Click-through Agreements in Contracts, Commercial Code Courses and Drafting Courses." Professor Kunz also published an article on click-through agreements in the November 2001 issue of the ABA's Business Lawyer.

Professor Deborah Schmedemann attended the Supreme Court Update Annual Labor and Employment Law Institute in Minneapolis on November 15. She continues as co-chair of the MSBA Labor and Employment Law Section Web site and editor of the MSBA LELS newsletter.

On November 29, **Professor Christine Ver Ploeg** spoke at the Annual Public Sector Labor Law Conference in Minneapolis. On November 30 she spoke at the Labor Arbitration Institute's annual New England conference in Boston. During the first week of January, Professor Ver Ploeg was a visiting faculty scholar at the Straus Institute for Dispute Resolution at Pepperdine University School of Law. She has been working in the area of "Dispute Resolution in Education."

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Forum - Changing Grades

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an A in the course. I didn't.

I attempted to resolve this with Professor Breen but she has not returned my e-mail or phone call. I tried stopping by her office, but did not catch her there. Professor Breen told another student (one who saw her grade posted on the web and later changed) that she was ordered to lower some grades and so she did and she could not change them now.

Unfair Grade Changes - Another Student's Story

I was a student in a class where the professor changed the grade after they were submitted. How do I know this? Well, I, like many other students, was able to gain access to the grades on the Web before the grades were "officially" posted. My grade was posted in a class, and it was the grade I was expecting.

The class did not have an exam and only had paper assignments throughout the semester. Thus, I knew what to expect, and I knew what my grade should be. My grade was posted on my unofficial Web transcript on Wednesday, but by Friday afternoon the grade was no longer there. One week later, a new grade was posted.

It was a grade that was lower than the grade I had earned, and lower than the grade that was posted only one week before.

As an angry student, I decided to question why my grade was changed. I questioned the professor about why my final grade did not reflect the grades I had received throughout the semester. The professor's answer was that she was told by one dean at William Mitchell to change the grades, and that she regrettably did so. To make matters worse, she suggested that she arbitrarily changed some of the grades. (This was later confirmed after speaking to other students in the class.) The professor told me that I should go talk to the dean about the process.

But why should a dean be able to change grades? Although the dean may not be the person actually changing the grade, I believe that the dean's strong suggestion to my professor shows who really believed the grades should be changed. It seems unfair that a dean who never observed the class and who does not know the expectations of the professor can suggest that the professor change the grades of students. If the professor believes that grades should be above the school's recommended average, then the professor should have the right to give those grades.

The school policy states that a grade cannot be changed after it has been posted. My grade was placed on my transcript for two days. I think there should be a new process that should prevent the registrar from posting any grades, whether officially or unofficially, until they have been reviewed by the proper authorities.


One Professor's E-mail To Her Class

"You are entitled to an explanation regarding class participation grades, which I assume are lower than expected. This is because I was advised by the school that the grade curve for my class was too high, and went against the school's efforts to eliminate grade inflation. At the point at which I was made aware of this problem, I had already posted your mid-term and final paper grades, leaving only the class participation grades as a means of reducing the curve. Prior to receiving this notice from the school, I had been unaware that William Mitchell was concerned about curves for courses of fewer than 40 students.

"Although each of you received fewer class-participation points than I had originally intended, in making the adjustments I endeavored to ensure your relative class participa-

tion rankings would remain intact.

"In adjusting the class participation grades, I tried to make the best of a bad situation. Now that I am aware of the school's concern for grade inflation in smaller classes, I completely understand why it was necessary to reduce the curve in the class. I also completely understand that as students, you would be angered by the situation. You were an excellent class with terrific levels of high quality participation in class discussions. Perhaps the engineers amongst you could come up with a better solution to the situation, but I am afraid I am unable to do so. I do not pretend that this is a perfect solution, but I hope you each have ended up with the grade you would have received had I known from the outset the school's requirements regarding the grade curve for the class.

"I apologize. This problem arose as a result of a miscommunication between William Mitchell and myself, and I am very sorry that it has led to almost all of you receiving lower grades than you probably expected as a result of knowing your mid-term and final examination grades." 

CAREER COLUMN

Contributed by Kari Jensen Thomas, Associate Director for Career Services

We hope you are enjoying the spring 2002 semester. We have lots of exciting career-related events scheduled this spring and as always, are here to assist you with you with your job search. Feel free to stop by our office, call us or e-mail us if you have any questions.

Given the current state of the legal job market, we thought it would be useful to give you some pointers on how to find jobs that are not necessarily posted. Here are "Seven Proven Methods for Getting Great 'Hidden Jobs' for the Networking Challenged" from Kimm Walton's "Guerrilla Tactics for Getting the Legal Job of Your Dreams":

1) Write an article

Volunteer to write an article for you school newspaper or local or state bar association newsletter involving your dream career, be it a profile of a prominent lawyer who does what you want to do, or a brief discussion of a cutting-edge issue. Publications like these are always crying out for articles. You'll have fun, make valuable contacts, and learn tons.

2) Do extracurricular activities

Take part in extra curricular activities that have to do with what you'd like to do after law school. In doing so you will automatically come into contact with people who can – and will – help you on your way.

3) Go to lectures and programs

Go to programs put on by speakers who do what you want to do. If nothing else, go up to them afterwards, tell them you enjoyed what they said (every speaker responds to honest compliments), and ask what steps you ought to take to follow in their footsteps. Most speakers truly enjoy being helpful – that's why they speak in the first place!

4) Ask for advice from lawyers

Remember that everybody, particularly a lawyer, likes to give advice. Whenever you are tongue-tied in the presence of a lawyer, ask them: What do you know now that you wish you knew when you started? What do you like about what you do? What don't you like? What would you change if you could? If you were me, how would you get your feet wet in blah-d-blah career?

5) Talk to alumni

You are the natural object of bounty for alumni from both your graduate school and your undergraduate school. While it's a mistake to ask anybody for a job, it is wise and very useful to ask for advice from alums. Approach your alumni relations director for information on alums who do what you want to do.

6) Post messages on the Bar Association message board

Find the Internet address for you state and/or local bar association, got to the message board for your particular specialty (or the geographic location where you'd like to work), and post a message asking for advice about breaking in. If you read a comment from a lawyer and it impresses you, specifically ask that

person for advice. More and more lawyers are becoming Internet savvy, and this is a fertile source of easy-to-make contacts.

7) Be a volunteer

Volunteer at conferences and seminars involving the area you want to go into. You can find out about them from either professional publications or postings at school. By volunteering instead of just attending – even if you're just chauffeuring attendees, handling nametags, running errands, pouring punch – you've automatically "broken the ice," and talking to people after that is a piece of cake.

First year students:

Congratulations on completing your first semester of law school! Now that you've survived the first round of final exams and are settled into this semester, it is time to start thinking about what you want to do this summer. We have enjoyed meeting with most of the full-time first year students during your assigned appointment times, and look forward to meeting with many part-time students as well.

During the 1L appointments, we gave each of you a copy of the National Associate for Law Placement (NALP) article titled "Thriving as a One-L during the Economic Downturn" (which is available in the Annex). According to this article:

"Your job prospects for the short-term are not as dismal as it may seem right now – and for the long-term, assuming that you strive for a strong academic performance, take advantage of opportunities which will add to your credentials, and are diligent in your networking and job searching, your job prospects may be positively rosy. This is because the legal job market, like all niche markets, is cyclical and highly responsive to economic market conditions. And as every law school career services counselor knows, 'there will always be good jobs for good lawyers.'"

This article from NALP is designed to help first year law students with four essential tasks:

1. To increase your understanding of the cyclical nature of the legal job market, including how general market conditions affect summer employment and hiring of first year law students;
2. Offer guidance as you undertake a "smart" job search effort as a first year;
3. Help you fully utilize your law school resources, especially your career services offices and counselors, as allies in your job search; and
4. Enhance your employability by giving you insight on the importance of academic excellence, innovative thinking and participation in valued work or volunteer activities.

Stop by the Annex to pick up a copy of this article if you do not already have a copy.

Remember: Don't despair! Our office is here to help you map out your legal career search and we welcome the challenge of a tightening legal job market.



The Career Services Office is located on campus in Room 103. The phone number for Career Services is 651-290-6326.

Paul Marino

Champion for the Powerless

continued from page 1

covenants of habitability. Paul became the Legal Aid Society's Executive Director in 1970, and held that position until 1974, when he joined the faculty at William Mitchell College of Law.

During his twenty-seven years at William Mitchell, Paul taught numerous courses--Torts, Evidence, Employment Law, Work of the Lawyer, and Professional Responsibility. Along with his friend Bernard Becker, who joined the William Mitchell faculty a year before Paul did, Paul founded William Mitchell's Immigration Law Clinic.

During Paul's years at William Mitchell, he earned the admiration and affection of thousands of students. Students loved the dramatic flair that he brought to the classroom, and enjoyed his use of props and a "class villain" carefully chosen to be the good-natured foil for various hypothetical situations addressed in class discussions.

Students appreciated Paul's concern and approachability--Paul always was the professor most likely to be found talking to students in the student commons. He participated in extracurricular programs for students, advising client counseling competition students, judging moot court arguments, and presenting diversity programs on discrimination and the practice of law.

In addition to his teaching duties at William Mitchell, Paul continued his interest in and support of legal assistance to the poor and disadvantaged, and was active in Hennepin County Bar Association and Minnesota Bar Association committee work, particularly in the area of lawyers' professionalism and in the drafting of proposed rules of lawyers' professional conduct.

Paul also was very active in the National Lawyers Guild. He served on the Minnesota Chapter's steering committee and for two years as the president of the Minnesota Chapter of the National Lawyers Guild. He played a key role in the National organization's "Committee on Corporations, the Constitution and Human Rights." Most recently he has fostered a national debate on the growing role of corporations as actors in the political sphere and brought attention to the impact of corporations on the juridical and democratic process.

Paul retired and became a William Mitchell College of Law emeritus professor of law in January 2001. He had barely begun his retirement when he suffered a near-fatal auto accident in Wisconsin, and then was diagnosed with cancer. His health deteriorated inexorably and progressively until March 14, when he died peacefully at his home.

Paul is survived by his beloved daughters Maria and Angela, his former wife Betty, and his two grandchildren, Pablo and Adriana. He will be sorely missed by them, by his colleagues at the law school and in the practicing bar, by his many friends and relatives across the country, by the many clients he served so well, and by the thousands of students for whom he cared so deeply. Paul's career is probably summarized best by his own words that appear in his faculty homepage on the William Mitchell website:

"As an attorney and law professor, I have tried to provide effective legal representation and voice to those who too often are left behind economically or face discrimination in our nation. Nothing makes me prouder than former law students who tell me that I helped spark their interest in the legal services or pro bono work they are doing now."



Calendar correction:

The *Opinion's* last calendar listed John F. Kennedy day and then said: "The only thing we have to fear is ..." - the implication of course being that this was a Kennedy quote, which is incorrect. The quote is: "The only thing we have to fear is fear itself," and those words were spoken by President Franklin Delano Roosevelt. *The Opinion* apologizes for the error.

The Good News Report

continued from page 9

Professor Anthony Winer participated in a panel presentation on "Military Policy Towards Sexual Minorities and Its Impact on Campus" at the AALS Annual Meeting in New Orleans on January 6.

Adjunct Professor Michael Landrum, a partner in Burk & Landrum and AMERICORD®, its conflict management consulting division, mediated to settlement a consumer lending class action. The class consisted of some 62,000 borrowers in 18 states and settled for \$7.1 million.

If you would be interested in advertising in *The Opinion*, please contact next year's business manager at Sdady@wmitchell.edu



April

4/12 - 4/14	EtrABBAganza by Twin Cities Gay Men's Chorus For more info - www.tcgmc.org Or call the TCGMC Office at 612-339-7664	Ted Mann Concert Hall - Mpls Admission - \$15-\$25
4/19 4/20 4/21	Minnesota Twins vs. Cleveland Indians Call Ticketmaster for details	Metrodome
4/21	MS Walk For more info - www.themswalk.com or 612-335-7900	Pledges required 13 sites around Minnesota
4/22	WMCL Classes Makeup for MLK Day	WMCL
4/23 - 4/25	WMCL Reading Days	
Beginning 4/25	70th Annual Festival of Nations For more info - www.festivalofnations.com	Downtown St. Paul Admission \$6-\$8
4/26	WMCL Spring Semester Exams	WCML
4/26 - 4/27	St. Paul Art Crawl - "Art for your Life" www.stpaul-artcrawl.org	Rossmor Building 4/26: 6-10pm 4/27: 1-6pm 550 N Robert St. Paul, MN 55102
4/27	Beastly Ball 2002 For more information call 952-431-9500	Minnesota Zoo, Apple Valley Free w/Zoo admission - \$10 Adults \$6.25 Seniors \$5 Youth (3-12)
4/27	PACER Center Benefit 6-8pm Silent Auction Admission \$50-\$525	Mpls Convention Center 8pm Program begins Call 952-838-900 for more info
4/27 - 4/28	Värmlandsjubileet Admission - \$8-\$10	The American Swedish Institute, Mpls (The Värmland Jubilee) - American Swedish Institute Call 612-871-4907 for more info
Through 4/28	Unsatisfied, Minneapolis Rock in the 80's For more info - www.hhmuseum.org phone:612-870-1329 Admission: \$2 per adult \$1 per child/senior Free for members	Hennepin History Museum

May

5/1	May Day Parade, Festival, Ceremony For Tickets call - 612-721-2535	Powderhorn Park, Mpls
5/4	Macalester College Scottish County Fair For more info call 651-696-6239	9am - 6pm Macalester Campus Shaw Field
5/5	Cinco de Mayo Fiesta For more info call - 651-222-6347 or www.districtdelsol.com	District del Sol along Concord Street, across river from downtown StPaul
5/7	WMCL Spring Semester Exams end - Time to RELAX!!!	
5/10 - 5/12	Governor's Fishing Opener For more info call - 218-283-9400 or 1-800-325-5766	International Falls, MN
5/11 - 5/12	Take a Mom Fishing Weekend For more info call - 651-296-0792	Anywhere in Minnesota
5/12	Mother's Day Bruch Admission - \$19.95 Adults \$7.95 youths (6-12) \$3.95 children (3-5) Zoo admission not included in above prices. For more info call - 92-431-9500	Starts at 10am Minnesota Zoo
5/18	Race to Stop Global Warming For more info - www.rtsgw.org	Minnehaha Park and Falls Admission - \$12-\$20
5/19	Minnesota AIDS Walk To register call - 612-373-2411 For more info - www.minnesotaaidswalk.org	Minnehaha Park
5/19	WMCL Commencement Seating starts at 1pm, Ceremony begins at 2pm	St. Paul's River Center
5/24 - 5/25	93X Fest For more info call - Ticketmaster or www.93xfest.com	Floatrite Park and Amphitheatre Somerset, WI
5/28	WMCL Summer classes begin	WMCL
5/30 - 6/1	Crazy Days Festival For more info call - 651-779-2977	Downtown North St. Paul

June

6/1	St. Paul Saints vs. Sioux Falls For more info call - 651-644-6659 or www.saintpaulsaints.com	Midway Stadium
6/1 - 6/2	Flint Hills International Children's Festival "Family Days" For more info call - 651-224-4222 or www.ordway.org	Ordway Center St. Paul
6/2	Grand Ol' Day Event is free, but a \$3 wristband fee is needed to get at the beer. For more info call - 651-699-0029	Grand Avenue, St. Paul
6/21 - 6/23	Back to the 50's Weekend Sponsored by the Minnesota Street Rod Association For more info - www.msra.com	MN State Fair Grounds
6/22	25th Annual Mrs. Minnesota Pageant Tickets are \$25-\$35 and go on sale 4/10 For more info call - 952-920-0681	Fitzgerald Theater St. Paul
6/22 - 6/24	Marshall Fields' Challenge Tom Lehman's Golf tourney For more info - www.marshallfieldschallenge.org	\$10-\$400 Rush Creek Golf Club Maple Grove, MN
6/29 - 6/30	GLBT Pride Festival and Parade (6/30) For more info call - 952-996-9250 or www.tcpride.com	Hennepin Ave to Loring Park
6/30 - 7/4	Taste of Minnesota For more info - www.tasteofmn.org	Capitol Grounds, St. Paul

SBA Update

By Suzette Kusnierek, SBA President

Well here it is the end of the year. It seems like just yesterday that I was welcoming all the students back to classes. Oh how time flies! I hope all of you had a safe and productive year. I want to take the time to congratulate the first years on struggling through the trauma of first year, and I only have one thing to say: Don't look back, you are almost done!

As the year closes so does my tenure on the SBA. I have enjoyed serving on the board for the last three years and getting involved with people that I might not otherwise have met. I wish the new board the best of luck in dealing with all the issues that face them in the future, and invite anyone to call me (yes, even after I graduate) if there are any questions that they have. I have tried to make the SBA more visible and a stronger function of the school. I hope that in the future this strength is increased and the students have more than just a seat in the meetings, but a voice for the students to be heard.

I am looking forward to graduation on May 19th, as all of my classmates are. I want to congratulate all those people who have traveled this path with me the last three years and thank all of them. Without them I probably wouldn't be here! For the rest of you, don't despair. Time will fly and you too will be facing graduation (and the bar exam) before you know it.

I wish you all the best of luck on finals. Remember to spend some time with the people who are most important to you this summer, because it is those people who will surround you when you leave William Mitchell. **GOOD LUCK!**

Student Intellectual Property Association

By Gretchen Pesek, President

SIPLA - Students Into Planning Lots of Activities, or officially Student Intellectual Property Law Association, continues its resolution to keep those winter pounds off by committing to more events for the duration of the school year. To combat that pesky senioritis, elections for next year's officers were held at the March 6 meeting. This ensured a smooth transition and allowed members with a vested interest to keep the organization healthy. A roundtable spotlighting technology licensing was held March 20; and the Law Review's Entertainment Law Symposium slated for April 5 is eagerly anticipated by all. There will be a final business meeting in April and one last session after finals to refresh everyone's souls.

With respect to future planning, SIPLA would like to thank those who have completed and returned the survey that was recently distributed via email. It is an opportunity for us to gauge how much, or how little, interest exists regarding intellectual property here at Mitchell and to incorporate the findings into next year's schedule. Of course, the opportunity to give away sought-after mystery prizes is a mere bonus. With energy at a high and no cool-down in sight, SIPLA looks forward to hosting the spring events, and as always, new members are welcome.

If you are interested in SIPLA, please contact Gretchen Pesek at Gpesek@wmitchell.edu.

July

7/3 - 7/4	Minneapolis Riverfront 4th of July For more info call - 612-673-5123	Downtown Mpls Riverfront
7/11 - 7/21	Hopkins Raspberry Festival For more info call - 952-931-0878 or www.hopkins-raspberry-festival.org	Hopkins, MN
7/12 - 7/14 and 7/19 - 7/21	Heritagefest For more info call - 507-354-8850 or www.heritagefest.net	11am - midnight New Ulm, MN
7/12 - 7/13	Cities97 Basilica Block Party For more info - www.basilicablockparty.org	Hennepin Ave., Mpls
7/19	Mpls Aquatennial Block Party For more info - www.aquatennial.org	6pm - 1:30am Downtown, Mpls
7/19 - 7/28	Mpls Aquatennial 2002	Minneapolis
7/20	Lifetime Fitness Triathlon For more info call - 952-229-7227 or www.lifetimefitness.com	\$65-\$200 Lake Nokomis Park
TBA	Rockin' Ribfest on Nicollet Mall	Downtown Mpls Check your local paper for times.

August

8/2 - 8/4	WE Fest For more info call - 218-847-1681 or 1-800-4WE-FEST	Detroit Lakes, MN
8/3 - 8/4	Loring Park Art Festival For more info call - 612-203-9911 or 651-633-2053	Loring Park Mpls, MN
8/3 - 8/5	Uptown Art Fair For more info call - 612-823-4581 or www.uptownartfair.com	Uptown
8/10 - 8/11	Irish Fair For more info call - 952-IRISH11	Harriet Island, St. Paul, MN
8/12 - 8/18	PGA Championship For more info - www.pga.com	Hazeltine National Golf Club Chaska, MN
8/19 - 8/21	WMCL Orientation Contact Student Services for details.	WMCL
8/22	WMCL Fall Classes begin	WMCL
8/23 - 8/25	Honoring the Elders Pow-wow For more info call - 507-825-3734 or 605-594-3851	Pipestone, MN



“You Have To Be Insane Not To Take PMBR...

January 12, 2000

Dear Law School Graduates,

PMBR is an absolute must! My state review course was good for the essays, but I didn't rely on them for the Multistate. I found the PMBR questions to be much more difficult and very representative of the actual questions on the MBE.

I was worried about the MBE because I had experienced problems with standardized tests in the past. That's why I enrolled in both the PMBR 6-Day and 3-Day courses in order to maximize my performance on the MBE.

Thanks to PMBR I received a scaled score of 175 on the MBE and only missed 32 questions. Hands down, PMBR has the best materials for MBE preparation. I have told all of my friends that they would be insane not to take PMBR. I highly recommend it to everyone who wants to get an "Edge" on the Bar Exam!

Sincerely
Dave Risk
William Mitchell College of Law '99

MBE
SCORE
175

PMBR Is An Absolute Must!”

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